

CONCORD OAKS DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

THIS DECLARATION is made and entered into by American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated September 24, 1993, and known as Trust No. 117411-05 (hereinafter referred to as "Declarant").

WITNESSETH:

**WHEREAS**, Declarant is the owner and legal title holder of certain real estate in the Village of Gurnee, Lake County, State of Illinois, which real estate is legally described in Exhibit A attached hereto and by this reference made a part hereof- and

**WHEREAS**, Concord Oaks Limited Partnership, an Illinois limited partnership, ("Developer"), presently intends to construct a development containing Dwelling Units, as hereinafter defined, together with certain common areas which will require uniformity and continuing care and maintenance for the privacy, benefit and enjoyment of all persons owning and residing in the Dwelling Units on the Property, as hereinafter defined ("Development"); and

**WHEREAS**, the Developer has deemed it desirable for the efficient preservation of the values and amenities of the proposed development to create an entity to which shall be delegated and assigned the powers of owning, maintaining and administering the Common Area, as hereinafter- described and defined, and administering and enforcing the covenants and restrictions hereinafter contained and created; and

**WHEREAS**, there has been incorporated under the laws of the State of Illinois, as a not-for-profit corporation, Concord Oaks Homeowners Association for the purpose of exercising the functions aforesaid; and

**WHEREAS**, the Declarant desires to establish for its own benefit and the mutual benefit of all future owners, tenants and occupants of the aforesaid development and real estate and any part thereof, certain easements or rights in, over, under, upon and along said development and real estate and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof:

**NOW, THEREFORE**, the Declarant hereby declares that only the real estate described in Exhibit "A" and such additions thereto as may hereinafter be made is and shall be transferred, held, sold, conveyed and accepted subject to this Declaration of Covenants, Conditions, Restrictions and Easements. The Declarant does hereby further

declare that the following easements, covenants, restrictions, conditions and burdens, uses, privileges, charges and liens shall: (1) exist at all times hereafter amongst all parties having or acquired right, title or interest in any portions of the real estate; (2) be binding upon and inure to the benefit of each Owner (as hereinafter defined); and (3) run with the land subjected to this Declaration, to be held, sold and conveyed subject thereto.

## ARTICLE I DEFINITIONS

Section 1.01. "**Association**" shall mean and refer to Concord Oaks Homeowners' Association, an Illinois not-for-profit corporation. Said corporation shall be the governing body for all the Owners with respect to the administration, maintenance, repair and replacement of the Common Area as provided by this Declaration and the By-Laws.

Section 1.02. "**Property**" shall mean and refer to that certain real estate described in Exhibit "A" and such additional parcels of land as may be subjected to the terms of this Declaration in accordance with Article XI hereof.

Section 1.03. "**Common Area**" shall mean: (i) those areas designated on the final plats of subdivision of the Property as retention and/or detention including, but not limited to Outlot A in Concord Oaks Unit 1, and all storm water management area structures located within said areas, (ii) all cul-de-sac islands, landscaping and planting easements and signage and landscaping located within said landscape easements and cul-de-sac islands, and (iii) a park comprising approximately 1.24 acres. The Common Area shall be maintained by the Association subject, however, to the enactment of the SSA Ordinance, as defined below. An easement is hereby granted to the Association for ingress and egress over such portions of the Property as may be necessary for the maintenance and repair of the Common Area.

Section 1.04. "**Dwelling Unit**" shall mean a residential housing unit on the Property consisting of a group of rooms and which are designed or intended for the exclusive use as living quarters for one Family, as hereinafter defined.

Section 1.05. "**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include the Declarant to the extent of the number of Lots owned by Declarant and also includes the interest of the Developer or of Declarant as contract seller of any Lot.

Section 1.06. "**Member**" shall mean and refer to any person or entity who holds membership in the Association.

Section 1.07. "**Declarant**" shall mean and refer to American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated September 21, 1993, and known as Trust No. 117411-05, and its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 1.08. "**Lots**" shall mean and refer to a platted Lot or a portion of a platted Lot designated as such upon any recorded subdivision plat of the Property or any portion thereof upon which an individual Dwelling Unit is constructed or to be constructed. Portions of the Property designated as Outlots ("Outlots") in the recorded subdivision plat of the Property shall not be deemed "Lots" for the purpose of this Declaration.

Section 1.09. "**Board**" shall mean the Board of Directors of the Association as constituted at any time or from time to time, in accordance with the applicable provision of Article III.

Section 1.10. "**Occupant**" shall mean any person or persons other than the Owner in possession of a Dwelling Unit.

Section 1.11. "**Family**" shall mean one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than three (3) persons not all so related, together with his or their domestic servants, maintaining a common household in a Dwelling Unit.

Section 1.12. "**By-Laws**" shall mean the By-Laws of Concord Oaks Homeowners' Association, a copy of which is attached as Exhibit "B" hereto and by this reference made a part hereof.

Section 1.13. "**Declaration**" shall mean this Concord Oaks Declaration of Covenants, Conditions, Restrictions and Easements.

Section 1.14. "**Transfer Date**" shall mean the date which is the earlier of: (i) the date on which seventy-five percent (75%) of the Lots have been conveyed to Owners other than the Declarant or (ii) seven (7) years after the first Lot is conveyed to an Owner other than the Declarant, or (iii) upon written notice of election by Developer to the Association as of the date specified in said notice. For purposes of Section 1.14(i), the term "Lot" shall include all planned lots contained within the Property and the Additional Parcel.

Section 1.17. "**Developer**" shall mean Concord Oaks Limited Partnership, an Illinois limited partnership, its successors and assigns.

Section 1.18. "**Village**" shall mean the Village of Gurnee, a municipal corporation, its elected and appointed officials, officers, agents and employees.

Section 1.19. "**Additional Parcel**" shall mean that portion of the additional lands legally described on "Exhibit C" attached hereto and by this reference made a part hereof which Declarant may elect to annex to the Property pursuant to the terms of Article XI hereof.

Section 1.20. "**Structure**" shall mean any building or other improvement erected and constructed, the use of which requires more or less permanent location on or in the ground or attached to something having a permanent location on or in the ground.

## ARTICLE II MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall automatically be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification of membership. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or its successors in interest, if any, owns one or more Lots. Voting rights with regard to each Member are set forth in Article III hereof.

## ARTICLE III VOTING RIGHTS AND BOARD OF DIRECTORS

Section 3.01. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those Owners as defined in Article II, provided that the Declarant shall not be a Class A Member until the Transfer Date. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article n. When more than one person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among

themselves determine, but in no event shall more than one vote be cast with respect to any Lot. All Members holding any interest in a single Lot shall together be entitled to cast only one vote for the Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article U, provided that the Class B membership shall cease and be converted to Class A membership on the Transfer Date.

Section 3.02. The provisions of Section 3.01 hereof shall be mandatory. No owner of any interest in any Lot shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or any of his obligations as such Member, and no purported disclaimer, termination or withdrawal thereof or therefrom on the part of any such owner shall be of any force or effect for any purpose.

Section 3.03. The Association shall have a Board of not less than three (3) Directors who shall be elected by the Members of the Association at such intervals as the corporate charter and By-Laws of the Association shall provide, except that vacancies in the Board occurring between regularly scheduled meetings of the Members may be filled by the Board by majority vote if so provided by the articles of incorporation or By-Laws and that the first Board may be appointed by the Declarant (or its beneficiary or designee) and shall be three (3) in number. The Association shall have such officers as shall be appropriate from time to time, who shall be elected by the Board who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly otherwise provided by the Association's articles of incorporation, this Declaration or the By-Laws, all power and authority to act on behalf of the Association both pursuant to this Declaration and otherwise shall be vested in its Board from time to time and its officers under the direction of the Board, and shall not be subject to any requirement of approval on the part of its Members. The articles of incorporation and By-Laws of the Association may include such provisions for the protection and indemnification of its officers and directors as shall be permissible by law.

Section 3.04. The Association, being a not-for-profit corporation, shall not distribute to its Members any sums in the nature of dividends upon its shares. To the extent that funds shall not be required for current expenditures or for such reserves, the next monthly assessments may, in the discretion of the Board, be eliminated or the amount thereof appropriately reduced. Such reduction shall not prevent reinstatement of or increase in such assessments when required.

Section 3.05. Whenever possible, the Association shall perform its functions and carry out its duties by entering into agreements for the performance thereof with such persons and business entities regularly engaged in the performance of generally similar functions and duties as the Board shall determine, which agreements shall be for such length of time, at such rates of compensation and upon such other terms and provisions as the Board shall determine from time to time. Such persons or business entities may, but need not, be persons or business entities owning or otherwise directly or indirectly interested in the Property or any part thereof. The Association itself shall also have power to perform its functions and carry out its duties.

Section 3.06. The Association, through the resolutions of the Board, shall have the right to adopt rules and regulations governing the Lots and Common Area and the use thereof provided, however, that no rule or regulation shall conflict with the Declaration or any applicable laws, ordinances or codes.

Section 3.07. A copy of this Declaration, the By-Laws and the Association's books, records and financial statements to be kept by the Board shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, the Village, or any holder, insurer or guarantor of a first mortgage lien on a Lot at such reasonable time or times during the normal business hours as may be requested by the Owner or by the holder of said first mortgage lien.

#### ARTICLE IV PROVISIONS RELATING TO THE COMMON AREA

Section 4.01. As part of the overall program of development of the Property and annexed land into a residential community and to encourage the marketing and construction thereof, the Developer and its contractors, subcontractors, and their respective agents and employees shall, for sales and construction purposes only, have the right of reasonable use of certain Lots, except those Lots that have been conveyed to purchasers, without charge during the sales and construction period on the Property to aid in its construction and marketing.

Section 4.02. There may be upon the Common Area such landscaping, fencing and entry monuments as the Declarant or the Association or Board shall from time to time determine and shall be in compliance with such governmental laws, ordinances and regulations as shall be in effect during the development of the Property.

Section 4.03. An irrevocable license and easement is hereby granted to the Village and police, fire, water, health and other authorized officials, employees and vehicles of the Village, to go upon the Common Area at any time and from time to time for the purpose of performance of official duties and for the purpose of enforcing this Declaration and all Village ordinances, rules and regulations, and the statutes of the State of Illinois and the United States. Except in the event of emergency situations, the Village shall serve written notice upon the Association setting forth the manner in which the Association has failed to comply with its obligations under this Declaration under any source of law. The Village shall be under no obligation to exercise the rights herein granted except as it shall determine to be in its best interest. No failure to exercise any right herein granted to the Village shall be construed as a waiver of that or any other rights. The Village may perform such maintenance and repairs to the Common Area upon the failure of the Association to do so after such notice and failure to cure within thirty (30) days.

Section 4.04. Declarant, its agents, employees, guests and invitees shall have the right and easement of ingress and egress in, over, upon, under and across the Property, except for those Lots that have been conveyed to purchasers, for sales and construction purposes until Declarant has conveyed all of the Lots to the purchasers thereof.

Section 4.05.

(a) The Association shall have the right and duty to build, repair and maintain the Common Area.

(b) The Association shall have the right of ingress and egress over and upon the Common Area for any and all purposes in connection with the use, maintenance, construction, operation, repair and reconstruction of the Common Area including but not limited to maintenance of landscaping, monumentation, storm water management areas and wetlands if any contained within the Common Area.

(c) The Association, through resolutions of the Board, shall have the right to adopt rules and regulations governing the use, maintenance and administration of the Common Area and for the health, comfort, safety and general welfare of persons using the Common Area.

(d) The Association shall have the right and authority to enter into such cost sharing and easement agreements with the owner of the property adjacent to and east of Outlot A in Concord Oaks Unit 1, for the purposes of creating one detention area to serve both parcels. The Association shall have the further right and authority to enter into such cost sharing and easement agreements with the owner of the property adjacent to and west of

Outlot A in Concord Oaks Unit 1, consisting of approximately nineteen (19) acres, for the purpose of maintenance of said Outlot A.

Section 4.06. To the extent any Outlots which are part of the Common Area shall not be dedicated to and accepted by the Village and/or other governmental authority, title to such Outlots shall be conveyed to the Association.

ARTICLE V  
MAINTENANCE OF DWELLING UNITS

Section 5.01. Each Owner shall have the obligation to maintain in good condition and repair his Dwelling Unit, driveway, patio walkways and fences, if any, located on his Lot. Each Owner shall also maintain in good and functional condition the surface water drainage facilities located on such Owner's Lot and each Lot shall be subject to an easement for the benefit of any adjoining Lot for the maintenance and preservation of any such water flow created by such facilities. No Owner shall obstruct, alter or in any way modify the established drainage pattern from or over any Lot.

ARTICLE VI  
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 6.01. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments to be fixed, established and collected from time to time as hereinafter provided, and (2) special assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interests, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

Section 6.02. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents in the Property and in particular for the improvement and maintenance of such Common Area, and of the

Dwelling Units situated upon the Property. Such uses shall include, but are not limited to, the cost to the Association of all taxes, insurance, repair, replacement and maintenance of the Common Area. If any other charges required by this Declaration or that the Board shall determine to be necessary or desirable to meet the primary purpose of the Association, including the establishment and maintenance of a reserve fund for repair, maintenance, replacements, taxes, and other charges as specified herein which benefit the Common Area are directly charged to any Owner, the Association will reimburse such Owner for any such expense. The Board reserves the right to levy additional assessments against any Owner to reimburse it for excessive use by such Owner of any utility service, the expense of which is charged to the maintenance fund. Notwithstanding anything contained herein to the contrary, any costs incurred by the Association in connection with the ownership and maintenance of the Common Area shall be paid by funds collected by the Village pursuant to the SSA Ordinance, if enacted, provided, however, if said funds are not sufficient to fully pay such costs, then the Association shall pay any such deficiency from funds collected from Owners pursuant to this Article VI. At the time of closing of the sale of each Lot by the Declarant, the Owner shall pay an amount as determined by the Developer which shall be used and applied as a working capital fund in the manner herein provided. Furthermore, no provision of this Declaration shall be construed to require the payment by the Association of real estate taxes on any Lot upon which a Dwelling Unit is constructed and a portion of the Common Area is located.

Section 6.03. The Board, at its option, shall be authorized to fix the annual assessment in an amount sufficient to meet the costs and expenses as contained in Section 6.02 hereof.

Section 6.04. In addition to the annual assessments authorized above the, Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, maintenance or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, if any.

Section 6.05. Both annual and special assessments, if any, must be fixed at a uniform rate for all Lots, except for certain Lots as provided in Section 6.09 hereof, and shall be collected on a monthly basis or as otherwise directed by the Association.

Section 6.06. The annual assessments provided for herein, at the option of the Board, shall commence for all Lots within the Property on the first day of the month following the conveyance of the first Lot, except as otherwise provided in

Section 6.09 hereof. The Board shall fix the amount of the annual assessment, if any, against each Lot at least thirty (30) days in advance of each annual assessment period and in lieu thereof, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed amount of annual assessment shall be due on the first day of the month immediately preceding the effective date of the changed assessment. An Owner shall first be liable for payment of the full monthly assessment, if any, on the 1st day of the month following conveyance of title to him. The Association shall upon demand at any time furnish a certificate in writing signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid and, if not paid, the amount of any such deficiency. Such certificate shall be conclusive evidence of payment of any assessment therein.

Section 6.07. Any assessments which are not paid when due shall be delinquent. Such assessments, interest and all costs of collection shall be a continuing lien upon the Lot against which each such assessment was made. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate allowed by law, and the Association may bring an action at law or in equity against the Owner personally obligated to pay the same, or foreclose the lien against the respective Lot and interest, costs and reasonable attorneys fees of any such action shall be added to the amount of such assessment. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property.

Section 6.08. Any lien which has been or will be created pursuant to the terms and conditions of this Declaration shall (a) be subordinate to the lien of any first mortgage which is placed upon the Property or a Dwelling Unit, and (b) not be effective unless said lien is recorded in the Office of the Recorder of Lake County, Illinois and (i) shall set forth who or whom is claiming the lien, (ii) the address of the lienor, (iii) the amount of the lien, and (iv) the Section of the Declaration under which the lienor is claiming the lien. Any sale or transfer of all or any portion of the Property or Dwelling Unit pursuant to a mortgage foreclosure or other proceedings in lieu thereof regarding any first mortgage affecting any portion of the Property or Dwelling Unit shall extinguish any existing lien or the right to lien which arose prior to the sale or transfer. Notwithstanding any other terms and conditions of this Declaration, this Section may not be amended or deleted without the written approval of all first mortgage lien holders, which consent shall be recorded in the Office of the Recorder of Lake County, Illinois.

Section 6.09. With regard to any Lots upon which Dwelling Units are being constructed or have been completed and title has not been conveyed by Declarant, the assessment respecting any such Lot shall be limited to the aggregate amount of actual operating expenses from time to time required to be paid with respect to such Lot provided, however, that in the event Declarant enters into a lease or installment contract for any Lot, then Declarant shall, as of the first day of such lease or contract, be responsible for the payment of all assessments on those Lots on the same basis as any other Owner as provided in this Article. Actual operating expenses shall mean those ordinary expenses attributable only to the period in question covering the maintenance and operation of the Property and shall not include capital expenditures, amounts set aside as a reserve for contingencies or replacements, repair items or inventory items to the extent attributable to subsequent periods. The Declarant hereby agrees to satisfy any deficit or shortage in the Association's operating budget for any period in which the Declarant has paid reduced assessments pursuant to this Section 6.09, provided, however, that the Declarant's liability hereunder shall not exceed the amount by which the Declarant's assessments have been reduced below the assessments of each other Owner by reason of this Section 6.09. Until such time as the Transfer Date has occurred, the assessments covering the Lots which have not been sold by the Declarant may be paid on a monthly basis or, at its option, paid to the Association at the close of each calendar year without interest.

## ARTICLE VII INSURANCE

Section 7.01. The Association shall be responsible for procuring and maintaining comprehensive public liability insurance, including Liability for injuries to and death of persons in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, and property damage, in such limits as it shall deem desirable, and other liability insurance as it may deem desirable, insuring the Association from liability in connection with the use and/or ownership of the Common Area. The Association shall be further responsible for maintaining such policies of insurance for the Common Area against loss or damage by fire and such other hazards contained in a customary "all risk" policy provided that such policies shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days written notice to the Association, provide for coverage in the amount of one hundred (100%) percent of current full replacement value. Replacement cost shall be determined annually by an independent appraiser or by a method acceptable to the insurance company providing such coverage. The liability policy shall also name as

insured the Association's agents, officers, and directors, and such additional parties as the Association shall determine.

Section 7.02. The Association shall be responsible for procuring and maintaining a fidelity bond insuring the Association, the Board and the Owners against loss of funds as a result of the fraudulent or dishonest acts of any employee of the Association or its management agent or of any other person handling the funds of the Association, the Board or the Owners in such amounts as the Board shall deem necessary.

Section 7.03. The Association may also obtain such other kinds of insurance as the Association shall from time to time deem prudent in such amounts as the Association shall deem desirable including, but not limited to, the following: Earth-quake and Flood Risk; Directors and Officers Liability; Workman's Compensation and Employer Liability; and Non-Owned or Hired Automobile Insurance.

#### ARTICLE VIII INTERIM PROCEDURE

Section 8.01. Until each of the various Lots shall have been conveyed by the Declarant to the first Owner thereof (or to such Owner's nominee), the Developer shall, with respect to each such unsold Lot, have all the rights granted to and obligations imposed upon the Owners.

Section 8.02. Until the initial meeting of the Members, the Declarant (or its designees) may appoint the Board which shall have the same powers and authority as given to the Board generally.

Section 8.03. The powers granted to the Developer by Section 8.02 hereof shall include, without limitation, the power to assess upon and collect from the individual Owners, their respective proportionate shares of the funds required for the carrying out of all the duties and obligations of the Association.

#### ARTICLE IX RESTRICTIONS RELATING TO PROPERTY

Section 9.01. No Structure, landscaping or other improvement shall be commenced or allowed on any portion of the Property unless it complies with the provisions of this Declaration. All Structures on the Property shall be of new construction.

Section 9.02. The Lots shall be used only for residential purposes, as a private residence, and no professional, business or commercial use shall be made of the same or any portion thereof, nor shall any resident's use of a Lot endanger the health or disturb the reasonable enjoyment of any other Owner or resident, except that professional and quasi-professional persons may use their residence as an ancillary or secondary facility to an office elsewhere. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a resident from: (a) maintaining his personal professional library; (b) keeping his personal business or professional records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions.

Section 9.03. No Structures other, than a detached residence for a single family occupancy shall be constructed on each Lot. No tool or storage sheds, animal houses or other structures (except the single family residence referred to in the preceding sentence) shall be constructed on any Lot. There shall be no construction on any Lot which results in a building or structure inconsistent with the general architectural design and aesthetic flavor of either (a) the Dwelling Unit on such Lot or (b) the remainder of the Dwelling Units on the Property. The paint color and architectural style of the Dwelling Unit shall not be materially changed from the paint color and architectural style of the Dwelling Unit at the time a Certificate of Occupancy therefore has first been issued by the Village. In addition, any construction undertaken upon any Lot must be completed within eighteen (18) months of the date of commencement of said construction.

Section 9.04. All Structures shall be constructed in accordance with applicable governmental building codes and zoning ordinances of the Village. If and to the extent there is any conflict between this Declaration and the provisions of any ordinances, codes, rules and regulations of the Village, such conflict shall be resolved by the application of the more stringent provision as between this Declaration and such ordinance, code, rules and regulations of the Village.

Section 9.05. Except as otherwise provided by Section 9.07 hereof, no structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used as a residence or for any other purpose, either temporarily or permanently.

Section 9.06. No advertising sign (except one "For Rent" or "For Sale" sign of not more than five square feet), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on any Dwelling Unit or Lot, except as provided in Section 9.07 hereof.

Section 9.07. The Developer may maintain, while engaged in construction and sales activities, in or upon such portions of the Property as Developer shall determine, such temporary facilities as in its sole discretion may be necessary or convenient including, but without limitation, offices, storage areas, model units, signs, temporary fencing, monuments and sales and construction trailers.

Section 9.08. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats or other common household pets (not to exceed a total of two (2) pets) may be kept, provided that they are not kept, bred, or maintained for any commercial purposes.

Section 9.09. All rubbish, trash, or garbage shall be kept so as not to be seen from neighboring Dwelling Units and streets, and shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. Garbage may not be burned on the Lots.

Section 9.10. Drying of clothes shall be confined to the interior of the Dwelling Units. No clothes, sheets, laundry, blankets or other articles of clothing shall be hung out in any portion of the Property

Section 9.11. An Owner of a Lot shall do no act nor allow any condition to exist which will adversely affect the other Lots or their Owners.

Section 9.12. If Developer or Declarant shall install a mailbox on a Lot, the respective Owner shall be responsible for maintaining, in good condition and repair, such mailbox and to replace, if necessary, said mailbox with a mailbox of exactly the same height, material and styling as originally installed.

Section 9.13. No nuisance, noxious or offensive activity shall be carried on in the Property nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Owners or occupants of any Dwelling Units on the Property.

Section 9.14. No plants, seeds, or other things or conditions harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any pan of the Property.

Section 9.15. Parking areas and driveways shall be used for parking operable automobiles only and no part of any Lot shall be used for storage use, or parking of mobile homes, trailers, commercial vehicles, snowmobiles or boats except within the confines of a garage. No repair or body work of any motorized vehicle shall be permitted except within the confines of the garage. Any violation of this provision shall be deemed a nuisance under

Section 9.13 hereof. Passenger motor vehicles in non-operative condition shall not be parked, except in garages.

Section 9.16. The operation of "ham" or other amateur radio stations or the erection of any communication antenna, receiving dish or similar devices (other than simple mast antennae located on the roof of a Dwelling Unit) shall not be allowed.

Section 9.17. No lines or wires for communication or the transmission of electric current or power shall be constructed, placed or permitted to be placed anywhere in the Property other than within buildings or structures or attached to their walls, unless the same shall be contained in conduits or approved cables constructed, placed and maintained underground.

Section 9.18. Each Owner shall regularly mow and trim all areas of his Lot covered with ground cover which are not maintained by the Village pursuant to the SSA Ordinance, and shall keep all areas of his Lot designed or intended for the proper drainage or detention of water, including swale lines and ditches, unobstructed and shall mow and maintain such areas regularly so as to keep such areas in good and functional condition. No trees, plantings, shrubbery, fencing, patio structures, landscaping treatment or other obstructions shall be planted, placed or allowed to remain in any such areas and no Owner shall alter the rate or direction of flow of water from any Lot by impounding water, changing rate, blocking or regrading or redirecting swales, ditches or drainage areas or otherwise.

Section 9.19. No fences shall be located in any area designated in a plat of subdivision affecting the Property as a landscape easement or in the one (1) foot area adjacent to said landscape easement. No fences may be constructed upon the Property except in accordance with any recorded subdivision plat of the Property and applicable Village ordinances.

Section 9.20. No Owner shall be allowed to alter the entry of any Dwelling Unity by enclosing them, in any way, with any materials, other than entry roofs or enclosures of the Village approved building plans.

ARTICLE X  
*INTENTIONALLY OMITTED*

ARTICLE XI  
ANNEXATION OF ADDITIONAL PROPERTIES

Section 11.01. The Declarant and its successors and assigns hereby reserve the right and option, at any time and from time to time within seven (7) years from the date of recording of this Declaration, to annex to the Property all or any portion of the Additional Parcel, although no provision hereof shall be construed as requiring the Declarant to do so.

Section 11.02. In the event the Declarant or its successors or assigns elects from time to time to annex to the Property all or any portion of the Additional Parcel, the portions of the Additional Parcel annexed to the Property shall be made expressly subject to all provisions of this Declaration and the Declarant shall record a Supplementary Declaration which shall contain but not be limited to the following:

(a) The legal description of the additional portion of Property which is to become subject to this Declaration; and

(b) A legal description indicating that portion of the Property which is to be improved with Dwelling Units and that portion which is to become a pan of the Common Area.

Section 11.03. Upon compliance with this Article XI, all Supplementary Declarations and the real estate covered therein shall be subject to the following terms and conditions:

(a) The rights, easements, covenants, restrictions, burdens, uses and privileges set forth and described in this Declaration shall run with and bind the land of the Additional Parcel and inure to the benefit of and be the personal obligation of the owners of Lots thereon in the same manner, to the same extent and with the same force and effect that this Declaration applies to the Property previously subjected hereto;

(b) Every person or entity who is or becomes an owner of any Lot on the annexed property shall be a Member of the Association on the same terms and subject to the same qualifications and limitations as those members who are then Owners;

(c) Any Supplementary Declaration may contain such complimentary additions and modifications to the provisions of the Declaration affecting the Additional Parcel as may be necessary to effectuate the development of the Additional Parcel.

(d) In all other respects, all of the provisions of this Declaration shall include and apply to the additional portions of the Property included in any such Supplementary Declaration including any Lots and any additions to the Common Area situated therein, and the owners, mortgagees and lessees thereof, with equal meaning and of like force and effect.

## ARTICLE XII MISCELLANEOUS

Section 12.01. The Association, the Village or any Owner, their successors or assigns, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, easements, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Any Owner found to be in violation by a court of competent jurisdiction of any of the foregoing shall also be liable for reasonable attorney's fees incurred by the Association in prosecuting such action. The amount of such attorney's fees together with court costs, if unpaid, shall constitute an additional lien against the defaulting Owner's Lot, enforceable as other liens herein established. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall use its best efforts to assist the Village in connection with the enforcement of any provisions hereunder, the violation of which shall also be considered a violation of any applicable Village ordinance.

Section 12.02. Invalidation of any of these covenants or restrictions by judgment or order shall in no way affect any other provisions which shall remain in full force and effect.

Section 12.03. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, the Village, the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, subject to amendment as hereinafter set forth. The covenants and restrictions of this Declaration may be amended during the first fifty (50) year period or within any successive ten (10) year period by an instrument signed by those Members (Class A and Class B) entitled to seventy-five percent (75%) of the total votes as provided in Article III, Section 3.01 hereof and then properly recorded. Any instrument executed pursuant to the provisions contained in this Section shall be filed

for record in the Office of Recorder of Lake County, Illinois, and a true, complete copy of such instrument shall be transmitted to each Owner promptly.

Section 12.04. If and to the extent that any of the covenants would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provision concerned shall continue and endure only after the expiration of a period of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of Bill Clinton, President of the United States, living at the date of this Declaration.

Section 12.05. Any notices required under the provisions of this Declaration to be sent to any Owner, shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Owner as it appears on the records of the Association at the time of such mailing.

Section 12.06. All the easements, rights, covenants, agreements, reservations, restrictions and conditions herein contained shall run with the land and shall inure to the benefit of and be binding upon Declarant and each subsequent holder of any interest in any portion of the Property and their grantees, heirs, successors, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance of the Property or any part thereof. Reference in the "respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of such parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents. •

Section 12.07. In the event that any part of any Dwelling Unit encroaches or shall hereafter encroach upon any part of any other Lot or the Common Area, valid easements for the maintenance of such encroachments are hereby established and shall exist so long as all or any part of the same shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Dwelling Unit of another Owner or if it occurred due to the willful conduct of any Owner.

Section 12.08. Declarant reserves to itself the right to rerecord any plats of subdivision of the Property, or this Declaration or certificates of correction to correct any

inaccuracies, errors or mistakes contained therein, subject to the prior review and approval of the Village.

Section 12.9. Any aggrieved Owner may enforce the provisions of this Declaration, the By-Laws, or any rules and regulations promulgated by the Board, by an action at law or in equity against the defaulting Owner (or occupant of his Dwelling Unit).

Section 12.10. No Owner shall lease or rent his or her Lot or Dwelling Unit for a term less than thirty (30) days. Every lease of a Lot or Dwelling Unit shall be in writing and shall be made expressly subject to the requirements, rights, covenants, conditions, restrictions and easements of this Declaration and of the By-Laws.

Section 12.11. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first class housing development.

Section 12.12. Declarant reserves the right and power to prepare and record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public, or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Dwelling Unit or (iii) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot, and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant to vote in favor of, make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as the Declarant no longer holds or controls title to any Lot.

Section 12.13 The Declarant reserves the right to grant easements at any time hereafter over, under, along and in any portion of the Lots for the purposes of providing

utility and drainage services, provided, however, that such grant does not interfere with the reasonable use and occupancy of a Dwelling Unit.

Section 12.14 It is contemplated that the Property may become subject to a Special Service Area established by the Village pursuant to an ordinance ("SSA Ordinance"). Each Lot, upon such enactment, shall then become subject to the liens, covenants and obligations, if any, imposed on said Lot by the SSA Ordinance. Each Owner hereby grants the Declarant and/or Developer a power coupled with an interest to vote on behalf of each respective Owner as proxy or attorney-in-fact in connection with any duly authorized ballot relating to the passage, approval or other enactment of the SSA Ordinance.

Section 12.15. This Declaration is executed by American National Bank and Trust Company of Chicago ("American"), as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and American hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that American, as Trustee as aforesaid, and not personally, had joined in the execution of this Declaration for the sole purpose of subjecting the title holding interest and the trust estate under said Trust No. 117411-05 to the terms of this Declaration; that any and all obligations, duties, covenants, indemnities and agreements of every nature herein set forth by American, as Trustee as aforesaid, to be kept or performed, are intended to be kept, performed, and discharged by the beneficiaries under said Trust No. 117411-05 or their successors, and not by American personally; and further, that no duty shall rest upon American either personally or as such Trustee, to sequester trust assets, rentals, avails, or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration, except where said Trustee is acting pursuant to direction as provided by the terms of said Trust No. 117411-05 after the Trustee has been supplied with funds required for the purpose. In event of conflict between the terms of this paragraph and of the remainder of the Declaration on any questions of apparent liability or obligation resting upon said Trustee, the exculpatory provision hereof shall be controlling.

IN WITNESS WHEREOF, American National Bank and Trust Company of Chicago, as Trustee as aforesaid and not individually, has caused its Corporate Seal to be affixed hereunto and has caused its name to be signed to these presents by its \_\_\_\_\_ and attested by its \_\_\_\_\_, this 26<sup>th</sup> day of August 1994.