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PREPARED BY:**

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Suite 800  
Chicago, IL 60603

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**EXHIBIT ATTACHED**

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**PLANNED DEVELOPMENT AND SUBDIVISION AGREEMENT**

**BY, BETWEEN, AND AMONG**

**THE VILLAGE OF NORTHBROOK**

**AND**

**THE VILLAS OF NORTHBROOK LLC**

**(501 & 525 PFINGSTEN ROAD)**

**DATED AS OF SEPTEMBER 26, 2000**

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**PLANNED DEVELOPMENT AND SUBDIVISION AGREEMENT  
BY, BETWEEN AND AMONG  
THE VILLAGE OF NORTHBROOK  
AND  
THE VILLAS OF NORTHBROOK LLC  
(501 & 525 PFINGSTEN ROAD)**

**THIS AGREEMENT** is made as of the 26<sup>th</sup> day of September, 2000, and is by, between, and among the **VILLAGE OF NORTHBROOK**, an Illinois municipal corporation (the "**Village**"), and **THE VILLAS OF NORTHBROOK LLC**, an Illinois limited liability company (the "**Developer**").

IN **CONSIDERATION** OF the recitals and the mutual covenants and agreements set forth in this Agreement, and pursuant to the Village's home rule powers, the parties hereto agree as follows:

**SECTION 1. RECITALS**

**A.** The Village is a home rule unit by virtue of the provisions of the 1970 Constitution of the State of Illinois.

**B.** The Developer is, or will become prior to the recordation of this Agreement, the record title owner of the Property.

**C.** The Developer desires to have the Property rezoned from the Village's R-3 Single Family Residential District to the Village's R-6 Multi-Family Residential District, with a special permit for a residential planned development.

**D.** The Village and the Developer desire that the Property be developed and used only in substantial compliance with this Agreement.

**E.** A public hearing was held by the Plan Commission on March 21 and April 18, 2000 to consider approval of the proposed rezoning, a planned development concept plan, and a tentative plat of subdivision for the Property. On May 2, 2000 the Plan Commission adopted Resolution No. 00-PC-08 recommending to the Corporate Authorities approval of all requested relief.

**F.** On June 13, 2000, the Corporate Authorities adopted Resolution No. 00-R-84 approving a planned development concept plan for the Property; and Resolution No. 00-R-85 approving a tentative plat for the Property.

**G.** On August 15, 2000, the Plan Commission adopted Resolution No. 00-PC-21 recommending to the Corporate Authorities approval of the final plat of subdivision and the final planned development plan for the Property.

**H.** The Corporate Authorities, after due and careful consideration, have concluded that the rezoning, subdivision, and development and use of the Property pursuant to

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All capitalized words and phrases throughout this Agreement shall have the meanings set forth in the preamble above and in Section 2 of this Agreement.

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and in accordance with this Agreement would further enable the Village to control the development of the area and would serve the best interests of the Village.

## SECTION 2. DEFINITIONS.

Whenever used in this Agreement, the following terms shall have the following meanings unless a different meaning is required by the context:

**"Building Code"**: Chapter 6, entitled "Building and Construction Regulations", of the Northbrook Municipal Code (1988), as the same has been and may, from time to time hereafter, be amended.

**"Building Sites"**: Those certain locations depicted and designated as proposed buildings 1 through 12 on the Planned Development Plan on which Residential Units and permitted accessory uses are to be located. A Building Site is not a Lot of Record, as the same is defined in the Zoning Code.

**"Carriage Walk"**: That certain carriage walk abutting the northern portion of the proposed Spenser Court Right-Of-Way, as depicted on the Final Plat of Subdivision.

**"Corporate Authorities"**: The President and Board of Trustees of the Village.

**"Effective Date"**: The date of execution of this Agreement by all parties hereto, which date shall be deemed to be the date set forth in the first paragraph of Page 1 of this Agreement.

**"Final Building Materials Plan"**: That certain letter from the developer specifying the building materials plan consisting of one page, dated September 5, 2000, a copy of which is attached hereto as **Exhibit A**.

**"Final Engineering Plan"**: That certain engineering plan prepared by Sargeant Engineering Company, consisting of five sheets, with latest revision date of August 14, 2000, which plan has been approved by the Village Engineer, a copy of which is attached hereto as **Exhibit B**.

**"Final Landscape Plan"**: That certain landscape plan prepared by The Balsamo/Olson Engineering Company, consisting of three sheets, with latest revision date of June 1, 2000, which plan has been approved by the Village Engineer, and a copy of which is attached hereto as **Exhibit C**.

**"Final Plat of Subdivision"**: That certain plat of subdivision prepared by the Sargeant Engineering Company, consisting of one sheet, with latest revision date of July 6, 2000, a copy of which is attached hereto as **Exhibit D**.

**"Final Tree Inventory Plan"**: That certain Final Tree Inventory Plan prepared by The Balsamo/Olson Engineering Company, Ltd., consisting of one sheet, with latest revision date of July 7, 2000, a copy of which is attached hereto as **Exhibit E**.

**"Force Majeure"**: Strikes, lockouts, acts of God or other factors beyond a party's reasonable control and reasonable ability to remedy; provided, however, that Force Majeure shall not include delays caused by weather conditions, unless such weather conditions

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are unusually severe or abnormal considering the time of year and the particular location involved.

**"Improvements"**: The public and private on-site and off-site improvements to be made in connection with the subdivision and development of the Property, as described or listed on the Final Engineering Plan and Final Landscape Plan, and as provided in Section 5 of this Agreement.

**"On-Street Parking Spaces"**: Those specific parking spaces located on the Spenser Court Right-Of-Way, as depicted on the Final Plat of Subdivision.

**"Outlots"**: Those two outlots depicted and labeled Outlot A and Outlot B on the Final Plat of Subdivision.

**"Plan Commission"**: The Plan Commission of the Village, established by Section 2-451 of the Northbrook Municipal Code (1988), as the same has been and may, from time to time hereafter, be amended.

**"Planned Development Plan"**: That certain planned development plan prepared by The Balsamo/Olson Engineering Company, consisting of one sheet, with latest revision date of September 26, 2000, a copy of which is attached hereto as Exhibit F.

**"Property"**: That certain tract of land, consisting of approximately 2.7 acres, commonly known as 501 and 525 Pfingsten Road, and certain land located east thereof, in Northbrook, Illinois and legally described in Exhibit G attached hereto.

**"Public Improvements Standards Manual"**: Village of Northbrook Standards and Specifications for Public and Private Improvements, dated October, 1990, as the same has been and may, from time to time hereafter, be amended.

**"Requirements of Law"**: All applicable federal, state and Village laws, statutes, codes, ordinances, resolutions, rules and regulations.

**"Residential Unit"**: Those certain residential dwelling units to be constructed on each Building Site.

**"Spenser Court Right-Of-Way"**: That certain right-of-way depicted on the Final Plat of Subdivision, proposed to be dedicated to the Village as a public right-of-way.

**"Subdivision Code"**: The Village of Northbrook Subdivision and Development Code (1991), as the same has been and may, from time to time hereafter, be amended.

**"Zoning Code"**: The Northbrook Zoning Code (1988), as the same has been, and may from time to time hereafter be, amended.



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## SECTION 3. ZONING AND SUBDIVISION APPROVALS.

A. Approval of Zoning Map Amendment Ordinance. The Village agrees to adopt a valid ordinance, acceptable in form and substance to the Village Attorney, approving the rezoning of the Property from the R-3 Single Family Residential District to the R-6 Multi-Family Residential District.

B. Approval of Planned Development Special Permit Ordinance. The Village agrees to adopt a valid ordinance, acceptable in form and substance to the Village Attorney, approving a special permit for a planned development for the Property.

C. Approval of Final Plat of Subdivision. The Village agrees to adopt a valid resolution, acceptable in form and substance to the Village Attorney, approving the Final Plat of Subdivision for the Property, provided that such plat has been prepared and reviewed in accordance with this Agreement, the Tentative Plat of Subdivision and the Requirements of Law. After the effective date of such resolution, the Village shall promptly cause the Final Plat of Subdivision to be properly recorded in the office of the Cook County Recorder of Deeds.

D. Declaration of Covenants. Concurrent with the recordation of the Final Plat of Subdivision, a declaration of covenants, acceptable in form and substance to the Village Attorney, shall be executed by the Developer and recorded against the Property. Such declaration shall contain a provision prohibiting any amendment thereto that would conflict with this Agreement without prior approval by the Corporate Authorities. Further, without limitation of the foregoing, such declaration shall provide for the creation of a homeowners' association and contain the following provisions:

1. Homeowners' Association.

- a. Membership in the homeowners' association shall be mandatory for each and every owner, and successive owner, of a Building Site.
- b. The homeowners' association shall own, and shall be responsible for the continuity, care, conservation, maintenance, and operation of, in a first rate condition, and in accordance with predetermined standards, the Outlots, all equipment, appurtenances, ponds, detention facilities, and perimeter fencing located on or within the Outlots and the cost of power required for such equipment and appurtenances.
- c. The homeowners' association shall be responsible for the continuous maintenance of, and removal of snow from, the On-Street Parking Spaces and the Carriage Walk.
- d. The homeowners' association shall be responsible for casualty and liability insurance and real estate taxes for the Outlots.
- e. The owners of each Building Site shall pay their pro rata share of all costs and expenses incurred by the homeowners' association by means of an assessment to be levied by the homeowners' association that meets the requirements for becoming a lien on

each Building Site in accordance with the statutes of the State of Illinois.

- f. The homeowners' association shall have the right to adjust the assessment to meet changed needs. The membership vote required to authorize such adjustment shall not be fixed at more than fifty-one percent (51%) of the members voting on the issue.

**2. Creation of Easements.**

- a. An easement shall be created providing an access over, on, and above the Outlots for the exclusive benefit of the owners of each Building Site and for the benefit of the Village, for ingress and egress, storm water drainage and detention, emergency, utility, enforcement, and government service purposes, and for the purpose of maintaining the Outlots.
- b. Utility and enforcement easements shall be granted to the Village and other governmental bodies and utility services over, on, and across each Building Site, including the Outlots, for the purposes of enforcing applicable laws, making repairs, installing, and servicing utilities, and providing public and emergency services.
- c. The storm water detention easement located on Outlot A in the northwestern corner of the Property, as dedicated on the Final Plat of Subdivision, shall remain unobstructed and access to said easement shall not be blocked by a fence, landscaping or any other structure or planting of any kind or nature erected within said easement without the prior written approval of the Village Manager, with the exception of the detention basin fencing system and the landscaping provided in the Final Landscape Plan, as described in Subsection 5A of this Agreement. In addition, no grade changes shall be permitted in said easement without the prior written approval of the Village Engineer.

**3. General Provisions.**

- a. The Village, as well as the owners of each Building Site, shall have the right to enforce the declaration.
- b. The Village shall have the right, but not the obligation, after 10 days written notice to the homeowners' association, to perform any maintenance or repair work that, in the sole opinion of the Village, the homeowners' association has neglected to perform on the Outlots, to assess the members of the homeowners' association for such work, and to file a lien against the property of the homeowners' association or the property of any member failing to pay the assessment.

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- c. The declaration shall run with and bind each Building Site, and all portions thereof, and shall be binding on the Developer, and its successors in interest, to all portions of the Building Sites.

## **SECTION 4. DEVELOPMENT OF THE PROPERTY.**

Notwithstanding any use or development right that may be applicable or available to the Property pursuant to the Zoning Code, the Property shall be developed and used only as follows:

### **A. Specific Use and Development Restrictions.**

1. **Zoning Lot.** The Developer, at the time of filing for approval of the Planned Development Plan of the Property, has designated the entire tract of land comprising the single lot of record of the Property as a single "zoning lot," as such term is defined in Subsection 12-206L of the Zoning Code; and, provided the Property is used and developed in accordance with the planned development special permit ordinance and this Agreement, all applicable bulk, space and yard requirements shall be applied to each Building Site on the basis of that single zoning lot rather than with respect to individually-owned Residential Units and lots of record.

2. **Lot and Yard Dimensions.** The development of the Property contemplates approval and clustering of the residential units in accordance with the provisions of Paragraphs 11-605 D4(e), 4-110 G5 and 4-110 G6 of the Zoning Code. So long as the Property is being developed in compliance with the provisions of the planned development special permit ordinance and this Agreement, the lot and yard dimensions designated or depicted in the Planned Development Plan and the Final Plat of Subdivision are hereby authorized, notwithstanding any bulk regulation that would otherwise be applicable to the Property or to the development of the Property in one or more separate phases and/or by one or more separate developers.

3. **Residential Units.** The Property shall be developed with no more than 12 Residential Units, with no more than one Residential Unit on each of Building Sites 1 through 12, as depicted on the Final Plat of Subdivision.

4. **The Outlots.** No building, structure, or improvements of any kind shall be permitted on the Outlots except as required or necessary in connection with the stormwater detention purpose which the Outlots are intended to serve, or in connection with other utilities for which easements are granted on the Final Plat of Subdivision.

5. **Building Sites.** Each Building Site constitutes a separate and distinct "Building Envelope," within which a Residential Unit and permitted accessory uses are to be located. No building, deck, patio, or construction of any kind shall be permitted outside of any such Building Envelope.

- B. **Maintenance Prior to Sale.** Upon completion of construction of the Improvements, the Developer shall maintain each and every one of the Building Sites and Outlots on the Property in a first rate condition, including, without limitation, seeding and mowing, until all dwellings to be constructed on an individual Building Site are substantially complete and are sold to third parties, and as required by the declaration of covenants required pursuant to Section 3 of this Agreement; provided, however, that, without limiting the

Developer's obligations under this Subsection B, from and after the Turnover Date, as defined in said declaration of covenants, some or all of such maintenance items may be provided by the homeowner's association governed by said declaration.

**C. Tree Preservation.** The Developer shall comply with the Final Tree Inventory Plan in its entirety as well as all applicable tree preservation measures adopted by the Corporate Authorities.

**D. Building Envelope Disclosure.** Concurrent with the recordation of the Final Plat of Subdivision, the Developer shall cause to be recorded a "Disclosure Declaration" in substantially the form attached hereto as **Exhibit H** and satisfactory to the Village Attorney, disclosing the following significant matters concerning the use and development of the Property:

- i. home improvement limitations as a result of Building Envelope restrictions.

All contracts for the sale of any dwelling unit within the Property shall include, and shall have attached thereto, a copy of the executed and recorded Disclosure Declaration.

**E. General Use and Development Restrictions.** Development of the Property, except for minor alterations due to final engineering and site work approved by the Village Engineer or the Director of Development, as appropriate, shall be pursuant to and in accordance with the following:

- i. this Agreement;
- ii. the Final Plat of Subdivision;
- iii. the Final Engineering Plan;
- iv. the Final Landscape Plan;
- v. the Final Tree Inventory Plan;
- vi. the Planned Development Plan;
- vii. the Building Materials Plan;
- viii. the planned development special permit ordinance adopted pursuant to Section 3.B of this Agreement;
- ix. the declaration of covenants recorded pursuant to Section 3.D of this Agreement; and
- x. the Requirements of Law.

Unless otherwise provided in this Agreement either specifically or in context, in the event of a conflict between or among any of the above plans or documents, the plan or document that provides the greatest control and protection for the Village, as determined by the Village Manager, shall control. All of the above plans and documents shall be interpreted so that the duties and requirements imposed by any one of them are cumulative among all of them, unless otherwise provided in this Agreement either specifically or in context.

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## SECTION 5. IMPROVEMENTS.

**A. Description of Improvements.** The Developer shall, at its sole cost and expense, construct and install all of the Improvements on the Property including, without limitation, the following:

- i. stormwater detention facilities, including storm sewer mains, detention basin and related appurtenances, in the manner approved by the Village Engineer and, upon such approval, incorporated into, and depicted on, the Final Engineering Plan;
- ii. sanitary sewer main and sanitary sewer service lines for each Building Site;
- iii. water mains and services on the Property and approximately 300 feet of water mains off the Property;
- iv. the proposed Spenser Court Right-Of-Way;
- v. approximately 125 feet of sidewalk along the east side of Pflingsten Road;
- vi. the Carriage Walk;
- vii. installation of a new culvert in the Pflingsten ditch, including obtaining all governmental approvals therefor;
- viii. landscaping of the Outlots and Building Sites;
- ix. installation of parkway trees as depicted on the Final Landscape Plan; and
- x. burial of electric poles and wires, or payment of the applicable fee into the Village Utility Line Fund, pursuant to, and in accordance with the procedures set forth in, Section 4-104 F2(d) of the Subdivision Code.

## **B. Design and Construction of the Improvements.**

1. **General Standards.** All Improvements shall be designed and constructed pursuant to and in accordance with the Final Engineering Plan, the Final Landscape Plan, the Final Tree Inventory Plan, the Planned Development Plan, the Building Materials Plan, the declaration of covenants, and the Public Improvements Standards Manual, and to the satisfaction of the Village Engineer. All work performed on the Improvements shall be conducted in a good and workmanlike manner and with due dispatch in accordance with the schedule established in Subsection 5.D below. All materials used for construction of the Improvements shall be new and of first rate quality.

2. **Location of Sales Trailer.** Any sales trailer and necessary parking shall be located west of Building Sites 1 and 2, and shall be constructed only pursuant to a plan submitted by the Developer and approved by the Village's Director of Development, Village Engineer and Fire Chief. Such plan shall also include landscaping of the trailer and parking areas. Any relocation of the sales trailer, necessary parking and landscaping to another area of the Property shall be allowed only pursuant to a plan

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submitted by the Developer and approved by the Village's Director of Development, Village Engineer and Fire Chief.

3. **Contract Terms; Prosecution of the Work.** The Developer shall include in every contract for work on the Improvements terms requiring the contractor to prosecute the work diligently and continuously, in full compliance with, and as required by or pursuant to, this Agreement, the Final Engineering Plan and the Requirements of Law, until such work is properly completed, and providing that the Developer may take over and prosecute the work if the contractor fails to do so in a timely and proper manner.

4. **Engineering Services.** The Developer shall provide, at its sole cost and expense, all engineering services for the design and construction of the Improvements, including full inspection services of a professional resident engineer responsible for overseeing the construction of the Improvements. The Developer shall promptly provide the Village with the name of such resident engineer and a telephone number or numbers at which such resident engineer can be reached at all times.

5. **Village Inspections and Approvals.** All work on the Improvements shall be subject to inspection and approval by Village representatives at all times.

6. **Special Provisions Concerning the Building Permits.**

a. **General.** The Village shall have no obligation to issue:

i. a building permit for the construction and installation of footings and foundations on any Building Site, and no such work shall be performed, until a road with a proof-rolled gravel base of sufficient strength to support the weight of a fire engine (approximately 40,000 pounds) is complete to a point within 100 feet of a Building Site for which such building permit is requested and a written grant of ingress and egress to the Village over such road is made,

ii. a building permit for any work after the construction and installation of footings and foundations on any Building Site, and no such work shall be performed, until the following items are complete to a point within 100 feet of the Building Site for which such building permit is requested:

1. water, storm sewer, and sanitary sewer mains, stormwater detention facilities, a detention basin and related appurtenances as described on the Final Plat of Subdivision and Final Engineering Plan;

2. all required erosion control appurtenances, as described on the Final Plat of Subdivision and Final Engineering Plan; and

3. the proposed Spenser Court Right-Of-Way, as described on the Final Plat of Subdivision and Final

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Engineering Plan, with proof rolled gravel base and curb and gutter.

b. **Sales Trailer.** Notwithstanding the foregoing, the Village agrees to issue permits for the construction and installation of the sales trailer and necessary parking and landscaping prior to the completion of the items in Subparagraph (a) above, provided that, prior to the opening of the sales trailer to the public, the sales trailer is equipped with bottled potable water and chemical sanitary facilities and a road meeting the requirements in Subparagraph (a) above, is installed by the Developer.

c. **Models.** Notwithstanding the foregoing, the Village agrees to issue permits for the construction and installation of model homes on Building Sites 1 and 2 prior to the completion of the items in Subparagraph (a) above, provided that, prior to the opening of the model homes to the public, a road meeting the requirements in Subparagraph (a) above, is installed by the Developer.

d. **Fire Protection and Emergency Medical Services.** In consideration of the Village's agreement to allow construction and installation pursuant to Paragraphs (b) and (c) above, the Developer acknowledges and agrees that the village can provide no assurances that it will be able to provide police and fire protection and emergency medical services to the Property, to any construction or personal property or fixtures thereon, or to the Developer and its contractors, subcontractors, suppliers, invitees, licensees, guests or others on the Property, prior to the completion of the items in Paragraph (a) above.

7. **Other Approvals.** Where the construction and installation of any Improvement requires the consent, permission, or approval of any public agency or private party, the Developer shall promptly file all applications, enter into all agreements, post all security, pay all fees and costs, and otherwise take all steps that may be required to obtain such consent, permission or approval.

C. **Construction Traffic.** At all times during the construction of the Improvements, the Developer shall keep all routes used for construction traffic free and clear of mud, dirt, debris, obstructions and hazards and shall repair any damage caused by such construction traffic.

D. **Completion of the Improvements.** All Improvements shall be completed and made ready for inspection, approval and, where appropriate, acceptance by the Village pursuant to the construction schedule approved by the Village Engineer as part of the Final Engineering Plan. The Developer shall be allowed extensions of time beyond the completion dates set forth in such construction schedule only for unavoidable delay caused by Force Majeure.

E. Dedication and Maintenance of the Improvements.

1. Final Inspection and Approval of the Improvements. The

Developer shall notify the Village when it believes that any or all of the Improvements have been fully and properly completed and shall request final inspection, approval and, where appropriate, acceptance of the Improvement or Improvements by the Village. Such notice and request shall comply with, and include, all requirements of Section 3-506 of the Subdivision Code and shall be given far enough in advance to allow the Village time to inspect the Improvements and to prepare a punch list of items requiring repair or correction and to allow the Developer time to make all required repairs and corrections prior to the scheduled completion date. The Developer shall promptly make all necessary repairs and corrections as specified on the punch list. The Village shall not be required to approve or accept any portion of the Improvements until all of the Improvements, including all punch list items, have been fully and properly completed.

2. Dedication and Acceptance of Specified Improvements.

Neither the execution of this Agreement nor the approval or recordation of the Final Subdivision Plat shall constitute an acceptance by the Village of any public facilities or Improvements that are depicted as "dedicated" on the Final Subdivision Plat or Final Engineering Plan, if any, or of any public Improvements. The acceptance of all public Improvements shall be made only in compliance with the requirements of the Subdivision Code, including, without limitation, Sections 3-506 and 3-507 of that Code.

3. Developer's Maintenance of Improvements. For a period of at

least two years following Village approval, the Developer shall, at its sole cost and expense, maintain without any modification except as specifically approved in writing by the Village Engineer, in a first rate condition at all times, the Improvements. In the event the Village Engineer determines, in his sole and absolute discretion, that the Developer is not adequately maintaining, or has not adequately maintained, any Improvement, the Village may, after 10 days' prior written notice to the Developer, but shall not be obligated to, enter upon any or all of the Property for the purpose of performing maintenance work on and to any such Improvement. In the event that the Village shall cause to be performed any work pursuant to this Subsection, the Village shall have the right to draw from the performance securities deposited pursuant to Section 7 of this Agreement, or the right to demand payment directly from the Developer, based on costs actually incurred or on the Village's reasonable estimates of costs to be incurred, an amount of money sufficient to defray the entire costs of such work, including legal fees and administrative expenses. The Developer shall, upon demand by the Village, pay such amount to the Village.

F. Transfer of Ownership of the Improvements and Easements to the

Village. Upon the approval of, and prior to acceptance of, the Improvements to be accepted by the Village pursuant to Subsection 5.E above, the Developer shall execute, or cause to be executed, such documents as the Village shall request to transfer ownership of such Improvements to, and to evidence ownership of such Improvements by, the Village, free and clear of all liens, claims, encumbrances and restrictions unless otherwise approved by the Village in writing. The Developer shall, at the same time, grant, or cause to be granted, to the Village all such insured easements or other property rights as the Village may require to install, operate, maintain, service, repair and replace the Improvements that have not previously been



granted to the Village, free and clear of all liens, claims, encumbrances and restrictions unless otherwise approved by the Village in writing.

**G. Two-Year Guaranty of the Improvements.** The Developer hereby guarantees the prompt and satisfactory correction of all defects and deficiencies in the Improvements, including, without limitation, landscaping installed by the Developer on public lands or within public rights-of-way or easements, that occur or become evident within two years after approval and, where appropriate, acceptance of the Improvements by the Village pursuant to this Agreement. If any such defect or deficiency occurs or becomes evident during such period, then the Developer shall, after 10 days' prior written notice from the Village (subject to Force Majeure), correct it or cause it to be corrected. In the event any Improvement is repaired or replaced pursuant to such a demand, the guaranty provided by this Subsection 5.G shall be extended, as to such repair or replacement, for two full years from the date of such repair or replacement.

**H. Issuance of Permits and Certificates.**

**1. Right to Withhold Permits and Certificates.** The Village shall have the absolute right to withhold any building permit or certificate of occupancy at any time the Developer is in violation of, or is not in full compliance with, the terms of this Agreement.

**2. Completion of Improvements.** The Village shall issue no certificates of occupancy for any building or structure located on the Property until the Improvements are completed by the Developer in accordance with the schedule established pursuant to Subsection 5.D above or until other arrangements satisfactory to the Village Engineer, in his sole and absolute discretion, shall have been made. The issuance of any building permit or certificate of occupancy by the Village at any time prior to completion of all the Improvements and approval and, where appropriate, acceptance thereof by the Village shall not confer on the Developer any right or entitlement to any other building permit or certificate of occupancy.

**I. Completion of Construction.** If the Developer fails to diligently pursue all construction as required in, or permitted by, Sections 4 and 5 of this Agreement to completion within the time period prescribed in the building permit or permits issued by the Village for such construction, and if the building permit or permits are not renewed within three months after the expiration thereof, the Developer shall, within 60 days after notice from the Village, remove any partially constructed or partially completed buildings, structures or improvements from the Property. In the event the Developer fails or refuses to remove said buildings, structures and improvements, as required, the Village shall have, and is hereby granted, in addition to all other rights afforded to the Village in this Agreement and by law, the right, at its option, to demolish and/or remove any of said buildings, structures and improvements, and the Village shall have the right to charge the Developer an amount sufficient to defray the entire cost of such work, including legal and administrative costs. If the amount so charged is not paid by the Developer within 30 days following a demand in writing by the Village for such payment, such charge, together with interest and costs of collection, shall become a lien against the Building Site on which the work was performed, and the Village shall have the right to collect such charge, with interest and costs, and to enforce such lien in the same manner as mortgage foreclosure proceedings.

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## SECTION 6. DAMAGE TO PUBLIC PROPERTY.

The Developer shall maintain the Property and all streets, sidewalks and other public property in and adjacent to the Property in a good and clean condition at all times during development of the Property and construction of the Improvements. Further, the Developer shall promptly clean all mud, dirt or debris deposited on any street, sidewalk or other public property in or adjacent to the Property by the Developer or any agent of or contractor hired by, or on behalf of, the Developer; and shall repair any damage that may be caused by the activities of the Developer or any agent of or contractor hired by, or on behalf of, the Developer.

## SECTION 7. PERFORMANCE SECURITY.

**A. General Requirements.** As security to the Village for the performance by the Developer of the Developer's obligations to construct and complete the Improvements pursuant to and in accordance with this Agreement, the Developer shall deposit with the Village Manager performance guarantees ("**Guarantee**") consisting of a cash deposit and a letter of credit from a bank or other financial institution having capital resources of at least \$50,000,000.00 in form and substance substantially conforming with **Exhibit I** and satisfactory to the Village Attorney. The cash deposit portion of the Guarantee shall be at least ten percent of the amount required pursuant to Subsection 7.B of this Agreement.

**B. Amount of Guarantee.** The Guarantee shall be in a total amount equivalent to either:

1. the total amount plus 10 percent of the actual, executed contracts for the construction of the Improvements, plus applicable Village review and inspection fees; or
2. in the event that actual, executed contracts for such Improvements are not available, the total amount plus 25 percent of an estimate of the cost of the Improvements, plus applicable Village review and inspection fees.

All such contracts and estimates shall be subject to review and approval by the Village Engineer.

**C. Reduction of Guarantee.** The aggregate amount of the letter of credit may be reduced by the Developer in accordance with the schedule contained in the Subdivision Code. All requests by the Developer to reduce the amount of the letter of credit shall be accompanied by and shall include, without limitation, the following:

1. the total original amount of the applicable letter of credit;
2. an itemized list of all approved and pending requests to reduce the total original amount of the applicable letter of credit;
3. the total original amount of the contract for the improvement(s) on which a reduction is requested;
4. the amounts of any increases or decreases in the total original amount of the contract;

5. the amount of the reduction in the applicable letter of credit requested by the Developer; and
6. lien waivers from all contractors and subcontractors of the Developer for the Improvement(s), evidencing that payment for the reduction amount has been made.

Unless so reduced, the letter of credit deposit shall be held by the Village in escrow until completion of the applicable Improvements and shall, at the Village's discretion, be drawn on or retained by the Village in the event that the Developer fails to construct and complete, in a good and workmanlike manner pursuant to and in accordance with this Agreement, the applicable Improvements or any portion thereof. Upon the Village's certification of completion of construction of the Improvements, the Village shall release the letter of credit and the cash deposit. All Guarantee deposits shall be maintained at the Developer's sole cost and expense.

## **SECTION 8. DEDICATIONS, DONATIONS AND CONTRIBUTIONS.**

The Developer shall, and does hereby agree to, fully comply with, and cause to be paid, the fees in lieu of land contribution calculated to be owing pursuant to the Village's Subdivision Code, with respect to: (i) the Northbrook Park District; (ii) Northfield Township High School District No. 225; and (iii) Elementary School District No. 28 prior to occupancy of the single family residences. Said fees are based on a per unit basis and paid at issuance of the certificate of occupancy for each said Building Site. The Village and the Developer acknowledge and agree that only 10 of the 12 Building Sites will be obligated to pay the fee.

## **SECTION 9. PAYMENT OF VILLAGE FEES AND COSTS.**

**A. General Requirements.** In addition to any other costs, payments, fees, charges, contributions or dedications required by this Agreement, the Developer shall pay to the Village, as and when due, all application, inspection and permit fees, all water and sewer general and special connection fees, tap-on fees, charges and contributions, and all other fees, charges and contributions required by applicable Village codes, ordinances, resolutions, rules or regulations.

**B. Special Requirements.** In addition to any other costs, payments, fees, charges, contributions or dedications required by this Agreement or by applicable Village codes, ordinances, resolutions, rules or regulations, the Developer shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering and other consulting or administrative fees, costs and expenses incurred or accrued in connection with the review and processing of plans for the development of the Property and in connection with the negotiation, preparation, consideration and review of this Agreement. Payment of all such fees, costs and expenses for which demand has been made, but payment has not been received, by the Village prior to execution of this Agreement shall be made by a certified or cashier's check immediately upon execution of this Agreement by the Village President. Further, the Developer agrees that it will continue to be liable for and to pay, immediately upon presentation of a written demand or demands therefor, such fees, costs and expenses incurred in connection with any applications, documents or proposals, whether formal or informal, of whatever kind submitted by the Developer during the term of this Agreement in connection with the development and use of the Property. Further, the Developer agrees that it shall be liable for and shall pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

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## SECTION 10. LIABILITY AND INDEMNITY OF VILLAGE.

A. **Village Review.** The Developer acknowledges and agrees that the Village is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the Village's review and approval of any plans for the Property or the Improvements, or the issuance of any approvals, permits, certificates or acceptances, for the development or use of the Property or the Improvements, and that the Village's review and approval of any such plans and the Improvements and issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure the Developer, or any of its heirs, successors, assigns, tenants and licensees, or any third party, against damage or injury of any kind at any time.

B. **Village Procedure.** The Developer acknowledges and agrees that all notices, meetings and hearings have been properly given and held by the Village with respect to the approval of this Agreement and agrees not to challenge such approval on the grounds of any procedural infirmity or of any denial of any procedural right.

C. **Indemnity.** The Developer, only as to its own acts and omissions, agrees to, and does hereby, hold harmless and indemnify the Village, the Corporate Authorities, the Plan Commission and all Village elected or appointed officials, officers, employees, agents, representatives, engineers and attorneys, from any and all claims that may be asserted at any time against any of such parties in connection with (i) the Village's review and approval of any plans for the Property or the Improvements; (ii) the issuance of any approval, permit, certificate or acceptance for the Property or the improvements; and (iii) the development, construction, maintenance or use of any portion of the Property or the Improvements.

D. **Defense Expense.** The Developer, only as to its own acts or omissions, shall, and does hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Village in defending itself with regard to any and all of the claims referenced in Subsection 10.C above.

## SECTION 11. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS.

All obligations assumed by the Developer under this Agreement shall be binding upon such party personally, upon any and all of the respective party's heirs, successors and assigns, and upon any and all of the respective successor legal or beneficial owners of all or any portion of the Property. To assure that all such heirs, successors, assigns and successor owners have notice of this Agreement and the obligations created by it, the Developer shall:

- i. Deposit with the Village Clerk, concurrent with the Village's approval of this Agreement, any consents or other documents necessary to authorize the Village to record this Agreement with the Cook County Recorder of Deeds;
- ii. Notify the Village in writing at least 30 days prior to any date upon which such party transfers a legal or beneficial interest in any portion of the Property to any party not a party to this Agreement;
- iii. Incorporate, by reference, this Agreement into any and all real estate sales contracts entered into for the sale of all or any portion of the Property to any party not a party to this Agreement; and

- iv. Require, prior to the transfer of all or any portion of the Property, or any legal or equitable interest therein, to any party not a party to this Agreement, the transferee of said portion of or interest in the Property to execute an enforceable written agreement, in substantially the form attached hereto as **Exhibit J**, agreeing to be bound by the provisions of this Agreement (a "**Transferee Assumption Agreement**") and to provide the Village, upon request, with such reasonable assurance of the financial ability of such transferee to meet those obligations as the Village may require;

provided, however, that the requirements stated in the three preceding clauses shall not apply to any contract for, or transfer of, an individual Building Site or group of Building Sites for which all Improvements have been completed and approved and, where appropriate, accepted pursuant to Section 5 of this Agreement. The Village agrees that upon a successor becoming bound to the personal obligation created in the manner provided in this Agreement and providing the financial assurances required herein, the personal liability of the Developer shall be released to the extent of the transferee's assumption of such liability. The failure of the Developer to provide the Village with a fully executed copy of a Transferee Assumption Agreement required above, the transferee to be bound by the provisions of this Agreement and, if requested by the Village, with the transferee's proposed assurances of financial capability before completing any such transfer shall result in such party remaining fully liable for all of such party's obligations under this Agreement but shall not relieve the transferee of its liability for all such obligations as a successor to such party.

## SECTION 12. TERM.

The provisions of this Agreement shall run with and bind the Property, and shall inure to the benefit of, and be enforceable by, the Developer, the Village and any of their respective legal representatives, heirs, grantees, successors and assigns, from the date this Agreement is recorded and until the Improvements are approved by the Village and the public Improvements, as required by this Agreement and the Subdivision Code, are accepted by the Village. Following such approval and acceptance, the Village agrees, upon written request of the Developer, to execute appropriate and recordable evidence of the termination of this Agreement.

## SECTION 13. ENFORCEMENT.

The parties hereto may, in law or in equity, by suit, action, mandamus or any other proceeding, including without limitation specific performance, enforce or compel the performance of this Agreement; provided, however, that the Developer agrees that it will not seek, and does not have the right to seek, to recover a judgment for monetary damages against the Village or any elected or appointed officials, officers, employees, agents, representatives, engineers or attorneys thereof, on account of the negotiation, execution or breach of any of the terms and conditions of this Agreement. In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village shall be entitled to withhold the issuance of building permits or certificates of occupancy for any and all buildings and structures within the Property at any time when the Developer has failed or refused to meet fully any of its obligations under this Agreement. In the event of a judicial proceeding brought by one party to this Agreement against the other party to this Agreement, the prevailing party in such judicial proceeding shall be entitled to reimbursement from the unsuccessful party of all costs and

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expenses, including reasonable attorneys' fees, incurred in connection with such judicial proceeding.

## SECTION 14. GENERAL PROVISIONS.

A. **Notice.** All notices required or permitted to be given under this Contract shall be in writing and shall be deemed received by the addressee thereof (i) when delivered by electronic internet mail ("E-mail") and opened by the recipient on a business day at the address set forth below; or (ii) when delivered in person on a business day at the address set forth below; or (iii) on the third business day after being deposited in any main or branch United States post office, for delivery at the address set forth below by properly addressed, postage prepaid, certified or registered mail, return receipt requested. Notices and communications to the Developer shall be addressed to, and delivered at, the following address:

The Villas of Northbrook LLC  
15 E. Northwest Highway, Suite B  
Palatine, IL 60067  
Attention: Mr. Adel T. Sotolongo  
E-mail: None

With a copy to:

Mr. Thomas R. Brashler  
Stahl Brashler, LLC  
20 E. Jackson Blvd., St. 700  
Chicago, IL 60604  
E-mail: None

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Village of Northbrook  
1225 Cedar Lane  
Northbrook, Illinois 60062  
Attention: Village Manager  
E-mail: novinson@northbrook.il.us

with a copy to:

Holland & Knight LLP  
55 West Monroe Street, Suite 800  
Chicago, Illinois 60603  
Attention: Steven M. Elrod  
E-mail: selrod@hklaw.com

E-mail notice shall be deemed a notice "in writing" for purposes of this Section. By notice complying with the requirements of this Section, the City and the Developer each shall have the right to change the address or addressee or both for all future notices to it, but no notice of a change of address or addressee shall be effective until actually received, and, if by E-mail, opened by the recipient.

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B. **Time of the Essence.** Time is of the essence in the performance of all terms and provisions of this Agreement.

C. **Rights Cumulative.** Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies and benefits allowed by law.

D. **Non-Waiver.** The Village shall be under no obligation to exercise any of the rights granted to it in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the Village to exercise at any time any such right shall not be deemed or construed a waiver thereof, nor shall such failure void or affect the Village's right to enforce such right or any other right.

E. **Consents.** Whenever the consent or approval of any party hereto is required in this Agreement such consent or approval shall be in writing and shall not be unreasonably withheld or delayed, and, in all matters contained herein, all parties shall have an implied obligation of reasonableness, except as may be expressly set forth otherwise.

F. **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois.

G. **Non-Severability.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the entire remainder of this Agreement shall, thereupon, be null and void and of no further force and effect, it being the intent of the parties that all of the provisions of this Agreement be treated as an individual whole.

H. **Entire Agreement.** This Agreement shall constitute the entire agreement of the parties to this Agreement; all prior agreements between the parties, whether written or oral, are merged in this Agreement and shall be of no force and effect.

I. **Grammatical Usage and Construction.** In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural, in any place in which the context so requires.

J. **Interpretation.** This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

K. **Headings.** The table of contents, headings, titles and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend or describe the scope or intent of this Agreement.

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L. **Exhibits.** Exhibits A through J attached hereto are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of this Agreement shall control.

M. **Amendments and Modifications.** No modification, addition, deletion, revision, alteration or other change to this Agreement shall be effective unless and until such change is reduced to writing and executed by the Village and all owners of record of the Property at the time such modification is intended to be effective, pursuant to all applicable statutory procedures.

N. **Changes in Laws.** Unless otherwise explicitly provided in this Agreement, any reference to any Requirements of Law shall be deemed to include any modifications of, or amendments to such Requirements of Law as may, from time to time, hereinafter occur.

O. **Authority to Execute.**

1. **The Village.** The Village hereby represents to the Developer that the persons executing this Agreement on its behalf have been properly authorized to do so by the Corporate Authorities.

2. **The Developer.** The Developer hereby warrants and represents to the Village (i) that it has the full and complete right, power and authority to enter into this Agreement and to agree to the terms, provisions and conditions set forth in and to bind the Property as set forth in this Agreement; (ii) that all legal actions needed to authorize the execution, delivery and performance of this Agreement have been taken; (iii) that neither the execution of this Agreement nor the performance of the obligations assumed by the Developer hereunder will (a) result in a breach or default under any agreement to which the Developer is a party or to which it or the Property is bound or (b) violate any statute, law, restriction, court order or agreement to which the Developer or the Property are subject; (iv) that the Developer has, or will have, prior to or concurrent with recordation of this Agreement, good record and marketable title in fee simple to the Property; (v) that no mortgagee or any other secured party that has an interest in the Property as of the date of this Agreement has an objection to either (a) the execution and performance of this Agreement by the Developer or (b) the binding nature of this Agreement with respect to the Property, and the Developer shall deliver to the Village Clerk, prior to the recording of the Final Plat of Subdivision, a document acceptable to the Village Attorney and executed by any and all existing mortgagees or secured parties, acknowledging this warranty and confirming the validity thereof; (vi) that the Developer is duly organized, validly existing, and in good standing as a limited liability company under the laws of the State of Illinois; (vii) that all necessary consents of any Board of Directors, shareholders, creditors, investors, partners, judicial or administrative bodies, governmental authorities, or other parties regarding the execution and delivery of this Agreement have been obtained; and (viii) that the individuals executing this Agreement on behalf of the Developer have the power and authority to execute and deliver this Agreement on behalf of the Developer.

P. **Calendar Days and Time.** Any reference herein to "day" or "days" shall mean calendar and not business days. If the date for giving of any notice required to be given hereunder or the performance of any obligation hereunder falls on a Saturday, Sunday or



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Federal holiday, then said notice or obligation may be given or performed on the next business day after such Saturday, Sunday or Federal holiday.

**Q. No Third Party Beneficiaries** No claim as a third party beneficiary under this Agreement by any person, firm or corporation shall be made, or be valid, against the Village or the Developer.

**[END OF TEXT - SIGNATURE PAGES FOLLOW]**

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the parties have hereunto set their hands on the date first above written.

ATTEST:

VILLAGE OF NORTHBROOK

*Lona N. Louis*  
Village Clerk

By: *M. W. Dal*  
Village President

ATTEST:

THE VILLAS OF NORTHBROOK LLC, an  
Illinois limited liability company

By: \_\_\_\_\_

By: *[Signature]*  
Its: *MNGC*

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**ACKNOWLEDGMENTS**

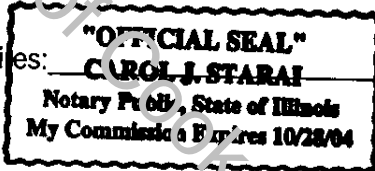
STATE OF ILLINOIS            )  
   ) SS.  
COUNTY OF COOK            )

This instrument was acknowledged before me on Jan 9, 2000, by Mark W. Damisch, the Village President of the **VILLAGE OF NORTHBROOK**, an Illinois municipal corporation, and by Lore W. Louis, the Village Clerk of said municipal corporation.

Given under my hand and official seal this 9th day of Jan, 2000.

Carol J. Starai  
Notary Public

My Commission expires: \_\_\_\_\_

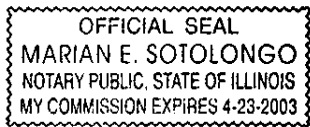


SEAL

STATE OF ILLINOIS            )  
   ) SS.  
COUNTY OF COOK            )

This instrument was acknowledged before me on Dec 13th, 2000, by Adel T. Sotolongo, the Manager of **THE VILLAS OF NORTHBROOK LLC**, an Illinois limited liability company, and by \_\_\_\_\_, the \_\_\_\_\_ of said corporation.

Given under my hand and official seal this 13th day of Dec, 2000.



Marian E. Sotolongo  
Notary Public

My Commission expires: \_\_\_\_\_

SEAL

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## LENDER'S CONSENT

LaSalle Bank National Association, as mortgagee under document number 00459243 recorded with the Cook County Recorder of Deeds Office on the 21st day of JUNE, 2000, hereby acknowledges, agrees and consents to the terms and conditions of this Planned Development and Subdivision Agreement and agrees that the Property (as defined in the Agreement) shall be subject to the terms and conditions of the Agreement.

ATTEST:

LASALLE BANK NATIONAL ASSOCIATION

Judith E. Johnson

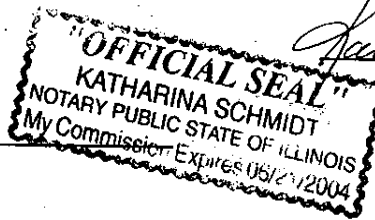
By:

[Signature]  
Its: 1st Vice President

STATE OF ILLINOIS )  
                                  )SS  
COUNTY OF COOK )

I, KATHARINA SCHMIDT a notary public in and for said county in the State aforesaid, do hereby certify that JAMES A. PATE of LaSalle Bank National Association, and JUDITH E. JOHNSON of said Association, personally known to me to hold the positions indicated hereon and to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal this 27th day of DEC, 2000



Katharina Schmidt  
Notary Public

My Commission expires: \_\_\_\_\_

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## INDEX OF EXHIBITS

Exhibit A	Final Building Materials Plan
Exhibit B	Final Engineering Plan
Exhibit C	Final Landscape Plan
Exhibit D	Final Plat of Subdivision
Exhibit E	Final Tree Inventory Plan
Exhibit F	Planned Development Plan
Exhibit G	Legal Description of the Property
Exhibit H	Disclosure Declaration
Exhibit I	Form of Irrevocable Letter of Credit
Exhibit J	Transferee Assumption Agreement

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EXHIBIT A

FINAL BUILDING MATERIALS PLAN

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THE DEARBORN GROUP  
c/o 3032 W. Algonquin Road  
MOUNT PROSPECT, IL 60056  
(847) 545-9500

September 5, 2000

10355661

Mr. Michael Jacobs  
Village of Northbrook  
1225 Cedar Lane  
Northbrook, IL 60062

RE: 501 & 525 Pfingsten a/k/a THE VILLAS OF NORTHBROOK

Dear Mr. Jacobs,

As per your request, the following colors will be used in the above referenced development;

Siding: Match Olympic Stain colors PM316 and PM319

Trim: Match Olympic Stain colors PM316 and PM319

Windows: Milgard Almond

Brick: IW55 Autumn Rose

Gutters/Soffit/Fascia: Match Trim

Front Doors: Match Olympic Stain PM316, PM319, Sherwin Williams  
SW2385(green), SW2718(garnet)

Shingles: Match Owens Corning Supreme "Weather Gray"

We will have samples of these colors at the Trustee meeting.

Sincerely,



Christopher F. Coleman  
Partner

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## EXHIBIT G

### LEGAL DESCRIPTION OF THE PROPERTY

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#### PARCEL 1:

THE NORTH 100 FEET OF THE SOUTH 1980 FEET OF THE WEST 627 FEET OF THE SOUTHWEST ¼ OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 12 EAST, OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 04-04-302-035-000

Commonly Known as: 501 Pfingsten Road, Northbrook, Illinois 60062

#### PARCEL 2:

THE NORTH 100 FEET OF THE SOUTH 1880 FEET OF THE WEST 627 FEET OF THE SOUTHWEST ¼ OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 04-04-302-036-000

Commonly Known as: 525 Pfingsten Road, Northbrook, Illinois 60062

Upon consolidation of Parcels 1 and 2 the legal description of the property shall be as follows:

THE VILLAS OF NORTHBROOK, BEING A SUBDIVISION OF:

THE NORTH 200.00 FEET OF THE SOUTH 1980.00 FEET OF THE WEST 627.00 FEET OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THEREFROM THAT PART DEDICATED FOR PFINGSTEN ROAD: CONTAINING 115.517 SQ. FT. OR 2.6519 ACRES, ALL IN COOK COUNTY, ILLINOIS.

PIN: 04-04-302-035

04-04-302-036

Cook County Clerk's Office



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EXHIBIT H

10355661

## DISCLOSURE DECLARATION

THIS DISCLOSURE DECLARATION made this \_\_\_\_ day of \_\_\_\_\_, 2000, by THE VILLAS OF NORTHBROOK LLC, an Illinois limited liability company ("Developer"), the developer and lessee of a certain parcel of real estate located in the Village of Northbrook, Cook County, Illinois (the "Village"), commonly known as 501 and 525 Pfingsten Road, Northbrook, Illinois, which is described in Exhibit A attached hereto and, by this reference, made a part hereof (the "Property").

### WITNESSETH:

WHEREAS, the Developer has entered into that certain Planned Development and Subdivision Agreement, by and between the Developer and the Village, dated \_\_\_\_\_, 2000, providing for the development of the Property as a planned development known as "The Villas of Northbrook"; and

NOW, THEREFORE, the Developer voluntarily declares that its current and future interest in the Property, all portions thereof, and all improvements constructed thereon, are and shall be held, transferred, sold, conveyed, used, and occupied subject to the restrictions hereinafter set forth.

#### Section 1. Disclosure of Restrictions.

The Villas of Northbrook Subdivision was developed as a planned development and, as such, unique restrictions exist that significantly limit the ability to build additions to, or modify the exteriors of, the residential dwelling units ("Residential Units"). Building envelopes have been drawn around each of the Residential Units constructed or to be constructed at The Villas of Northbrook. The building envelopes are identified on The Villas of Northbrook Final Development Plan prepared by The Balsamo/Olson Engineering Company, which has been approved by the Village in Resolution No. 00-R-138, as it has been and may, from time to time, be amended. No building, deck, patio or construction of any kind that extends in any way beyond the building envelope applicable to each Residential Unit shall be permitted.

#### Section 2. Amendment.

This Disclosure Declaration shall not be modified, amended or annulled without the express, prior written approval of the Village, by resolution duly adopted.

#### Section 3. Covenants Running with the Land.

The restrictions hereby imposed shall be restrictions running with the land and shall be binding upon the Developer, the Association and their successors, assigns, agents, licensees, invitees and representatives, including, without limitation, all subsequent owners of the Property, any portion thereof, or any Residential Unit improvement constructed thereon, and all persons claiming under them.

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**Section 4. Recordation.**

10355661

This Disclosure Declaration shall be recorded with the Recorder of Deeds of Cook County, Illinois, and all contracts and deeds of conveyance relating to the Property, or any part thereof, shall be subject to the provisions of this Disclosure Declaration.

**Section 5. Term.**

The restrictions hereby imposed shall be enforceable for a term of 100 years from the date this Disclosure Declaration is recorded, after which time such Covenant shall be automatically extended for successive periods of ten years unless an instrument amending this declaration shall be recorded and provide for some other duration. If any of the rights or restrictions imposed by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the current President of the United States as of the date of this Disclosure Declaration.

IN WITNESS WHEREOF, the Developer has caused this Disclosure Declaration to be executed and attested and its corporate seal to be affixed by duly authorized representatives on the date first above written.

ATTEST:

THE VILLAS OF NORTHBROOK LLC, an  
Illinois limited liability company

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Its: \_\_\_\_\_

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EXHIBIT A  
LEGAL DESCRIPTION OF THE PROPERTY

PARCEL 1:

THE NORTH 100 FEET OF THE SOUTH 1980 FEET OF THE WEST 627 FEET OF THE SOUTHWEST ¼ OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 12 EAST, OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 04-04-302-035-000

Commonly Known as: 501 Pfingsten Road, Northbrook, Illinois 60062

PARCEL 2:

THE NORTH 100 FEET OF THE SOUTH 1880 FEET OF THE WEST 627 FEET OF THE SOUTHWEST ¼ OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 04-04-302-036-000

Commonly Known as: 525 Pfingsten Road, Northbrook, Illinois 60062

Upon consolidation of Parcels 1 and 2 the legal description of the property shall be as follows:

THE VILLAS OF NORTHBROOK, BEING A SUBDIVISION OF:

THE NORTH 200.00 FEET OF THE SOUTH 1980.00 FEET OF THE WEST 627.00 FEET OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THEREFROM THAT PART DEDICATED FOR PFINGSTEN ROAD: CONTAINING 115.517 SQ. FT. OR 2.6519 ACRES, ALL IN COOK COUNTY, ILLINOIS.

PIN: 04-04-302-035

04-04-302-036

Clerk's Office

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## EXHIBIT I

### FORM OF IRREVOCABLE LETTER OF CREDIT

10355661

IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ AMOUNT: \_\_\_\_\_

EXPIRATION DATE: \_\_\_\_\_ DATE OF ISSUE: \_\_\_\_\_

\_\_\_\_\_  
[Name of Bank]

\_\_\_\_\_  
[Address]

TO: Village of Northbrook  
1225 Cedar Lane  
Northbrook, IL 60062  
Attention: Village Manager

WE HEREBY AUTHORIZE YOU TO DRAW AT SIGHT on the \_\_\_\_\_ UP TO AN AGGREGATE  
AMOUNT OF \_\_\_\_\_ United States Dollars  
(\$ \_\_\_\_\_) for account of \_\_\_\_\_  
(the "Customer").

Drafts under this Letter of Credit shall bear upon their face the words:

Drawn under \_\_\_\_\_  
Credit No. \_\_\_\_\_ Dated: \_\_\_\_\_

and shall be in the form attached hereto as Exhibit "A" and shall be accompanied by one of the following documents executed by the Village Manager, an individual designated as acting Village Manager, or the Assistant Village Manager:

(a) A written statement on the form attached hereto as Exhibit "B" stating that, conditioned upon proper notice to the Northbrook Village Manager, Letter of Credit No. \_\_\_\_\_ will expire within 35 days or less and that the Customer has failed to deliver to the Northbrook Village Manager evidence of a renewal of Letter of Credit No. \_\_\_\_\_; or

(b) A written statement on the form attached hereto as Exhibit "C" stating that all or any part of the improvements required to be constructed pursuant to Section 5 of the Planned Development and Subdivision Agreement dated \_\_\_\_\_, 2000 by and between the Village of Northbrook and The Villas of Northbrook LLC, an Illinois limited liability company, (the "**Subdivision Agreement**") have not been constructed in accordance with the Subdivision Agreement; or

(c) A written statement on the form attached hereto as Exhibit "D" stating that all or any part of the costs, payments, permit fees or other fees required to be paid to the Village pursuant to the Subdivision Agreement have not been paid in accordance with the Subdivision Agreement; or

EXHIBIT I

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(d) A written statement on the form attached hereto as Exhibit "E" stating that all or any portion of the maintenance, repair, or restoration required to be performed pursuant to Section 5 of the Subdivision Agreement have not been performed in accordance with the Subdivision Agreement; or

(e) A written statement on the form attached hereto as Exhibit "F" stating that all or any portion of the Customer's undertakings pursuant to the Subdivision Agreement have not been performed in accordance with the Subdivision Agreement.

EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS LETTER OF CREDIT, THIS LETTER OF CREDIT IS SUBJECT TO THE "UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS 1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE BROCHURE NO. 500" (THE "UNIFORM RULES"). IN THE EVENT OF A CONFLICT BETWEEN THIS LETTER OF CREDIT AND THE UNIFORM RULES, THIS LETTER OF CREDIT SHALL CONTROL.

WE HEREBY AGREE with the drawers of drafts drawn under and in compliance with the terms of this Letter of Credit, that:

1. Drafts drawn under and in compliance with this Letter of Credit shall be duly honored immediately upon presentation to the drawees if presented on or before the above-stated Expiration Date or presented at our office together with the original of this Letter of Credit on or before that date.

2. The amount of any draft drawn under this Letter of Credit must be endorsed on the reverse hereof by our bank.

3. If, within three days after any draft drawn under this Letter of Credit is presented to us in conformance with the terms of this Letter of Credit, we fail to honor same, we agree to pay all attorneys' fees, court costs and other expenses incurred by the Village of Northbrook in enforcing the terms hereof.

4. This Letter of Credit shall expire on \_\_\_\_\_, 20\_\_\_\_, as stated hereinabove; provided, however, that we shall notify the Northbrook Village Manager by certified mail, return receipt requested, at least 35 days, but not more than 90 days, prior to said expiration date, that this Letter of Credit is about to expire.

5. In no event shall this Letter of Credit or the obligations contained herein expire except upon the prior written notice required herein, it being expressly agreed that the above expiration date shall be extended as shall be required to comply with the prior written notice required herein.

6. No consent, acknowledgment, or approval of any kind from the Customer shall be necessary or required prior to honoring any draft presented in conformance with the terms of this Letter of Credit.

7. The aggregate amount of this Letter of Credit may be reduced only upon receipt by us of a document executed by the Northbrook Village Manager stating that such aggregate amount shall be reduced in an amount permitted by the Northbrook Subdivision and Development Code because of the satisfactory completion of all or part of the improvements required to be constructed pursuant to Section 5 of the Subdivision Agreement.

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8. This Letter of Credit is irrevocable.

\_\_\_\_\_  
[Signature of Bank Officer]

\_\_\_\_\_  
[Signature of Bank Officer]

\_\_\_\_\_  
[Officer's Title]

\_\_\_\_\_  
[Officer's Title]

Property of Cook County Clerk's Office

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EXHIBIT A

FORM OF DRAFT

[To Be Supplied By Issuing Bank]

Property of Cook County Clerk's Office

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EXHIBIT B

To:  
Attn:

Re: Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

This is to advise you that Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ will expire within 35 days or less and that \_\_\_\_\_ has failed to deliver to the Northbrook Village Manager evidence of a renewal of Letter of Credit No. \_\_\_\_\_.

Very truly yours,

\_\_\_\_\_  
Northbrook Village Manager



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EXHIBIT C

10355661

To:  
Attn:

Re: Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

This is to advise you that all or any part of the improvements required to be constructed pursuant to Section 5 of the Subdivision Agreement dated \_\_\_\_\_, 2000 by and between the Village of Northbrook, and The Villas of Northbrook LLC, an Illinois limited liability company, have not been constructed in accordance with said agreement.

Very truly yours,

\_\_\_\_\_  
Northbrook Village Manager

EXHIBIT I  
Page 6 of nine

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EXHIBIT D

10355661

To:  
Attn:

Re: Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

This is to advise you that all or any part of the costs, payments, permit fees or other fees required to be paid pursuant the Subdivision Agreement dated \_\_\_\_\_, 2000 by and between the Village of Northbrook, and The Villas of Northbrook LLC, an Illinois limited liability company, have not been paid in accordance with said agreement.

Very truly yours,

\_\_\_\_\_  
Northbrook Village Manager

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Page 7 of nine

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EXHIBIT E

10355661

To:  
Attn:

Re: Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

This is to advise you that all or any part of the maintenance, repair or restoration required to be performed pursuant to the Subdivision Agreement dated \_\_\_\_\_, 2000 by and between the Village of Northbrook, and The Villas of Northbrook LLC, an Illinois limited liability company, have not been performed in accordance with said agreement.

Very truly yours,

\_\_\_\_\_  
Northbrook Village Manager

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EXHIBIT F

10355681

To:  
Attn:  
Re: Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

This is to advise you that all or any part of the undertakings of the Customer (as that term is defined in the above-referenced Letter of Credit) pursuant to the Subdivision Agreement dated \_\_\_\_\_, 2000 by and between the Village of Northbrook, and The Villas of Northbrook LLC, an Illinois limited liability company, have not been performed in accordance with said agreement.

Very truly yours,

\_\_\_\_\_  
Northbrook Village Manager

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## EXHIBIT J

### TRANSFeree ASSUMPTION AGREEMENT

THIS AGREEMENT, made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by, between and among THE VILLAS OF NORTHBROOK LLC, an Illinois limited liability company (the "Owner"), [TRANSFeree] (the "Transferee") and the Village of Northbrook, Illinois, an Illinois municipal corporation (the "Village"),

#### WITNESSETH:

WHEREAS, pursuant to that certain real estate sale contract dated \_\_\_\_\_, 20\_\_\_\_, the Transferee agreed to purchase from the Owner certain real property situated in Cook County, Illinois and legally described in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof (the "Property"); and

WHEREAS, following the conveyance of the Property by the Owner, the Transferee will be the legal owners of the Property; and

WHEREAS, as a condition to the conveyance of the Property by the Owner, the Owner and the Village require that the Transferee agree to comply with all the terms, requirements and obligations set forth in that certain Planned Development and Subdivision Agreement, dated as of \_\_\_\_\_, 2000, and recorded in the Office of the Cook County Recorder on \_\_\_\_\_, 2000, as Document No. \_\_\_\_\_, by, between and among the Village, and The Villas of Northbrook LLC, an Illinois limited liability company, from time to time (the "Subdivision Agreement");

NOW, THEREFORE, in consideration of the agreement of the Owner to convey the Property to the Transferee and of the Village to accept the transfer of obligations as provided herein and to grant the releases granted herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by, between and among the Village, the Owner and the Transferee as follows:

1. **Recitals.** The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.
2. **Assumption of Obligations.** The Transferee, on its behalf and on behalf of its successors, assigns, heirs, executors and administrators, hereby agrees, at its sole cost and expense, to comply with all of the terms, requirements and obligations of the Subdivision Agreement, including all exhibits and attachments thereto, regardless of whether such terms, requirements and obligations are to be performed and provided by, or are imposed upon, the Owner or the developer of the Property.
3. **Assurances of Financial Ability.** Contemporaneously with the Transferee's execution of this Agreement, the Transferee shall deposit with the Village Manager the performance security required by Section 7 of the Subdivision Agreement. Upon execution of this Agreement by the Village and deposit with the Village Manager of the required performance security, the Village shall surrender the original performance security to the Owner. In addition, and not in limitation of the foregoing, the Transferee shall, upon the request of the Village, provide the Village with such reasonable assurances of financial ability to meet the obligations assumed hereunder as the Village may, from time to time, require.

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4. **Payment of Village Fees and Costs.** In addition to any other costs, payments, fees, charges, contributions or dedications required by this Agreement, the Subdivision Agreement or by applicable Village codes, ordinances, resolutions, rules or regulations, the Transferee shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering and other consulting or administrative fees, costs and expenses incurred in connection with the negotiation, preparation, consideration and review of this Agreement.

5. **Acknowledgment and Release of Transferor.** The Village hereby acknowledges its agreement to the Transferee's assumption of the obligation to comply with the terms, requirements and obligations of the Subdivision Agreement, including all exhibits and attachments thereto, and the Village hereby releases the Owner from any personal liability for failure to comply with the terms, requirements and obligations of the Subdivision Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

ATTEST:

VILLAGE OF NORTHBROOK

\_\_\_\_\_  
Village Clerk

\_\_\_\_\_  
Village President

ATTEST:

THE VILLAS OF NORTHBROOK LLC, an  
Illinois limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

[TRANSFEREE]

By: \_\_\_\_\_

Its: \_\_\_\_\_

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## ACKNOWLEDGMENTS

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF COOK        )

This instrument was acknowledged before me on \_\_\_\_\_, 2000, by \_\_\_\_\_, the Village President of the **VILLAGE OF NORTHBROOK**, an Illinois municipal corporation, and by \_\_\_\_\_, the Village Clerk of said municipal corporation.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

SEAL

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF COOK        )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2000, by \_\_\_\_\_, President of [**TRANSFeree**] and \_\_\_\_\_, Secretary of said \_\_\_\_\_.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

SEAL

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF COOK        )

This instrument was acknowledged before me on \_\_\_\_\_, 2000, by \_\_\_\_\_ of **THE VILLAS OF NORTHBROOK LLC**, an Illinois limited liability company.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

SEAL  
CHI1 #84493 v2





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PASSED: This 26<sup>th</sup> day of September, 2000.

AYES: (6) Trustees Jaeger, Frum, Buehler, Donewald and Meek  
and President Damisch

NAYS: (0)

ABSENT: (1) Trustee Karagianis

ABSTAIN: (0)

/s/ Mark W. Damisch

Village President

ATTEST:

/s/ Lona N. Louis

Village Clerk

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EXHIBIT A

10355661

Planned Development and Subdivision Agreement,  
By, Between, and Among  
The Village of Northbrook and  
The Villas of Northbrook LLC  
(505 & 525 Pfingsten Road)

Property of Cook County Clerk's Office

**EXHIBIT ATTACHED**