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George T. Russell

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR TRINITY LAKES ESTATE

THIS DECLARATION made on the date hereinafter set forth by BEVERLY BANK, not individually, but as Trustee under Trust Agreement dated July 3, 1975, and known as Trust No. 8-5020 (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the owner of, or has interest in, certain real property located in the Village of Oak Brook, County of DuPage, State of Illinois, which property is legally described on Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, Declarant intends to convey or cause to be conveyed all or part of said property subject to certain covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth; and

WHEREAS, Declarant intends, from time to time, to execute and record certain "Declarations of Inclusion," pursuant to the terms of which all or part of said property described in Exhibit "A" shall be subjected to and bound by such covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that upon the execution and recording of any such Declaration of Inclusion as described above, then all of the property described therein (being all or any part of the Property described on Exhibit "A") shall, upon such recording, be held, transferred, sold, conveyed and occupied subject to the ease-

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ments, restrictions, covenants and conditions hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the subject property. These easements, covenants, restrictions and conditions shall run with the subject property as part of a general plan of development and shall be binding upon all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof, together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to the TRINITY LAKES IMPROVEMENT ASSOCIATION, an Illinois not-for-profit corporation, its successors and assigns.

Section 2. "Property" shall mean and refer to that portion of the real property described on Exhibit "A" as may, from time to time, be subjected to the terms of this Declaration, and such additions hereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean and refer to all the real property and improvements thereon, owned by the Association for the common use, enjoyment and convenience of the members of the Association. The Common Area to be owned by the Association shall be designated and conveyed by Declarant, from time to time, free and clear of all liens (other than general real estate taxes for the year of conveyance), to the Association. Such Common Areas shall include, but shall not be limited to, such retention lakes, drainage and other retention facilities, bicycle paths (except as may be dedicated for public use by easement or conveyance),

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open space and tennis courts as may be constructed thereon.

Section 4. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 5. "Lot" shall mean and refer to any lot of record (including out lots), designated as such on a plat of subdivision for all or a part of the Property, which is placed of record in the Office of the Recorder of Deeds of DuPage County and the single-family detached residence, if any, constructed thereon.

Section 6. "Owner" shall mean and refer to the record owner (or the beneficiaries of a Land Trust which may be a record owner) whether one or more persons or entities, of a fee simple title to any Lot as defined herein (or shall otherwise become subject to the terms hereof), including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to the BEVERLY BANK, as Trustee under Trust Agreement dated July 3, 1977 and known as Trust No. 8-5020.

Section 8. "Developer" shall mean and refer to SWISSCO, INC., an Illinois corporation. For purposes of this Declaration, the terms "Developer" and "Declarant" shall be considered interchangeable as to the rights and obligations contained herein.

Section 9. The terms "Declarant" and "Developer" as defined above shall also include such of their successors and assigns who are specifically assigned the respective rights and obligations of Declarant and Developer hereunder, and Declarant and Developer shall have the right to assign any or all of their rights or obligations to any such successor or assign.

Section 10. "Declaration" shall mean and refer to this

Declaration and any amendments made hereto.

Section 11. "Person" shall mean and refer to an individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Section 12. "Record" or "place of record" shall mean to record a document in the Office of the Recorder of Deeds of DuPage County, Illinois.

Section 13. "Board" shall mean and refer to the Board of Directors of the Association selected pursuant to the terms of this Declaration, the Articles of Incorporation of the Association, and the By-Laws thereof.

ARTICLE II

ANNEXATION OF ADDITIONAL DEVELOPMENT PROPERTIES

Section 1. Consent Required. Annexation of additional development property (being property other than that described on Exhibit "A") shall require the assent of two-thirds (2/3) of all of the outstanding membership votes entitled to be cast, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, which notice shall set forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of all of the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that two-thirds (2/3) of all of the outstanding membership are not present in person or by proxy, members not present may give their written assent to the action

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taken thereat.

Section 2. Declarant's Options. Notwithstanding Section 1 above, if at any time within ten (10) years from the date of recording of this Declaration, Declarant (or its successors or assigns as defined herein) shall undertake to develop any lands within the area described on Exhibit "A" attached hereto, then such lands may be annexed to said Property without the assent of the Class A members by the recording with the Recorder of Deeds of DuPage County, Illinois, of a Declaration of Inclusion executed by Declarant, in such form so as to subject such additional property to all of the terms and conditions of this Declaration. It is understood that such additional property may be developed in phases and Declarant may record more than one such Declaration of Inclusion. Upon the expiration of said ten (10) year period, the right to annex such additional property pursuant to this Section 2 shall expire if such annexation has not occurred.

Section 3. Burden Upon The Property. Declarant hereby declares that this Declaration and the covenants, restrictions and easements established herein shall be covenants to run with the land. Said covenants and restrictions shall inure to the benefit of and be binding upon each and every Owner, and his or her respective heirs, representatives, successors, purchasers, lessees, grantees and Mortgagees. By the recording or acceptance of the conveyance of a Lot or any interest therein, the person or entity to whom such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration and the By-Laws of the TRINITY LAKES IMPROVEMENT ASSOCIATION. No rights or obligations of any kind or character with respect to the Property shall attach to any Owner except as to that

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Property as shall be expressly made subject to the terms hereof by the recording of a Declaration of Inclusion.

Section 4. Rights of Owners Upon Annexation. Upon the recording of a Declaration of Inclusion as set forth above, all rights, obligations, easements, restrictions and liabilities of the Owners and Declarant shall apply to the entire Property as then constituted (including the additional property and Lots) in the same manner as if the entire Property were originally subjected to the terms of this Declaration on the date of its recordation.

Section 5. Nonseverability of Rights. The rights, liabilities and obligations set forth herein shall attach to and run with the ownership of a Lot as more specifically set forth below, and may not be severed or alienated from such ownership.

ARTICLE III

MEMBERSHIP

Section 1. Incorporation of Association. The Declarant will cause to be incorporated a not-for-profit corporation known as the TRINITY LAKES IMPROVEMENT ASSOCIATION, and said corporation, herein referred to as the Association, shall be the governing body for the administration and operation of the Common Area and shall maintain and promote the desired character of the Property. Pursuant to this Declaration, the Board of Directors of such corporation shall constitute the final administrative authority and all decisions of the Board with respect to the administration of the Property shall be binding. All rights, titles, privileges and obligations vested or imposed upon the Association by this Declaration shall be held and performed by the Board of Directors. The By-Laws for governing the Association shall

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be those duly enacted by the Association.

Section 2. Membership in TRINITY LAKES IMPROVEMENT ASSOCIATION. The Declarant and every person or entity who is a record owner of a fee or undivided fee interest in any Lot within the Property, including contract sellers, 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 for each Lot owned. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to the terms hereof. Ownership of such Lot shall be the sole qualification of membership.

Section 3. By-Laws. As a member of the Association, each Owner hereby covenants and agrees to be bound by the provisions of the By-Laws of the Association as such may be properly adopted, altered, or amended from time to time pursuant to the terms hereof.

ARTICLE IV
VOTING RIGHTS - ADMINISTRATION

Section 1. The Association shall have two classes of voting membership:

- (a) Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. When more than one person holds such interest in any Lot, all such persons shall be Class A members and the vote for such Lot shall be exercised as they among themselves determine, but

in no event shall more than one Class A vote be cast on behalf of any Lot.

(b) Class B. The Class B member(s) shall be the Declarant, its successors and assigns (as defined herein). The Class B member(s) shall be entitled to an aggregate number of votes from time to time equal to three (3) times the number of Lots in which it owns an interest. If there shall be more than one Class B member, then the Class B votes may be exercised by Declarant or otherwise allocated as the Class B members may agree. The Class B membership shall cease and be converted to Class A membership (entitled to one vote for each Lot in which the Declarant, its successors or assigns own an interest) on the happening of either of the following events, whichever occurs earlier:

- (i) When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or
- (ii) Seven (7) years from the execution of this Declaration of Covenants, Conditions and Restrictions.

Further, any Class B member may record a document pursuant to which it relinquishes its rights to Class B membership, in which event such membership shall become Class A.

(c) In the case of additional memberships being created because of additional property subjected to the terms of this Declaration as provided above, the test of (b)(i) above shall be applied cumulatively (i.e., taking the total votes of all of the Lots then subject to the Declaration).

Section 2. The Board of Directors. The administration and operation of the Property shall be vested in the Board of Directors of the Association ("Board"). Prior to the first annual meeting of members, the Board shall be appointed by the Declarant. Subsequent to said meeting, the Board shall be elected by the members in accordance with the By-Laws and this Declaration. The first annual meeting of members shall be held not later than three (3) years following the date of the recording of the first Declaration of Inclusion as provided herein. Declarant shall cause to be sent written notice of such first annual meeting to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Until such time as the first annual meeting is held pursuant to the terms hereof, the Board shall exercise any and all of the powers and functions of the Association. All funds collected by the Board shall be held and expended for the purposes designated in this Declaration and the By-Laws and shall be deemed to be held for the benefit, use and account of all Owners. Said funds shall be administered pursuant to the provisions of this Declaration and the By-Laws.

Section 3. Rules and Regulations. The Board shall have the authority from time to time to adopt rules and regulations governing the administration and operation of the Property, subject to the terms of this Declaration.

Section 4. Indemnification of the Board. The members of the Board and the officers of the Association shall not be liable to the Owners for any mistake in judgment or acts or omissions not made in bad faith, as members of the Board or officers. The Owners shall indemnify and hold harmless said parties against all contractual liabilities to others arising out of agreements made by such members or officers

on behalf of the Owners or the Association unless such agreements shall have been made in bad faith or with knowledge that the same was contrary to the provisions of this Declaration. The liability of any Owner, as described above, shall be limited to an amount determined by dividing the total liability by the total number of Owners subject to the terms of this Declaration. All contracts and agreements entered into by the Board or the officers shall be deemed executed by said parties as the case may be, as agent for the Owners or the Association.

Section 5. Board's Determination Binding. In the event a disagreement arises between Owners, related to the Property or the interpretation and application of this Declaration, the By-Laws or the rules and regulations, the review and determination thereof by the Board shall be final and binding upon each and every Owner.

Section 6. Management and Maintenance. The Board may retain such employee or employees as it deems necessary to maintain and operate the Common Area.

ARTICLE V

PROPERTY RIGHTS

Section 1. General Use. The Common Areas are hereby restricted to recreational uses, ingress, egress, utility, drainage and retention and ancillary uses and structures relating thereto, all for the benefit of the Owners. Maintenance, repairs, replacement, payment of taxes and general administration of the Common Area shall be the responsibility of the Association acting through the Board, and the costs thereof shall be paid from the assessments as established below.

Section 2. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and

to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of members.
- (b) The right of the Association to charge reasonable admission and other fees to non-members for the use of any recreational facility situated upon the Common Area.
- (c) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage said property; provided that the rights of such mortgagee in said properties shall be subordinate to the rights of the Owners hereunder.
- (d) The right of the Association to suspend the voting rights and right to the use of all or any portion of, the Common Area by a member for any period during which any assessment against his Lot remains unpaid, and for any period established by the Association for any infraction of its published rules and regulations.
- (e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. So long as there shall be a Class B membership, no such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class B membership, have been recorded, agreeing to such dedication or transfer.

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(f) As part of the overall development of the Property and annexed lands into a single-family residential community and to encourage the marketing thereof, the Declarant shall have the right to use the Common Area, without charge and shall have an easement over, across and through the Common Area for the purpose of marketing and/or developing any portion of the Property so long as construction and marketing activities shall continue thereon.

Section 3. Delegation of Use. Any member may delegate, in accordance with the By-Laws and rules and regulations of the Board, his right of enjoyment to the Common Area (other than the right to vote) to the members of his family, his tenants, guests, invitees or contract purchasers who reside on the Property.

Section 4. Common Area Encroachments. In the event any portion of the Common Area encroaches upon any part of any Lot or any portion of a structure owned by an Owner encroaches upon a portion of the Common Area, because of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Property, then a valid easement for such encroachment and the maintenance thereof is hereby established and shall exist for the benefit of such Owner or the Association, as the case may be. However, in no event shall an easement for an encroachment by a structure owned by an Owner on the Common Area be created in favor of any Owner if such encroachment is created wilfully and with the knowledge of same by such Owner.

Section 5. Alterations to Common Area. No Owner shall make any alterations to the Common Area. In addition to any repair or reconstruction required elsewhere hereunder with the use of insurance proceeds, the Board may authorize as Common Expenses any alterations, improvements or additions

to the Common Area; however, subsequent to the first annual meeting of the members, the Board shall not approve any alterations, improvements or additions requiring an expenditure in excess of Twenty Thousand Dollars (\$20,000.00) without the approval of a majority of each class of members voting in person or by proxy at a meeting duly called for such purposes.

Section 6. Storm Water Drainage and Retention Facilities.

Declarant may grant, assign, reserve or cause to be created certain easements for storm water drainage, detention or retention, which easements shall be for the benefit of or appurtenant to the property owned by the Owners and/or Association. Notwithstanding the fact that such easement property may not be subjected to the terms of this Declaration, the easements shall, for maintenance purposes, be deemed common area and shall be maintained by the Association in accordance with the terms of any such easement, grant or assignment, with the expense of such maintenance deemed a common expense subject to assessment as provided herein.

ARTICLE VI

ARCHITECTURAL CONTROLS

Section 1. Fences, Walls and Other Structures. It is understood and agreed that the purpose of the architectural controls set forth herein is to secure an attractive, harmonious residential development. Therefore, no building, fence, wall or other structure shall be erected or maintained upon the Property except such as are installed or approved by the Declarant in connection with the initial construction of the Property, or except as authorized and approved pursuant to Section 4 below.

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Section 2. Roof Construction. All residences constructed on the Lots shall contain a roof pitch of not less than 4-1 ratio, provided, that this restriction shall not apply to the construction of roofs commonly known as "mansard."

Section 3. Exterior Additions or Alterations. No new structure, ancillary building or fence shall be constructed on any Lot nor shall any addition to, change or alteration of the exterior of any structure or building located on a Lot be permitted except if such shall be approved pursuant to Section 4 below.

Section 4. Association Approval. If an Owner desires to alter, add or to change the exterior of any structure or building located on his Lot in any manner, or construct a new structure, ancillary building, fence or wall upon his Lot, then, such Owner shall submit plans and specifications showing the nature, kind, height, shape, material, color scheme and proposed location and the approximate cost and grading plan and landscape plan of the same to the Board, or to an Architectural Control Committee of not less than three (3) members as may be appointed by the Board. The Board or Committee shall consider any such request on the basis of its harmony of external design and location in relation to surrounding structures and topography, and shall, further, within twenty (20) days after the submission of such plans and specifications approve or disapprove any such request in writing. If such a Committee is appointed by the Board, it shall furnish the Board with a copy of its approval or disapproval and the Board shall then confirm, modify or reverse the Committee's action. In the event such plans and specifications are disapproved, the Board shall specify the reasons therefor. In the event the Board or Committee fails to so approve or disapprove such a request

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within twenty (20) days after such plans and specifications are submitted, such request will be deemed approved. The Board may charge a reasonable fee not to exceed Fifty Dollars (\$50.00) for administering the review process. The foregoing notwithstanding, in no instance shall a building be permitted to be constructed on a Lot if such is of a design exactly the same as a building previously constructed on another Lot, without the express written consent of Developer or its successors or assigns. Nothing in this Article VI shall be construed to be applicable to Developer.

ARTICLE VII

USE AND OCCUPANCY RESTRICTIONS

Section 1. General Use. No principal structure located on a Lot shall be used for other than residential purposes and shall be used as a residence for a single family by the Owner and his family, their heirs, successors and assigns. No business or trade of any kind shall be carried on anywhere on the Property.

Section 2. Location on Lot. Tennis courts and swimming pools located on any Lot shall be screened from any interior street by a wall, solid fence, evergreen hedge or other usual barrier as approved in writing by Developer (or its successors or assigns as defined herein). No tennis court or swimming pool shall be located on a Lot within any side yard setback shown on the recorded plat of subdivision for such Lot.

Section 3. Animals. No animals, poultry or livestock of any kind shall be raised, bred or kept anywhere on the Property, except that dogs, cats and other common household pets shall be allowed (for other than commercial purposes),

subject to such rules and regulations as may be enacted by the Board from time to time. Any pet causing or creating a nuisance or unreasonable disturbance in the opinion of the Board may be, by written notice, prohibited from entering upon the Common Areas.

Section 4. Signs and Hospitality Light Standards, Flag Poles and Mail Boxes. No signs of any kind shall be erected, placed or permitted to remain on the Property, except a family name designation of not more than 240 square inches. Such sign may be located on the door of the residence located on a Lot or the wall adjacent thereto, or upon the wall of an accessory building or structure, or freestanding on the front or side yard, provided that the height of such sign is not more than twelve (12) inches above the adjoining ground grade. One hospitality light standard of a design approved by Developer (or its successors or assigns as defined herein), may be located within the front yard of each Lot. No flood lights shall be permitted which illuminate adjoining Lots without the prior written approval of the then Owner of the adjoining Lot or Lots. Flag poles are permitted, provided the pole does not exceed twenty-five (25) feet in height, unless otherwise approved by Developer (or its successors or assigns as defined herein). All mail boxes shall be constructed, maintained, replaced and repaired in accordance with the standards and specifications established by Developer. The foregoing restrictions shall not apply to the signs and billboards, if any, of the Declarant or of the Association in furtherance of its power and purposes set forth herein and in its Articles of Incorporation, By-Laws and rules and regulations, as the same may be amended from time to time.

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Section 5. Storage. No rubbish, storage piles, trash, garbage or material shall be dumped or allowed to remain on the Property at any time except as shall be necessary to facilitate its pick up and disposal. All such storage shall be screened from view and shall otherwise be subject to such rules and regulations as may be enacted by the Board from time to time.

Section 6. Vehicles. The operation of any motorcycle, minibike or snowmobile on the Property is prohibited. Except for standard private passenger automobiles, no boat, camper, trailer, truck, commercial vehicle, motorcycle, minibike, snowmobile, motor home or other vehicle shall be stored or parked on the Property (permanently or temporarily) other than in an enclosed garage. The term "commercial vehicle" shall include all automobiles, trucks or vehicular equipment which shall bear signs or have printed on the side of same reference to any commercial undertaking.

Section 7. Camping and Picnicking. Tents, temporary shacks, cooking, picnicking and camping shall be prohibited on the Common Area, except in such areas as may be designated, and subject to such rules and regulations as may be promulgated, by the Board.

Section 8. Fences. Except as to those erected by Developer, no fence or obstructions of any kind shall be erected, removed or relocated anywhere within the Common Area unless such shall be specifically approved by the Board.

Section 9. Noxious or Offensive Activities. No noxious or offensive activities shall be conducted anywhere on the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Owners.

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Without in any way limiting the effect of the foregoing, the following activities are specifically prohibited:

- (a) The burning of refuse on a Lot (except as the burning of leaves may be permitted by Ordinance of the appropriate municipal authority);
- (b) The placement of exterior television or radio antennae, poles, wires, rods, or other devices in connection with the reception or transmission of any television, radio or any other electrical signal, except within buildings or structures on the Property, unless the same shall be contained in conduits or approved cables constructed, placed and maintained underground;
- (c) The hanging of laundry or other articles, or the erection of laundry drying equipment outside a residence; and
- (d) The placement of "For Sale" or "For Rent" signs, advertising or other displays on any part of the Property except at such location and in such form as shall be determined by the Board.

The Board may, from time to time, adopt or amend such additional rules and regulations governing the operation, maintenance, beautification and use of the Lots not inconsistent with the terms of this Declaration as it sees fit, and the Owners shall conform and abide by such rules and regulations. Written notice of such rules and regulations shall be given to all Owners. A violation of such rules and regulations shall be deemed a violation of the terms of this Declaration.

Section 10. Air-Conditioners. No through-the-wall or through-the-window air conditioners shall be permitted except as may be authorized by the Board. Any air condition-

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ing shall be of the "central" type and solely in conformity with plans and specifications approved by the Board.

Section 11. Topography. No grading, cutting, filling, stockpiling or alteration of any grade shall be permitted anywhere within the Property unless specifically approved by the Board.

Section 12. Landscaping. No tree or shrub shall be removed from the Common Area without the express consent of the Board. No planting of any kind shall be placed on any Lot in such a manner as to interfere with the use of neighboring Lots or the Common Area, or to present any visual safety hazard, and foliage and landscaping shall be neatly maintained. Further, each Owner shall keep his Lot free from weeds and shall not permit any unsightly plants, underbrush or plants breeding infectious plant diseases or noxious insects to remain on his Lot.

Section 13. Alteration of Drainage Patterns. No structure, facility or plantings shall be constructed or placed on the Property, nor shall any existing structure or facility be altered in any manner that alters the drainage pattern of the Property. The foregoing notwithstanding, where there exists on any Lot or Lots a natural condition or accumulation of storm or surface water remaining over an extended period of time, the Owner may with written approval of Developer (or its successors or assigns as defined herein), take such steps as shall be necessary to remedy such condition, provided that no alteration or diversion of such natural flow proposed by the Owner will cause damage to other property, either inside or outside the confines of the Property.

Section 14. Maintenance of Parkways and Boundary Easements. The Owners of Lots shall be responsible for the maintenance of (a) the parkways located between their Lot

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lines and the edge of the street pavements on which said Lots abut; (b) the lake shores, if any, that form Lot lines; and (c) the landscape easements, if any, on Lots located on the periferal boundaries of the Property.

Section 15. Owner's Responsibility. Any expenses or costs incurred with respect to maintenance and/or repair of any portion of the Common Area due to the willful or negligent act of any Owner, his family, lessees, guests or invitees, shall be borne by such Owner and shall be added to such Owner's assessment.

Section 16. Deviations by Agreement with Developer. Developer shall have the right to enter into written agreements with Owners (without the consent of Owners of adjoining or adjacent Lots) to deviate from any and all of the covenants set forth in this Article VII, provided there are practical difficulties or particular hardships evidenced by the petitioning Owner, and any such deviation shall not constitute a waiver of the particular covenant involved or any other covenant as to the remaining Property.

Section 17. Rights of Declarant. Anything herein to the contrary notwithstanding, the foregoing restrictions shall not apply to Declarant, but shall apply to its successors and assigns unless such are specifically exempt from the terms thereof by a document in writing signed by Declarant.

ARTICLE VIII

EASEMENTS

Section 1. Easements for Utilities. Easements for the installation, construction, reconstruction, maintenance, repair, operation and inspection of sewer, water, gas, drainage, electric, telephone or other public utility services

shall be granted as shown on any plat or other document of record filed from time to time in connection with the Common Area. Further, any additional easements for such purposes may be granted by the Declarant or the Board at any time for the purpose of obtaining such utility services.

The Declarant, its successors and assigns, shall at all times have the right of ingress and egress over said easements for the purpose of installing, constructing, reconstructing, maintaining, repairing, operating and inspecting any sewer, gas, water, drainage and other easements, and, notwithstanding any amendment to any other provisions of this Declaration, the aforesaid easement rights contained herein shall be perpetual and run with and bind the land forever.

Section 2. Easements, Noninterference. No building shall be erected nor any paving laid within any utility easement area. Any Owner who places any trees, shrubs or fences on any utility easement area shall do so at his own risk. Such Owner shall be responsible for the repair and maintenance of any trees, shrubs or fences placed on such utility easement area unless the responsibility for the same is otherwise provided for in a separate agreement between the Owner and the grantee of the easement.

Section 3. Other Easements. Easements for surface drainage swales and detention in and along the streets and other locations and easements to the Village of Oak Brook, Illinois for the planting and maintaining of trees, shrubs, grass and other landscaping and the maintenance of parkways in and along the streets may be granted as shown on any plat or document of record filed from time to time in connection with the Common Area.

Section 4. Easement Rights. The Declarant, its successors and assigns, and any party for whose benefit ease-

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ments are granted pursuant to the terms hereof, shall have the right to do whatever may be required for the enjoyment of the easement rights herein granted, including the right to clear said easement areas of trees, or shrubs, or any building, fence, structure or paving erected on or installed within the easement areas, and no charge, claim or demand may be made against such parties for any such activities in the exercise of such rights.

Section 5. Easements - Municipal Authorities. Police, fire, water, health and other authorized municipal officials, employees and vehicles shall have the right of ingress and egress to the Property for performance of official duties.

Section 6. Easements for Declarant. During the period in which Declarant is constructing improvements on the Property and/or marketing all or any portion of the Property, Declarant shall have the right of ingress and egress, and the right to install any improvements over, across and through the Common Area. Further, Declarant shall have the right to store such equipment and materials as it deems necessary for the purpose of construction and marketing during said period.

Section 7. Easement for Ingress and Egress. The Declarant, Developer and every Owner, and their guests, agents, invitees and licensees, shall have an easement for ingress and egress over, across and through the Common Areas.

Section 8. Easements Running With the Land. All easements herein described are easements appurtenant, running with the land; they shall at all times inure to the benefit of and be binding on the undersigned, all of its grantees and their respective heirs, successors, personal representatives and assigns, perpetually in full force and effect.

As to any Property that is subject to the terms of this Declaration, reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation or transfer, to the easements, covenants and restrictions contained herein shall be binding upon any such grantee, mortgagee or trustee and their successors and assigns as fully and completely as though said easements, covenants and restrictions were fully recited and set forth in their entirety in such documents.

ARTICLE IX

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by acceptance in such deed of conveyance, whether or not it shall be so expressed in any such deed, is deemed to covenant and agree to pay to the Association: (i) regular assessments or charges representing his proportionate share of the expenses of maintenance, repair, replacements, taxes, administration and operation of the Common Area ("common expenses"); and (ii) special assessments for capital improvements and unforeseen expenses to be collected from time to time as hereinafter provided. All such assessments are to be established and collected as hereinafter provided in this Declaration, together with the Articles of Incorporation and By-Laws of the Association. All such assessments, together with interest, costs and reasonable attorneys' fees, shall be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Such personal obligation shall not pass to his successors in title unless expressly assumed by them.

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Section 2. Purpose of Assessments. The assessments levied by the Board shall be for the purpose of insuring the high standards of maintenance and operation of the Property and, in general, to promote the character of the Property. Such purposes and uses of assessments shall include (but are not limited to) the payment of all taxes, insurance, repair, replacement and maintenance relative to the Common Area, including the maintenance of storm water drainage and retention facilities and other charges established by this Declaration, or that the Board shall determine to be necessary or desirable to foster the primary purpose of the Association.

Section 3. Assessments.

- (a) The maximum annual assessment imposed on any Lot during the first year in which such assessment is due as set forth below shall be Five Hundred Dollars (\$500.00).
- (b) Each subsequent year on or before December 1, the Board shall estimate the total amount necessary to pay the cost of taxes, wages, materials, insurance, services and supplies, relating to the maintenance of the Common Areas, as set forth herein, which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount necessary for a reserve for emergencies and replacements, as more specifically provided in (g) below, and shall, on or before December 15, notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof. Such annual budget shall also take into account any estimated net accruable cash income for the year from operation or use of the Property. Said "estimated cash requirement" shall be assessed equally to each Owner and shall be due and payable in such periodic installments as are established by the Board from time to time. On or before the date of the annual meeting of each calendar year, the Board shall supply all Owners with an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the Estimates provided, and showing the net amount over or under the actual expenditures plus reserves. In any given year, any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited equally to each Owner by applying any such excess to expenses and/or reserves for the subsequent year.

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- (c) If said "estimated cash requirement" proves inadequate for any reason, to defray the operating expenses and costs during any given year, then the Board shall be authorized to adopt a supplemental budget or budgets and shall determine the amount of a supplemental assessment accordingly. The Board shall serve notice of such supplemental assessment on all Owners by a statement in writing giving the amount and reasons therefore, and such supplemental assessment shall become due at such time as the Board may determine. All Owners shall be obligated to pay such supplemental assessment.
- (d) Commencing with January 1 of the year following the year in which the first annual assessment becomes due, the total annual assessment (including any supplemental assessment but excluding any special assessments as provided below) may be increased each year not more than fifteen percent (15%) of the previous year's maximum permissible assessment. Any increase in the annual assessment in excess of the foregoing must be approved by two-thirds (2/3) of each class of members voting in person or by proxy at a meeting duly called for such purpose.
- (e) In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any taxes, construction, reconstruction, repair or replacement of a capital improvement located on the Common Area, provided that any such assessments in excess of a total of One Hundred Twenty Dollars (\$120.00) per Lot in any assessment year shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. Any such special assessment shall be levied equally against each Owner.
- (f) Written notice of any meeting called for the purpose of taking any action authorized under Section 3(d) or (e) above shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.
- (g) The Board shall establish and maintain reasonable reserves for contingencies and replacements as it shall deem necessary, and any extraordinary expenditure not included in the "estimated cash requirements" shall be first charged against such reserves in the year of such expenditure. If such

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reserves are depleted or, in the opinion of the Board, significantly reduced, then any supplemental budget, or the next regular "estimated cash requirements" shall provide for the re-establishment of such reserves as the Board shall deem reasonably appropriate.

- (h) The failure or delay of the Board to prepare or serve the annual or adjusted estimate or the itemized accounting or other document on the Owners shall not constitute a waiver or release in any manner of such Owners' obligation to pay their annual assessments as herein provided, whenever the same shall be determined. In the absence of a new annual assessment, each Owner shall continue to pay the periodic charge at the then existing rate as established for the prior year until such time as a new rate is established.
- (i) The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Property, specifying and itemizing the maintenance and repair expenses of the Property and any other expenses incurred. Such records shall be available for inspection by any Owner or first mortgagee of record, at such reasonable time or times during normal business hours as may be requested by the Owner or mortgagee. Upon ten (10) days' notice to the Board and payment of a reasonable fee, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.
- (j) No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot. Except as otherwise provided elsewhere herein, the Owner of a Lot on the day on which the notice of the levying of a periodical or supplemental assessment is delivered shall personally be liable for the payment of such assessment; and the Owner as of the date of any levy of a special assessment shall be personally liable for such assessment.

Section 4. Uniform Rate of Assessment. Annual, supplemental and special assessments must be fixed at a uniform rate for all Lots, except for certain Lots as provided in Section 8.

Section 5. Commencement and Payment of Assessments.
The assessments provided for herein shall commence for each Lot subject to such assessments, on the first day of the month following the conveyance of such Lot by Declarant. The initial assessment for each Lot shall be adjusted according to the number of months remaining in the year in

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which such Lot is conveyed. Assessments for Lots subsequently subject to the terms hereof by the recording of a Declaration of Inclusion shall commence as to each such Lot at the then established annual rate, and the Owner of such Lot (other than Declarant) shall be responsible for the payment of such assessment, pro rata from the date of the recording of such Declaration to the end of the year in which the Declaration is recorded.

Section 6. Effect of Nonpayment of Assessments - Remedies of the Association. Any assessment, regular, supplemental or special, which is not paid on the due date shall be delinquent and if such assessment remains unpaid thirty (30) days after it has become delinquent, such assessment shall bear interest from the date of delinquency at the maximum rate of interest per annum permitted by the usury laws of the State of Illinois. Such delinquency shall be a continuing lien and equitable charge running with the land touching and concerning the Lot so assessed 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 his Lot, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. Should title to any Lot be held by more than one Owner, all such Owners shall be jointly and severally liable. The enforcement of liens or charges shall be limited to a period of five (5) years.

The venue for all actions at law or in equity provided for in this Article IX shall be in DuPage County, Illinois. The persons in possession of any Lot shall be authorized to accept summons on behalf of the Owner or Owners of such Lot.

Upon the recording of notice of lien by the Board, it shall be a lien upon such Lot prior to any other liens or encumbrances, recorded or not recorded, except only:

- (a) taxes, special assessments and special taxes theretofore or thereafter levied by any political subdivision or municipal corporation of this State and other State or Federal taxes which by law are a lien on the interest of such Owner prior to pre-existing recorded encumbrances thereon, and
- (b) encumbrances on the interest of such Owner recorded prior to the date such notice is recorded, which by law would be a lien thereon prior to subsequently recorded encumbrances.

Notwithstanding anything in this Declaration to the contrary, no amendment or change or modification of this Section 6 of Article IX shall be effective unless the same shall be first consented to in writing, by all mortgagees of record of each Lot which is subject to this Declaration.

The lien for Common Expenses shall be in favor of the Association, for the benefit of all other Owners who may have the right to bring any action authorized under this Declaration, By-Laws or otherwise in law or equity. Where the Owner's interest is sold at a public or private sale pursuant to this Declaration or the By-Laws because of the failure to pay the Common Expenses, the Board of Directors and their successors in office, acting in behalf of the other Owners, shall have the power to bid in the interest so foreclosed and to acquire and hold, lease, mortgage or convey same.

Section 7. Forcible Entry and Detainer - Further Remedies. In the event of any default by any Owner in the performance of his obligations under this Declaration, By-Laws, or rules or regulations of the Board, the Board, or its agents, shall have such rights and remedies in addition to those provided or permitted by law, including the right to take possession of such Owner's interest in the Property for the benefit of all other Owners by an action for possession in the manner prescribed in the Forcible Entry and Detainer Act (Illinois Revised Statutes Chapter 57).

Section 8. Exempt Property. The following portion of the Property subject to this Declaration shall be exempt from the assessments created herein:

- (a) All properties dedicated to and accepted by any governmental authority, and all properties owned by any charitable, educational, religious or other non-profit organization exempt from taxation under the laws of the State of Illinois, if such property shall not be used as a dwelling;
- (b) All properties granted to or used by a utility company; and
- (c) Lots in use as model homes and/or sales office facilities, until such time as the same are sold to an Owner for residential use.

Section 9. Mechanic's Liens. The Board may cause to be discharged any Mechanic's Lien or other encumbrance which in the opinion of the Board may constitute a lien against the Common Area. Where less than all of the Owners are responsible for the existence of said lien, such Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same, and for all costs and expenses including attorneys' fees and court costs incurred by reason of the lien.

ARTICLE X

INSURANCE

Section 1. Acquisition of Insurance Coverage. The Board shall obtain insurance coverage for the Common Area to cover against loss or damage by fire or other hazards. The insurance shall be for the full insurable value (based upon current replacement cost) of the Common Area and the insurance premiums shall be a Common Expense. Such insurance

coverage shall be written in the name of, losses under such policies shall be adjusted by, and the proceeds of such insurance shall be payable to, the Association. The insurance coverage shall, if possible, provide that the insurance as to the interest of the Association shall not be invalidated by any act or neglect of any Owner.

The coverage shall contain an endorsement to the effect that said coverage shall not be terminated for nonpayment of premiums without at least thirty (30) days prior written notice to the Association. The insurance policies shall contain waivers of subrogation with respect to the Board, its employees and agents, Owners, members of their household and mortgagees and, if available, shall contain a replacement clause endorsement.

Section 2. Appraisals. The Board in its discretion, shall periodically obtain an appraisal, for insurance purposes, of the Common Area, and, upon receipt of any such appraisal, shall readjust, renegotiate, or obtain new insurance consistent with the appraisal as provided.

Section 3. Reconstruction of the Property. The insurance proceeds shall be applied by the Board on behalf of the Association for the reconstruction or restoration of the Common Area.

Section 4. Board Acceptance of Insurance Proceeds. Payment by an insurance company to the Board of any insurance proceeds coupled with the receipt and release from the Board of the company's liability under said policy shall constitute a full discharge of said insurance carrier and said carrier shall not be under any obligation to inquire into the terms of any trust pursuant to which the proceeds may be held.

Section 5. Other Insurance. The Board shall also obtain comprehensive public liability insurance including

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liability for injuries or death to persons, and property damage, in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its officers, members of the Board, the Declarant, Developer and their respective employees and agents, if any, from liability in connection with the Common Area and insuring the officers of the Association and members of the Board from liability for good faith actions. The premiums for such insurance shall be a Common Expense.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Leasing of Lots. Any Owner may lease his Lot, provided that:

- (a) Such lease shall be in writing and shall not be for less than sixty (60) days. Further, said lease shall not include any "hotel" services such as the supplying of linens and prepared food, by the lessor.
- (b) Such lease shall provide that the lease and lessee are subject to all of the terms, conditions and restrictions of this Declaration and the applicable By-Laws, and any breach thereof shall constitute a default under such lease by lessee.
- (c) The Owner shall remain bound by all obligations set forth in this Declaration.

Section 2. Notices. Notices provided for in this Declaration or the By-Laws shall be in writing and shall be addressed to the Association at such address as may from time to time be designated by the President of the Board. The Board may designate such address for notices to the

Association and notices to an Owner shall be addressed to his Lot address, however, any Owner may also designate a different address at which he is to be notified. Further, any mortgagee may from time to time designate an address to which notices required hereunder shall be directed. Any notices required pursuant to the provisions of this Declaration shall be deemed to have been properly served when mailed, postage prepaid, certified mail or registered mail, return receipt requested, to the last known address of the addressee, or when delivered in person with written acknowledgement of the receipt thereof.

Section 3. Severability and the Rule Against Perpetuities. If any provision of this Declaration or the By-Laws shall be held invalid it shall not affect the validity of the remainder of the Declaration or the By-Laws. If any provision of the Declaration or By-Laws is deemed to violate the rule against perpetuities or any other rule, statute or law imposing time limitations, then such provisions shall be deemed to remain in effect until the death of the last survivor of the now living descendants of the President of the United States, JIMMY CARTER, plus twenty-one (21) years thereafter.

Section 4. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration and may seek enforcement of any lien or injunction for specific performance or for judgment for payment of money or collection thereof, or for any combination of remedies, or for any other relief. 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. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration or the By-Laws shall be deemed to be abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may have previously occurred.

Section 5. Remedies Cumulative. All rights, remedies and privileges granted to the Association pursuant to any of the terms, provisions, covenants or conditions of this Declaration, By-Laws or rules and regulations of the Board shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the Association thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to the Association at law or in equity.

Section 6. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for development.

Section 7. Land Trusts. In the event title to a Lot is held by a land trust under which all powers of management, operation and control remain vested in the trust beneficiary or beneficiaries then the trust estate under said trust and the beneficiaries thereunder from time to time shall be liable for payment of any obligation, lien or indebtedness created under this Declaration against the Lot. No claim shall be made against any such title holder trustee personally for any claim or obligation created hereunder and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the premises notwithstanding any

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transfers of beneficial interest or in the title to such real estate.

Section 8. Captions. The articles and section captions are intended for convenience only and shall not be construed with any substantive effect in this Declaration.

Section 9. Initial Operation. Until such time as the Board provided for in this Declaration is formed, the Developer shall exercise any and all of the powers, rights, duties and functions of the Association and the Board.

Section 10. Developer - Declarant. As used within the context of this Declaration, the terms "Declarant" and "Developer" shall be deemed to be interchangeable with respect to the rights and remedies reserved thereto. In other words, the Developer may exercise all rights reserved to Declarant.

Section 11. Rights of the Village of Oak Brook. In the event the Association, or any Owner or Owners of a Lot or Lots, fails to comply with any of the covenants and conditions contained herein, relating to maintenance, use or capital improvements and such delinquency shall exist for a period of thirty (30) days after notification by the Village of Oak Brook of such failure, to the Association or the Owners of Lots responsible for said maintenance, use or capital improvement, the Village of Oak Brook shall have the right to provide such maintenance, compel or restrict such use as appropriate or make such capital improvements as are required and shall have the right to lien the Owner of all Lots if against the Association or the Owners of Lots responsible for said maintenance and capital improvements, and shall be entitled to enforce said liens against said Owners as if said liens were assessed by the Association. Notwithstanding the foregoing, the Village of Oak

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Brook shall be under no obligation to compel such compliance, and its failure to do so shall in no event be deemed a waiver of its right to do so at a later time.

Section 12. Conflict Between Covenants and Municipal Regulations. In the event there is at any time a conflict between any term or provision in this Declaration and any provision of any then effective ordinance, rule or regulation of the Village of Oak Brook, the ordinance, rule or regulation of the Village of Oak Brook then in effect shall prevail, but only to the extent it is more restrictive than the pertinent term or provision contained in this Declaration.

ARTICLE XII

RIGHTS OF FIRST MORTGAGE HOLDERS

Anything in this Declaration to the contrary notwithstanding, the following shall be applicable with respect to any institutional holder of a first mortgage lien of record on any Lot which is subject to the terms hereof.

Section 1. Notice. The Association shall, if so requested by any first mortgagee of record of a Lot, give written notification as follows:

- (a) Notice of any default of the Owner of a Lot which is the subject of such mortgage if such default is not cured within thirty (30) days after its occurrence.
- (b) Five (5) days prior written notice of any annual or special meeting of the Association. The mortgagee may designate a representative to attend any such meeting.
- (c) Timely notice of substantial damage or destruction of such Lot or any portion of the Common Area.

- (d) Notice of any condemnation or eminent domain proceeding affecting any portion of the Common Area.
- (e) The request of a mortgagee for any or all of the above notices may be submitted to the Association via the Board of Directors and in such event, the giving of such notices shall continue until such time as the mortgagee shall request the same to be terminated, or until the interest of the mortgagee in the Lot is terminated; whichever shall be first in time.

Section 2. Claims for Assessments. Any first mortgagee of record who takes title to a Lot or comes into possession of a Lot pursuant to remedies provided in such mortgage (including foreclosure, or a deed or assignment in lieu thereof), shall take possession free of any claims for unpaid assessments or charges which may have accrued prior to the date of such possession; provided, however, that such mortgagee shall be liable for a pro rata share of such assessments and charges if the Board shall elect to reallocate the same among all of the Lots.

Section 3. Sale of Common Area. The Association shall not, by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer any of the real estate or improvements thereon, owned by it, directly or indirectly, without the express written consent of all of the institutional holders of first mortgages recorded against those Lots which are subject to the terms of this Declaration. Grants of easements for utilities and other public purposes shall not be considered a sale or encumbrance for purposes of this Section 3.

Section 4. Books and Records. Any first mortgagee of record of a Lot shall have the right, upon twenty-four (24) hours notice, to examine any and all books and records of

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the Association at any time during normal business hours, and shall be entitled to receive at its request, a copy of any and all annual financial statements within ten (10) days from the date of such request or the date of preparation of such statement, as the case may be.

Section 5. Priority as to Proceeds. Nothing in this Declaration, By-Laws or Articles of Incorporation of the Association shall be construed in such manner as will entitle any Owner or other party priority over any institutional first mortgage lien holder of record (or the holder of an equivalent security interest) with respect to (i) any insurance proceeds distributable to a Lot because of damage or destruction; or (ii) any distribution to a Lot of any award or proceeds of a condemnation or eminent domain proceeding or settlement.

ARTICLE XIII

AMENDMENTS TO DECLARATION

Section 1. Approval of Amendments. Except as provided below, provisions of this Declaration may be amended by an instrument in writing setting forth the amendments and executed by the Owners representing not less than seventy-five percent (75%) of the outstanding membership votes entitled to be cast by all classes. If said Declaration is so modified by the Association, a notice of said modification shall be given to all first mortgage lien holders of record by certified mail, return receipt requested. Said notice shall contain a complete text of any such modification or amendment.

Section 2. Approval of Mortgagees. Notwithstanding the provisions of Section 1 above, no amendment of Article VIII, Article X, Article XII or this Article XIII shall be

effective without the express written consent of all of the institutional holders of the first mortgage liens recorded against the Lots which are subject to this Declaration.

Section 3. Restriction on Alienation. Notwithstanding anything contained herein to the contrary, no amendment to the Declaration, Articles of Incorporation or By-Laws, shall be effective if such shall seek to vest a right of first refusal as to the sale or lease of a Lot, or any similar restriction in favor of the Association, other Owners or related entities.

Section 4. Termination of Restrictions. No action by the Association or Owners, whether by amendment or otherwise, shall be effective to remove the Property (once subjected by the recording of a Declaration of Inclusion to the terms hereof) from the terms and conditions of this Declaration, without the express written consent of all of the institutional holders of the first mortgage liens recorded against the Lots.

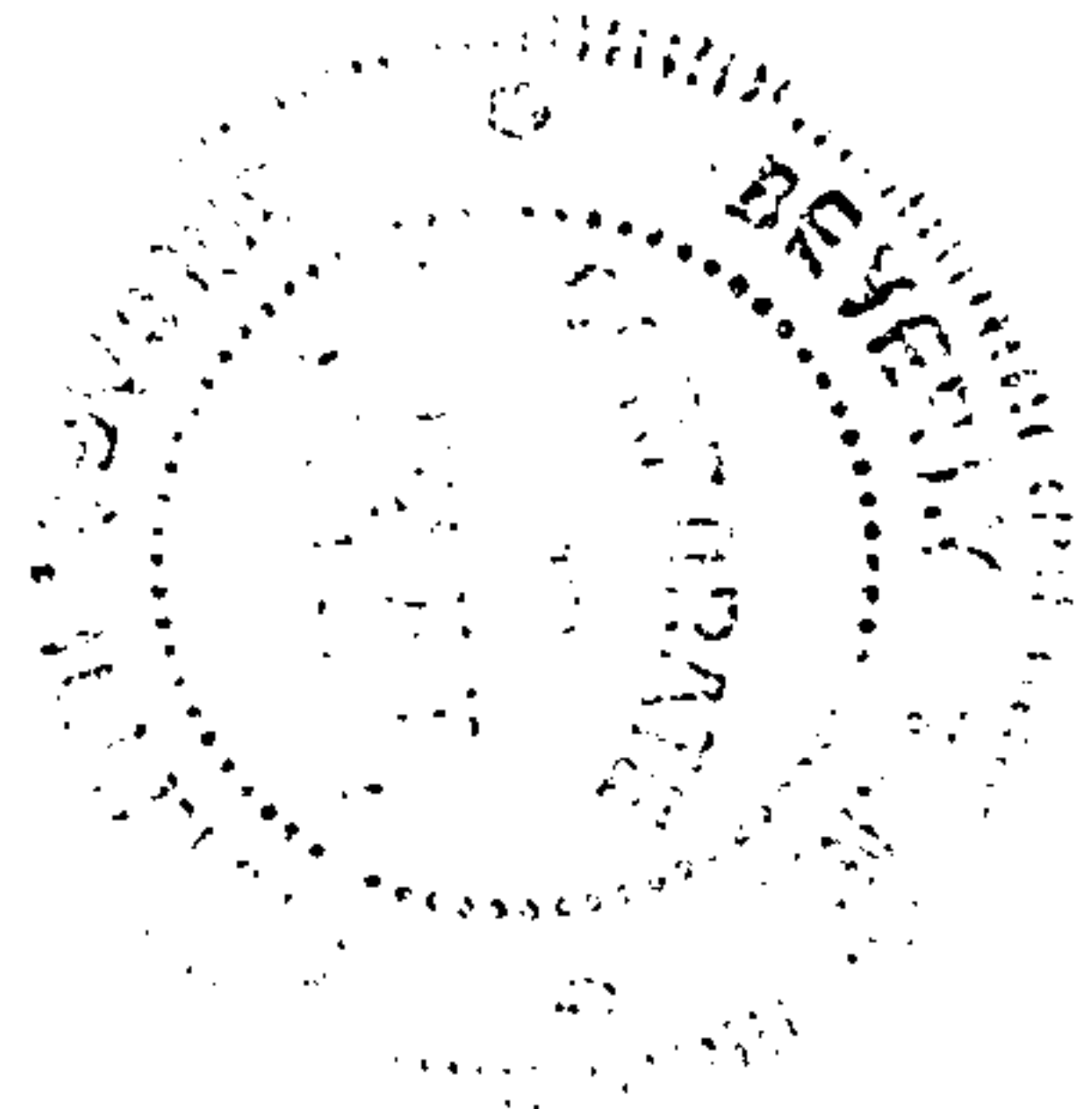
Section 5. Rights of Declarant. The foregoing notwithstanding, no amendment which shall adversely affect the rights of Declarant (including, but not limited to, the right to maintain sales facilities, signs and access for construction and storage set forth in this Declaration) shall be effective without Declarant's express written consent thereto. Further, Section 11 of Article XI shall not be amended without the express written consent of the Village of Oak Brook.

Section 6. Validity of Amendments. No amendments approved pursuant to this Article XIII shall become valid until a true and correct copy of same, attested by the Secretary of the Association, shall then have been placed of record.

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Section 7. Release of Covenants. Anything herein to the contrary notwithstanding, Declarant expressly reserves the right, at any time and from time to time within ten (10) years from the date hereof, to reduce the development property described in Exhibit "A", by executing and recording an "Amended Exhibit 'A'", eliminating from the real property now described thereon that property which may no longer be subjected to the terms hereof by the filing of a Declaration of Inclusion.

IN WITNESS WHEREOF, the Declarant has affixed its hand and seal this 31st day of July, 1979.



BEVERLY BANK, not individually but as Trustee under Trust Agreement dated July 3, 1977 and known as Trust No. 8-5020

Exoneration provision restricting any liability of the Beverly Bank stamped on the reverse side hereof is hereby expressly made a part hereof.

Alma F. Miller
ASST Vice President & Trust Officer

Attest:

[Signature]
TRUST OFFICER

The undersigned, BEVERLY BANK, being the first mortgagee of record of a portion of the property described on Exhibit "A", hereby consents to the execution and recording of the foregoing Declaration.

BEVERLY BANK

By: Harold K. Kessler

Attest:

[Signature]

This document is made by Beverly Bank as Trustee and accepted upon the express understanding that the Beverly Bank enters into the same not personally, but only as Trustee and that no personal liability is assumed by nor shall be asserted or enforced against Beverly Bank because of or on account of the making or executing this document or of anything therein contained, all such liability, if any being expressly waived, nor shall Beverly Bank be held personally liable upon or in consequence of any of the covenants of this document, either expressed, or implied.

39-A

EXHIBIT A
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
ATTACHED TO ~~EMENDMENT AGREEMENT FOR STORM WATER DETENTION,~~
~~RETENTION AND DRAINAGE, DATED JULY 31, 1979, BETWEEN~~
~~AN ASSOCIATION OF FRANCISCAN FARMERS OF THE STATE OF~~
~~ILLINOIS (CORPORATE), AND [REDACTED], INC. (CORPORATE)~~

Legal Description of Real Estate Owned by Grantor and Referred to as the "Premises":

A parcel of real estate in the Village of Oak Brook, DuPage County, Illinois, described as follows: All that part of Fractional Section 34, Township 39 North, Range 11 East of the Third Principal Meridian and the North West Quarter of Section 35, Township 39 North, Range 11 East of the Third Principal Meridian, taken as a tract, which is bounded on the North by 31st Street, bounded on the East by Illinois Route 83, bounded on the South by 35th Street and bounded on the West by Midwest Road EXCEPTING, HOWEVER, that part of the above described real estate lying and being in Unit No. 1 of Trinity Lakes Subdivision as platted and described on the final plat of Unit No. 1 prepared by Toups Corporation and dated May 4, 1978 AND EXCEPTING ALSO that part of the above described real estate lying and being in Unit No. 2, Unit No. 3 and Unit No. 4 of Trinity Lakes Subdivision as platted and described on the Preliminary Plat of Subdivision prepared by Toups Corporation with revisions to October 17, 1978 and approved by the Village Board of the Village of Oak Brook on October 24, 1978.

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Al.