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08/02/07

DECLARATION FOR DEVONSHIRE WOODS ESTATES

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DECLARATION FOR DEVONSHIRE WOODS ESTATES

This Declaration is made by Hoffman Estates Three LLC, an Illinois limited liability company ("Declarant").

R E C I T A L S

Declarant is the record title holder of the Development Area which is legally described in Exhibit A hereto. Some or all of the Development Area shall be the subject of a phased development called "Devonshire Woods Estates" (the "Development"). The Development shall include dwelling units and certain common areas.

Initially, the Declarant shall subject the real estate which is legally described in Exhibit B hereto to the provisions of this Declaration as the Premises. From time to time the Declarant may subject additional portions of the Development Area to the provisions of this Declaration as Added Premises, as more fully described in Article Twelve. Nothing in this Declaration shall be construed to require the Declarant to subject additional portions of the Development Area to the provisions of this Declaration. Those portions of the Development Area which are not made subject to the provisions of this Declaration as Premises may be used for any purposes not prohibited by law.

Certain portions of the Premises are designated as Lots and other portions are designated as Common Area. The Declarant has formed (or will form) the Association under the Illinois General Not-For-Profit Corporation Act. The Association shall have the responsibility for administering and maintaining the Common Area and shall set budgets and fix assessments to pay the expenses incurred in connection with such responsibility. It is not intended that the Association shall be a "common interest community association" as defined in Section 9-102(a)(8) of the Code of Civil Procedure (735 ILCS 5/9-102(a)(8)). Each Owner of a Lot shall be a member of the Association and shall be responsible for paying assessments with respect to the Lot owned by such Owner.

If all of the Common Area is dedicated or conveyed to governmental agencies, then the Association may be dissolved as provided in Section 5.08 hereof.

During the construction and marketing of the Development, the Declarant shall retain certain rights set forth in this Declaration, which rights shall include, without limitation, the right, prior to the Turnover Date, to appoint all members of the Board, as more fully described in Article Nine, the right to come upon the Premises in connection with Declarant's efforts to sell Lots and other rights reserved in Article Nine.

NOW, THEREFORE, the Declarant hereby declares as follows:

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ARTICLE ONE

Definitions

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01 **ASSOCIATION**: The Devonshire Woods Estates Homeowners Association, an Illinois not-for-profit corporation, its successors and assigns. The Association shall be formed in perpetuity.

1.02 **BOARD**: The board of directors of the Association, as constituted at any time or from time to time, in accordance with the applicable provisions of Article Five.

1.03 **BY-LAWS**: The By-Laws of the Association.

1.04 **CHARGES**: The Common Assessment, any special assessment levied by the Association and/or any other charges or payments which an Owner is required to pay or for which an Owner is liable under this Declaration or the By-Laws.

1.05 **COMMON AREA**: Those portions of the Premises which are described and designated as "Common Area" in Exhibit B hereto, together with all improvements located above and below the ground and rights appurtenant thereto. The Common Area shall generally include open space, landscaped areas, entrance monument areas and all storm sewers in, or under the Common Area and shall not include any Lots. The Common Area does not include Lot B, Lot C or Lot F, which will be conveyed by the Declarant to the Hoffman Estates Park District.

1.06 **COMMON ASSESSMENT**: The amounts which the Association shall assess and collect from the Owners to pay the Common Expenses and accumulate reserves for such expenses, as more fully described in Article Six.

1.07 **COMMON EXPENSES**: The expenses of administration (including management and professional services), operation, maintenance, repair, replacement and landscaping of the Common Area and improvements thereon; the expenses of maintenance and repair of the Southern Landscape Buffer Easement and maintenance, repair and replacement of any landscaping located thereon; the cost of insurance for the Common Area; the cost of general and special real estate taxes and assessments levied or assessed against the Common Area owned by the Association; premiums for insurance policies maintained by the Association hereunder; the cost of, and the expenses incurred for, the maintenance, repair and replacement of personal property acquired and used by the Association in connection with the maintenance of the Common Area; and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners. Notwithstanding the foregoing, Common Expenses shall not include any payments made out of Capital Reserves.

1.08 **COUNTY**: Cook County, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the County as of the Recording of this Declaration.

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1.09 DECLARANT: Hoffman Estates Three LLC, an Illinois limited liability company, its successors and assigns.

1.10 DECLARATION: This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.11 DEVELOPMENT AREA: The real estate described in Exhibit A hereto with all improvements thereon and rights appurtenant thereto. Exhibit A is attached hereto for informational purposes only and no covenants, conditions, restrictions, easements, liens or changes shall attach to any part of the real estate described therein, except to the extent that portions thereof are described in Exhibit B and expressly made subject to the provisions of this Declaration as part of the Premises. Any portions of the Development Area which are not made subject to the provisions of this Declaration as part of the Premises may be developed and used for any purposes not prohibited by law, including, without limitation, as a residential development which is administered separate from the Development.

1.12 HOME: That portion of a Lot which is improved with a single family home.

1.13 LANDSCAPE BUFFER EASEMENT: Those portions of the Development Area which are designated as a Landscape Buffer Easement or L.B.E. on the Plat. That portion of the Landscape Buffer Easement located within Lots 1-11, inclusive, is sometimes referred to herein as the "Western Landscape Buffer Easement", that portion of the Landscape Buffer Easement located within Lots D and E is sometimes referred to herein as the "Northern Landscape Buffer Easement", and that portion of the Landscape Buffer Easement located within Lot C is sometimes referred to herein as the "Southern Landscape Buffer Easement".

1.14 LANDSCAPE BUFFER EASEMENT GRANT OF EASEMENT: That certain grant of easement for the Landscape Buffer Easement set forth in the Plat.

1.15 LOT: Each subdivided lot designated in Exhibit B hereto as a Lot, together with all improvements thereon and thereto.

1.16 MORTGAGEE: The holder of a bona fide first mortgage, first trust deed or equivalent security interest covering a Lot.

1.17 MUNICIPALITY: The Village of Hoffman Estates, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the Municipality as of the Recording of this Declaration.

1.18 NON-OWNER: A person other than an Owner or a Resident.

1.19 OWNER: A Record owner, whether one or more persons, of fee simple title to a Lot, including contract seller, but excluding those having such interest merely as security for the performance of an obligation. The Declarant shall be deemed to be an Owner with respect to each Lot owned by the Declarant.

1.20 PERSON: A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

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1.21 PLAT: That certain Final Plat of Subdivision for Devonshire Woods Estates, Recorded on July 25, 2007, as Document No. 0720615092.

1.22 PREMISES: The real estate which is legally described in Exhibit B hereto, as amended or supplemented from time to time, with all improvements thereon and rights appurtenant thereto.

1.23 RECORD: To record in the office of the Recorder of Deeds for the County.

1.24 RESIDENT: An individual who resides in a Home.

1.25 TRIE: A self supporting woody perennial plant typically having a well defined stem or multi stems, developing many branches or a defined crown and attaining an overall height of 15 feet or more. Trees shall not include exotic or invasive plants, such as Buckthorn.

1.26 TURNOVER DATE: The date on which the rights of the Declarant to designate the members of the Board are terminated under Section 9.05.

1.27 VOTING MEMBER: The individual who shall be entitled to vote in person or by proxy at meetings of the Owners, as more fully set forth in Article Five.

ARTICLE TWO Scope of Declaration

2.01 PROPERTY SUBJECT TO DECLARATION: Declarant, as the owner of fee simple title to the Premises, expressly intends to and by Recording this Declaration, does hereby subject the Premises to the provisions of this Declaration. Declarant reserves the right to add additional real estate to the terms of this Declaration as more fully provided in Article Twelve.

2.02 CONVEYANCES SUBJECT TO DECLARATION: All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding on the Association, any Person having at any time any interest or estate in the premises, and their respective heirs, successors, personal representatives or assigns, regardless of whether the deed or other instrument which creates or conveys the interest makes reference to this Declaration.

2.03 DURATION: Except as otherwise specifically provided herein the covenants, conditions, restrictions, easements, reservations, liens, and charges, which are granted, created, reserved or declared by this Declaration shall be appurtenant to and shall run with and bind the land in perpetuity.

2.04 LOT CONVEYANCE: Once a Lot has been conveyed by the Declarant to a bona fide purchaser for value, then any subsequent conveyance or transfer of ownership of the Lot shall be of the entire Lot and there shall be no conveyance or transfer of a portion of the Lot without the prior written consent of the Board.

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2.05 ACCESS EASEMENT: Each Owner of a Lot shall have a non-exclusive perpetual easement for ingress to and egress from his Lot to public ways over and across the roads, driveways and walkways located on the Common Area, which easement shall run with the land, be appurtenant to and pass with title to every Lot. The Municipality or any other governmental authority which has jurisdiction over the Premises shall have a non-exclusive easement of access over roads, driveways and walkways located on the Common Area for police, fire, ambulance, waste removal, or for the purpose of furnishing municipal or emergency services to the Premises. The Association, its employees, agents and contractors, shall have the right of ingress to, egress from, and parking on the Common Area, and the right to store equipment on the Common Area, for the purpose of furnishing any maintenance, repairs or replacements to portions of the Premises provided for herein.

2.06 RIGHT OF ENJOYMENT: Each Owner shall have the non-exclusive right and easement to use and enjoy the Common Area and the exclusive right to use and enjoy the Owner's Lot. Such rights and easements shall run with the land, be appurtenant to and pass with title to every Lot, and shall be subject to and governed by the provisions of this Declaration, the By-Laws, and the reasonable rules and regulations from time to time adopted by the Association.

2.07 DELEGATION OF USE: Subject to the provisions of this Declaration, the By-Laws, and the reasonable rules and regulations from time to time adopted by the Association, any Owner may delegate his right to use and enjoy the Common Area and the Owner's Lot to Residents of his Lot. An Owner shall delegate such rights to tenants and contract purchasers of the Lot who are Residents.

2.08 RULES AND REGULATIONS: The use and enjoyment of the Common Area shall at all times be subject to reasonable rules and regulations duly adopted by the Board from time to time.

2.09 UTILITY EASEMENTS: The Municipality and all public and private utilities (including cable companies) serving the Premises are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Common Area for the purpose of providing utility services to the Premises or any other portion of the Development Area.

2.10 EASEMENTS, LEASES, LICENSES AND CONCESSIONS: The Association shall have the right and authority from time to time to lease or grant easements, licenses or concessions with regard to any portions or all of the Common Area for such uses and purposes as the Board deems to be in the best interests of the Owners and which are not prohibited hereunder, including, without limitation, the right to grant easements for utilities or any other purpose which the Board deems to be in the best interests of the Owners. Any and all proceeds from leases, easements, licenses or concessions with respect to the Common Area shall be used to pay the Common Expenses. Also, the Association shall have the right and power to dedicate any part or all of the roads or parking areas located on the Common Area to the Municipality, but only with the Municipality's approval. Each person, by acceptance of a deed, mortgage, trust deed, other evidence of obligation, or other instrument relating to a Home, shall be deemed to grant a power coupled with an interest to the Board, as attorney-in-fact, to grant, cancel, alter or otherwise change the easements provided for in this Section. Any instrument executed pursuant

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to the power granted herein shall be executed by the President and attested to by the Secretary of the Association and duly Recorded.

2.11 ASSOCIATION'S ACCESS: The Association shall have the right and power to come onto any Lot for the purpose of furnishing the services required to be furnished hereunder, or enforcing its rights and powers hereunder, including, without limitation, should any Owner fail to maintain that portion of the Western Landscape Buffer Easement located on such Owner's Lot in accordance with the terms hereof, the right and power to come onto such Owner's Lot for the purpose of the maintenance and repair of that portion of the Western Landscape Buffer Easement located on such Owner's Lot and the maintenance, repair and replacement of the landscaping located thereon.

2.12 NO DEDICATION TO PUBLIC USE: Except for easements granted or dedications made as permitted in Section 2.10, nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area to or for any public use or purpose whatsoever.

2.13 OWNERSHIP: The Common Area shall be conveyed to the Association by Declarant free and clear of any mortgage or trust deed whatsoever on or before the Turnover Date; provided, that, if any Common Area is made subject to this Declaration after the Turnover Date, such Common Area shall be conveyed to the Association free and clear of any mortgage or trust deed whatsoever simultaneously with such Common Area being made subject to this Declaration.

2.14 REAL ESTATE TAXES FOR COMMON AREA: If a tax bill is issued with respect to Common Area which is made subject to this Declaration in the middle of a tax year (regardless of when it is conveyed to the Association), then the tax bill shall be prorated so that the Declarant shall be responsible for the payment of that portion of the tax bill from January 1st of the tax year to the date that such Common Area is made subject to this Declaration, and the Association shall be responsible for the balance of the tax bill.

ARTICLE THREE The Common Area

3.01 IN GENERAL: The restrictions and limitations contained in this Article shall be subject to the rights of the Declarant set forth in Article Nine.

3.02 MAINTENANCE, REPAIR AND REPLACEMENT BY ASSOCIATION:

(a) Maintenance, repairs and replacements of the Common Area shall be furnished by the Association, and shall include, without limitation, the following:

(i) added planting, replanting, care and maintenance of trees, shrubs, flowers, grass and all other landscaping on the Common Area, including, without limitation, the Southern Landscape Buffer Easement;

(ii) maintenance, repair and replacement of other improvements, if any, installed by Declarant and/or the Association on the Common Area;

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(iii) maintenance, repair and replacement of the irrigation system, if any, installed by Declarant and/or the Association on the Common Area, including, without limitation, the Southern Landscape Buffer Easement; and

The cost of any maintenance, repairs and replacement furnished by the Association pursuant to this subsection shall be a Common Expense.

(b) Maintenance, repair and replacement of storm sewers located on the Premises outside of dedicated right-of-ways shall be furnished by the Association and the cost thereof shall be a Common Expense.

(c) The Association shall maintain the grass, shrubs, trees, and flowers, if any, installed by the Declarant on the Common Area, including, without limitation, the Southern Landscape Buffer Easement ("Initial Plantings") in accordance with generally accepted landscape maintenance standards, including mowing, trimming, fertilization, pruning, re-mulching, applications of insect and disease control, as needed, and any other maintenance which will promote the health of the Initial Plantings. If the Association fails to maintain the Initial Plantings in accordance with generally acceptable landscape maintenance standards and Initial Plantings die or decline as a result of this failure, then the Association shall be responsible for the replacement of the declining or dead Initial Plantings, including, but not limited to replacements required by the Municipality in connection with the Municipality's acceptance of the Initial Plantings. All expenses incurred under this subsection shall be Common Expenses.

3.03 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO THE COMMON AREA AND SOUTHERN LANDSCAPE BUFFER EASEMENT: No alterations, additions or improvements shall be made to the Common Area, including, without limitation, the Southern Landscape Buffer Easement, without the prior approval of the Board. The Association may cause alterations, additions or improvements to be made to the Common Area and the cost thereof shall be paid from a special assessment, as more fully described in Section 6.05; except, that, any such alteration, addition or improvement which shall cost more than four (4) months assessments then in effect under the then current budget shall be approved in advance at a special meeting of the Owners.

3.04 CERTAIN UTILITY COSTS: Certain utility costs incurred in connection with the use, operation and maintenance of the Common Area may not be separately metered and billed to the Association. If the cost for any such utility is metered and charged to individual Homes rather than being separately metered and charged to the Association, then the following shall apply:

(a) If in the opinion of the Board, each Owner is sharing in a fair and equitable manner the cost for such service, then no adjustment shall be made and each Owner shall pay his own bill; or

(b) If in the opinion of the Board, the Owner of a Home is being charged disproportionately for costs allocable to the Common Area, then the Association shall pay, or reimburse such Owner, an amount equal to the portion of the costs which in the

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reasonable determination of the Board is properly allocable to the Common Area and the amount thereof shall be a Common Expense.

Any determinations or allocations made hereunder by the Board shall be final and binding on all parties.

3.05 DAMAGE BY RESIDENT: If, due to the act or omission of a Resident of a Home, or of a household pet or guest or other authorized occupant or invitee of the Owner of a Lot, damage shall be caused to the Common Area and maintenance, repairs or replacements shall be required thereby, which would otherwise be a Common Expense, then the Owner of the Lot shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Board, to the extent not covered by insurance carried by the Association.

3.06 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO LOTS: No additions, alterations or improvements, including, without limitation, (i) fences (other than underground pet fences which are not visible from above the ground, which may be installed without the prior consent of the Board), (ii) changes in the exterior color of a Home, (iii) construction of awnings, antenna or satellite dish, (iv) changes or additions to patio or deck, (v) installation of an in ground swimming pool, outbuilding, playset, gazebo or shed, or (vi) other similar improvements, shall be made to any Lot or any part of the Home which is visible from outside the Home by an Owner without the prior written consent of the Board and, until the Declarant no longer owns or controls title to any portion of the Development Area, the Declarant, and compliance with applicable ordinances of the Municipality. Notwithstanding the foregoing, there shall be no above ground swimming pools or dog runs permitted on the Premises. The Board and/or Declarant may (but shall not be required to) condition its consent to the making of an addition, alteration or improvement to a Home or Lot which requires the consent of the Board and/or Declarant upon the Owner's agreement to be solely responsible for the maintenance of such addition, alteration or improvement, subject to such standards as the Board and/or Declarant may from time to time set. If an addition, alteration or improvement which requires the consent of the Board and/or Declarant hereunder is made to a Lot by an Owner without the prior written consent of the Board or Declarant, or both, as applicable, then (i) the Board may, in its discretion, take any of the following actions; and (ii) until such time as the Declarant no longer owns or controls title to any portion of the Development Area, the Declarant may, in its discretion take any of the following actions:

- (a) Require the Owner to remove the addition, alteration or improvement and restore the Lot to its original condition, all at the Owner's expense; or
- (b) If the Owner refuses or fails to properly perform the work required under (a), cause such work to be done and charge the Owner for the cost thereof as determined by the Board or the Declarant, as applicable; or
- (c) Ratify the action taken by the Owner, and the Board may (but shall not be required to) condition such ratification upon the same conditions which it may impose upon the giving of its prior consent under this Section.

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The terms of this Section 3.06 are not intended to apply to trees, shrubs, bushes, flowers, grass and other live landscaping, which are governed by the terms of Articles Nine and Fourteen hereof.

ARTICLE FOUR Insurance/Condemnation

4.01 COMMON AREA INSURANCE:

(a) The Association shall have the authority to and shall obtain fire and all risk coverage insurance covering the improvements, if any, to the Common Area and other improvements required to be maintained by the Association (based on current replacement cost for the full insurable replacement value) of such improvements.

(b) The Association shall have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workers compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its directors and officers, the Declarant, the managing agent, if any, and their respective employees and agents, as their interests may appear, from liability resulting from an occurrence on or in connection with, the Common Area. The Board may, in its discretion, obtain any other insurance which it deems advisable including, without limitation, insurance covering the directors and officers from liability for good faith actions beyond the scope of their respective authorities and covering the indemnity set forth in Section 5.06. Such insurance coverage shall include cross liability claims of one or more insured parties.

(c) Fidelity bonds indemnifying the Association, the Board and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling funds of the Association may be obtained by the Association in such amounts as the Board may deem desirable.

(d) The premiums for any insurance obtained under this Section shall be Common Expenses.

4.02 CONDEMNATION: In the case of a taking or condemnation by competent authority of any part of the Common Area, the proceeds awarded in such condemnation shall be paid to the Association and such proceeds, together with any Common Area Capital Reserve being held for such part of the Common Area, shall, in the discretion of the Board, either (i) be applied to pay the Common Expenses, (ii) be distributed to the Owners and their respective mortgagees, as their interests may appear, in equal shares, or (iii) be used to acquire additional real estate to be used and maintained for the mutual benefit of all Owners, as Common Area under this Declaration. Any acquisition by the Association pursuant to this Section of real estate which shall become Common Area hereunder shall not become effective unless and until a supplement to this Declaration, which refers to this Section and legally describes the real estate affected, is executed by the President of the Association and Recorded.

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ARTICLE FIVE

The Association

5.01 IN GENERAL: Declarant has caused or shall cause the Association to be incorporated as a not-for-profit corporation under Illinois law. The Association shall be the governing body for all of the Owners for the administration and operation of the Common Area. The Association shall be responsible for the maintenance, repair and replacement of the Common Area as provided herein.

5.02 MEMBERSHIP Each Owner shall be a member of the Association. There shall be one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. The Association shall be given written notice of the change of ownership of a Lot within ten (10) days after such change.

5.03 VOTING MEMBERS: Subject to the provisions of Section 9.05, voting rights of the members of the Association shall be vested exclusively in the Voting Members. One individual shall be designated as the "Voting Member" for each Lot. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Record ownership of a Lot shall be in more than one person, or if an Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member for the Lot shall be designated by such Owner or Owners in writing to the Board and if in the case of multiple individual Owners no designation is given, then the Board at its election may recognize an individual Owner of the Lot as the Voting Member for such Lot.

5.04 BOARD: Subject to the rights retained by the Declarant under Section 9.05, the Board shall consist of that number of members provided for in the By-Laws, each of whom shall be an Owner or Voting Member.

5.05 VOTING RIGHTS: Prior to the Turnover Date, all of the voting rights at each meeting of the Association shall be vested exclusively in the Declarant and the Owners shall have no voting rights. From and after the Turnover Date, all of the voting rights at any meeting of the Association shall be vested in the Voting Members and each Voting Member shall have one vote for each Lot which the Voting Member represents. From and after the Turnover Date any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the By-Laws) upon an affirmative vote of a majority by the Voting Members present at such meeting, except as otherwise provided herein or in the By-Laws.

5.06 DIRECTOR AND OFFICER LIABILITY: Neither the directors nor the officers of the Association shall be personally liable to the Owners or the Association for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors and officers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless the Declarant and each of the directors and officers, his heirs, executors or administrators, against all contractual and other liabilities to the Owners, the Association or others arising out of contracts made by or other acts of the directors and officers on behalf of the Owners or the Association or arising out of their status as directors or officers unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnifica-

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tion shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other in which any such director may be involved by virtue of such person being or having been such director or officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer.

5.07 MANAGING AGENT: The Declarant (or an entity controlled by the Declarant) may be engaged by the Association to act as the managing agent for the Association and as managing agent shall be paid a reasonable fee for its services as fixed by a written agreement between the Association and the Declarant (or an entity controlled by the Declarant). Any management agreement entered into by the Association prior to the Turnover Date shall have a term of not more than two years and shall be terminable by the Association without payment of a termination fee on 90 days written notice.

5.08 DISSOLUTION. Although it is currently anticipated that the Association will own and maintain the Common Area, it is possible that a governmental agency may accept a dedication or conveyance of all of the Common Area and accept responsibility for maintenance of the Common Area. If that occurs and the Association has no maintenance responsibilities, then at the option of the Declarant (which may be exercised at any time prior to the Turnover Date) or at the option of the members of the Association (which may be exercised by action of the members after the Turnover Date), the Association shall be dissolved and liquidated and thereafter the provisions of this Declaration which deal with the powers and duties of the Association shall be null and void and of no further force and effect. Any distribution of assets of the Association shall be made to the Owners of Lots in equal amounts for each Lot owned.

5.09 LITIGATION: No judicial or administrative proceedings shall be commenced or prosecuted by the Association without first holding a special meeting of the members and obtaining the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the Lots to the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration, the By-Laws or rules and regulations adopted by the Board (including, without limitation, an action to recover Charges or to foreclose a lien for unpaid Charges) or (b) counterclaims brought by the Association in proceedings instituted against it.

5.10 ATTENDANCE AT BOARD MEETINGS BY OWNERS: Owners may attend meetings of the Board only if, and to the extent, permitted by the Board in its discretion. It is not the intention that Owners shall have the right to attend meetings of the Board in the same manner as provided for members of condominium associations under the Illinois Condominium Property Act.

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ARTICLE SIX

Assessments

6.01 PURPOSE OF ASSESSMENTS: The assessments levied by the Association shall be limited to the purposes of maintaining the Common Area, including, without limitation, the Southern Landscape Buffer Easement, administering the affairs of the Association, paying the Common Expenses, and accumulating reserves for any such expenses.

6.02 COMMON ASSESSMENT: Each year on or before December 1, the Board shall adopt and furnish each Owner with a budget for the ensuing calendar year, which shall show the following with reasonable explanations and itemizations:

- (a) The estimated Common Expenses;
- (b) The estimated amount, if any, to maintain adequate reserves for Common Expenses including, without limitation, amounts to maintain the Capital Reserve;
- (c) The estimated net available cash receipts from the operation and use of the Common Area, plus estimated excess funds, if any, from the current year's assessments;
- (d) The amount of the "Common Assessment" payable by the Owners, which is hereby defined as the amount determined in (a) above, plus the amount determined in (b) above, minus the amount determined in (c) above;
- (e) That portion of the Common Assessment which shall be payable with respect to the ensuing calendar year by the Owner of each Lot which is subject to assessment hereunder, which shall be equal to the Common Assessment divided by the number of Lots, so that each Owner shall pay equal Common Assessments for each Lot owned. The Common Assessment shall be paid in periodic installments as determined by the Board from time to time, but no less frequently than once each calendar year.

Anything herein to the contrary notwithstanding the provisions of this paragraph shall apply with respect to the period prior to the Turnover Date. Any budget prepared by the Board prior to the Turnover Date shall be based on the assumptions that (i) the Development has been fully constructed as shown on Declarant's then current plan for the Development ("Current Development Plan") and (ii) all proposed Homes have been sold and are occupied. The Current Development Plan shall be kept on file with the Association and may be modified from time to time by Declarant. Prior to the Turnover Date, each Owner (other than the Declarant) shall pay as the Owner's monthly share of the Common Assessment an amount equal to the budgeted Common Expenses divided by the number of proposed Homes on the then Current Development Plan, divided by twelve (12) so that each Owner (other than Declarant) will pay, with respect to each Lot owned, a monthly Common Assessment equal to what such Owner would be paying with respect to the Owner's Lot if the Development were fully constructed pursuant to the Current Development Plan and all proposed Homes have been built and are occupied. Declarant shall not be obligated to pay any Common Assessments to the Association prior to the Turnover Date. However, if with respect to the period commencing on the date of the Recording of this Declaration and ending on the Turnover Date, the amount of Common Assessments and working capital contributions under Section 6.07 payable by Owners (other

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than Declarant) less the portions thereof which are to be added to Reserves is less than the Common Expenses actually incurred with respect to such period, then the Declarant shall pay the difference to the Association. From time to time prior to the Turnover Date, the Declarant may (but shall not be obligated to) advance to the Association funds to be used by the Association to pay its expenses ("Advanced Funds"). A final accounting and settlement of the amount, if any, owed by Declarant to the Association shall be made as soon as practicable after the Turnover Date. If, and to the extent that, the final accounting determines that the Advanced Funds, if any, are less than the amount owed by the Declarant to the Association pursuant to this Section, the Declarant shall pay the difference to the Association. If, and to the extent that, the final accounting determines that the Advanced Funds, if any, exceed the amount owed by the Declarant to the Association pursuant to this Section, then the Association shall pay such excess to the Declarant.

6.03 PAYMENT OF COMMON ASSESSMENT: On or before the 1st day of January of the ensuing calendar year, and on the first day of each month thereafter until the effective date of the next annual or revised Common Assessment, each Owner of a Lot which is subject to assessment shall pay to the Association, or as the Board may direct, that portion of the Common Assessment which is payable by each Owner of a Lot under Section 6.02(e). For purposes hereof, a Lot shall only be subject to assessment hereunder from and after such time as an occupancy certificate has been issued with respect to the Home constructed thereon.

6.04 REVISED ASSESSMENT: If the Common Assessment proves inadequate for any reason (including nonpayment of any Owner's assessment) or proves to exceed funds reasonably needed, then the Board may increase or decrease the assessment payable under Section 6.02(5) by giving written notice thereof (together with a revised budget and explanation for the adjustment) to each Owner not less than ten (10) days prior to the effective date of the revised assessment.

6.05 SPECIAL ASSESSMENT: After the Turnover Date the Board may levy a special assessment as provided in this Section (i) to pay (or build up reserves to pay) expenses other than Common Expenses incurred (or to be incurred) by the Association from time to time for a specific purpose including, without limitation, to make alterations, additions or improvements to the Common Area, including, without limitation, the Southern Landscape Buffer Easement or any other property owned or maintained by the Association; or (ii) to cover an unanticipated deficit under the prior year's budget. Any special assessment shall be levied against all of Lots in equal shares. No special assessment shall be adopted without the affirmative vote of Voting Members representing at least two-thirds (2/3) of the votes cast on the question. The Board shall serve notice of a special assessment on all Owners by a statement in writing giving the specific purpose and reasons therefor in reasonable detail, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Board. Any assessments collected pursuant to this Section (other than those to cover an unanticipated deficit under the prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

6.06 CAPITAL RESERVE: The Association shall segregate and maintain special reserve accounts to be used solely for making capital expenditures in connection with the Common Area, including, without limitation, the Southern Landscape Buffer Easement (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve

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based on a periodic review of the useful life of improvements to the Common Area and other property owned by the Association and periodic projections of the cost of anticipated major repairs or replacements to the Common Area and the purchase of other property to be used by the Association in connection with its duties hereunder. The Capital Reserve may be built up by separate or special assessments or out of the Common Assessment as provided in the budget. Special accounts set up for portions of the Capital Reserve to be used to make capital expenditures with respect to the Common Areas shall be held by the Association as agent and trustee for the Owners of Homes with respect to which the Capital Reserve is held and such accounts shall be deemed to have been funded by capital contributions to the Association by the Owners. The budgets which will be adopted from time to time by the Boards appointed by the Declarant prior to the Turnover Date shall include reserve buildups which the Board deems to be appropriate based on information available to the Board. Boards elected by the Owners after the Turnover Date may use different approaches from those used by Boards appointed by the Declarant for the buildup of reserves or may choose not to provide for the buildup of reserves for certain capital expenditures or deferred maintenance for repairs or replacements of the Common Areas. If the Board chooses not to provide for the buildup of reserves for a particular anticipated expenditure or if the buildup of reserves that the Board does provide for in its budgets does not result in sufficient funds to pay for the expenditure when the expenditure must be made, then (i) neither the Board nor any of its past or present members shall be liable to the Association or the Owners for failing to provide for sufficient reserves and (ii) the Board shall have the right and power to either levy a separate or special assessment to raise the funds to pay the expenditure or to borrow funds to pay the expenditure and repay the borrowed funds out of future Common Assessments, separate assessments or special assessments.

6.07 INITIAL CAPITAL CONTRIBUTION: Upon the closing of the first sale of a Lot by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to one-sixth (two months) of the Common Assessment at the rate which shall become effective with respect to the Lot as of the closing. Said amount shall be held and used by the Association for its working capital needs.

6.08 PAYMENT OF ASSESSMENTS: Assessments levied by the Association shall be collected from each Owner by the Association and shall be a lien on the Owner's Lot and also shall be a personal obligation of the Owner in favor of the Association, all as more fully set forth in Article Seven.

ARTICLE SEVEN Collection of Charges and Remedies for Breach or Violation

7.01 CREATION OF LIEN AND PERSONAL OBLIGATION: The Declarant hereby covenants, and each Owner of a Lot by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance) shall be and is deemed to covenant and hereby agrees to pay to the Association all Charges made with respect to the Owner on the Owner's Lot. Each Charge, together with interest thereon and reasonable costs of collection, if any, as hereinafter provided, shall be a continuing lien upon the Lot against which such Charge is made and also shall be the personal obligation of the Owner of the Lot at the time when the Charge becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

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7.02 COLLECTION OF CHARGES: The Association shall collect from each Owner all Charges payable by such Owner under this Declaration.

7.03 NON-PAYMENT OF CHARGES: Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for thirty (30) days or more shall bear interest at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, from the due date to the date when paid. The Association may (i) bring an action against the Owner personally obligated to pay the Charge to recover the Charge (together with interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of the Charge and included in any judgment rendered in such action), and (ii) enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Board may add a reasonable late fee to any installment of an assessment which is not paid within thirty (30) days of its due date. No Owner may waive or otherwise escape personal liability for the Charges hereunder by nonuse of the Common Area or by abandonment or transfer of his Lot.

7.04 LIEN FOR CHARGES SUBORDINATED TO MORTGAGES: The lien for Charges, provided for in Section 7.01, shall be subordinate to the Mortgagee's mortgage on the Lot which was Recorded prior to the date that any such Charge became due. Except as hereinafter provided, the lien for Charges provided for in Section 7.01 shall not be affected by any sale or transfer of a Lot. Where title to a Lot is transferred pursuant to a decree of foreclosure of the Mortgagee's mortgage or by deed or assignment in lieu of foreclosure of the Mortgagee's mortgage, such transfer of title shall extinguish the lien for unpaid Charges which became due prior to the date of the transfer of title. However, the transferee of the Lot shall be personally liable for his share of the Charges with respect to which a lien against his Lot has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the Owners pursuant to a subsequently adopted annual or revised Common Assessment or special assessment, and non-payment thereof shall result in a lien against the transferee's Lot, as provided in this Article.

7.05 SELF-HELP BY BOARD: In the event of a violation or breach by an Owner of the provisions, covenants or restrictions of the Declaration, the By-Laws, or rules or regulations of the Board, where such violation or breach may be cured or abated by affirmative action, then the Board, upon not less than ten (10) days' prior written notice to the Owner, shall have the right to enter upon that part of the Premises where the violation or breach exists to remove or rectify the violation or breach; provided, that, if the violation or breach exists within a Home, judicial proceedings must be instituted before any items of construction can be altered or demolished.

7.06 OTHER REMEDIES OF THE BOARD: In addition to or in conjunction with the remedies set forth above, to enforce any of the provisions contained in this Declaration or any rules and regulations adopted hereunder the Board may levy a fine or the Board may bring an action at law or in equity by the Association against any person or persons violating or attempting to violate any such provision, either to restrain such violation, require performance thereof, to recover sums due or payable or to recover damages or fines, and against the land to enforce any lien created hereunder; and failure by the Association or any Owner to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter.

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7.07 COSTS AND EXPENSES: All costs and expenses incurred by the Board in connection with any action, proceedings or self-help in connection with exercise of its rights and remedies under this Article, including, without limitation, court costs, attorneys' fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, until paid, shall be charged to and assessed against the defaulting Owner, and the Association shall have a lien for all the same, upon his Lot as provided in Section 7.01.

7.08 ENFORCEMENT BY OWNERS: Enforcement of the provisions contained in this Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages, and against a Lot to enforce any lien created hereunder.

ARTICLE EIGHT Use Restrictions

8.01 INDUSTRY/SIGNS: No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Common Area, nor shall any "For Sale" or "For Rent" signs or any other advertising be maintained or permitted on any part of the Common Area, except as permitted by the Board or as permitted under Article Nine; provided, however, that one (1) "For Rent" or "For Sale" sign (of not more than five (5) square feet) may be placed in a window or on the front lawn of a Home, subject to the reasonable rules and regulations of the Board.

8.02 UNSIGHTLY USES: No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on any portion of the Lot or the Common Area. The Premises shall be kept free and clear of all rubbish, debris and other unsightly materials and no waste shall be committed thereon. All rubbish shall be deposited in such areas and such receptacles as shall be designated by the Board. All rubbish, trash, or garbage shall be kept so as not to be seen from neighboring Homes and streets, shall be regularly removed from the Premises, and shall not be allowed to accumulate thereon. Garbage may not be burned on any Lot.

8.03 RESIDENTIAL USE ONLY:

(a) Except as provided in Article Nine or in subsections (b) and (c) of this Section, each Home shall be used only as a residence and no industrial business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Premises.

(b) No Resident shall be precluded with respect to his Home, from (i) maintaining a personal professional library, (ii) keeping his personal business records or accounts therein, or (iii) handling his personal business or professional calls or correspondence therefrom.

(c) To the extent permitted under applicable laws and ordinances, a Resident may conduct an in-home business in a Home.

8.04 PARKING: Parking areas and driveways shall be used for parking operable automobiles only and no part of the Premises shall be used for storage, use, or parking of mobile

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homes, trailers, commercial vehicles, snowmobiles or boats except within the confines of a garage with the garage door closed. No repair or body work of any motorized vehicle shall be permitted except within the confines of a garage. Any violation of this provision shall be deemed a nuisance under Section 8.07. Passenger motor vehicles in non-operative condition shall not be parked, except in garages with the garage doors closed.

8.05 OBSTRUCTIONS: Except as permitted under Section 9.03 there shall be no obstruction of the Common Area, and nothing shall be stored in the Common Area without the prior written consent of the Board.

8.06 PETS: No animal of any kind shall be raised, bred or kept in the Common Area. The Board may from time to time adopt rules and regulations governing the (a) keeping of pets in the Home, which may include prohibiting certain species of pets from being kept in the Home and (b) use of the Common Area by pets, including, without limitation, rules and regulations which set aside certain portions of the Common Area as a "dog run" or which require an Owner to clean up after his pet. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Premises upon three (3) days written notice from the Board to the Owner of the Home containing such pet and the decision of the Board shall be final.

8.07 NO NUISANCE: No nuisance, noxious or offensive activity shall be carried on in the Premises nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Residents. No plants, seeds, or other things or conditions harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of the Premises.

8.08 HAZARDOUS ACTIONS OR MATERIALS: Nothing shall be done or kept on any Lot or in or on any portion of the Common Area that is unlawful or hazardous, or that might reasonably be expected to increase the cost of casualty or public liability insurance covering the Common Area.

8.09 ANTENNAE: Subject to applicable federal, state or local regulations, laws or ordinances, the operation of "ham" or other amateur radio stations or the erection of any communication antenna, receiving dish or similar devices (other than a simple mast antenna or a satellite dish which is not visible from the front of the Home) shall not be allowed on the Premises

8.10 STORAGE: No open storage of any kind shall be permitted on the Premises.

8.11 CONSTRUCTION STANDARDS AND RESTRICTIONS: Without limiting the rights and powers provided for in Section 9.06, the following construction standards shall apply to Lots:

(a) No structure commonly known as an "above ground swimming pool" shall be constructed on any Lot; provided, that, this restriction shall not apply to a structure commonly known as a "hot tub" or "jacuzzi" which is built into a deck and is not visible from the front of the home or from homes located on adjacent Lots, provided, that any such structure is approved, in advance, by the holder, if any, of rights under Section 9.06 or, if there is no such holder, the Board.

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(b) No temporary or permanent outbuilding, accessory building or other structure, including, without limitation, a storage shed, greenhouse, non-wood play set, fence (other than an underground pet fence which is not visible from above the ground, which may be installed without the prior consent of the holder, if any, of the rights under Section 9.06 or, if there is no such holder, the Board), fountain, or trailer shall be constructed, installed or maintained on a Lot; provided, that, a deck, gazebo, wood play set or fence may be constructed on a Lot with the approval, in advance, of the holder, if any, of the rights under Section 9.06 or, if there is not such holder, the Board.

(c) A playset which is permitted to be installed on a Lot (i) shall be of cedar material and of the quality of what is commonly known as the "Rainbow" brand or better quality, and (ii) shall not be installed on any portion of the Lot which is within ten (10) feet of the lot line.

(d) A Lot may, subject to the approval, in advance, of the holder, if any, of the rights under Section 9.06 or if there is no such holder, the Board, be improved with a fence on that portion of the Lot which is between the rear lot line (but not more than six (6) inches from the rear lot line) and the back of the home provided that the fence conforms to the following specifications:

(i) Location to conform with applicable standards and restrictions as provided under applicable ordinances of the Municipality;

(ii) Height to be four feet (4'); provided, however, that fencing required by the Municipality to be installed around a swimming pool shall be of the height required under applicable ordinances of the Municipality;

(iii) Style to be decorative aluminum, Delagard Model Doria (residential), or equivalent.

provided, however, that if a garage service door is installed in a Home, then the fence may extend beyond the back of the Home, up to one (1) foot beyond the garage service door, but in no event shall any fence extend beyond the front of the Home.

8.12 COLOR: There shall be no change in any exterior color of any Home which is inconsistent with the general harmony and design of the Homes on the Premises without the prior written approval of the Declarant or the Board, as the case may be.

8.13 RULES AND REGULATIONS: The use, occupancy and enjoyment of the Common Area and Homes shall at all times be subject to reasonable rules and regulations adopted from time to time by the Board.

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ARTICLE NINE Declarant's Reserved Rights and Special Provisions Covering Development Period

9.01 IN GENERAL: In addition to any rights or powers reserved to the Declarant under the provisions of this Declaration or the By-Laws, the Declarant shall have the rights and powers set forth in this Article. Anything in this Declaration or the By-Laws to the contrary notwithstanding, the provisions set forth in this Article shall govern. Except as otherwise provided in this Article, the rights of Declarant under this Article shall terminate at such time as the Declarant no longer holds or controls title to any portion of the Development Area.

9.02 PROMOTION OF PROJECT: The Declarant shall have the right and power, within its sole discretion, to (i) construct such temporary or permanent improvements, or to do such acts or other things in, on, or to the Premises as the Declarant may, from time to time, determine to be necessary or advisable, (ii) construct and maintain model homes, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as the Declarant may deem advisable and to use such model homes (including model homes which are sold and leased back to the Declarant), sales or leasing offices or other facilities for the purpose of selling or leasing Homes on the Premises or at other properties in the general location of the Premises which are being offered for sale by the Declarant or any of its affiliates, without the payment of any fee or charge whatsoever to the Association. Declarant, its agents, prospective purchasers and tenants, shall have the right of ingress, egress and parking in and through, and the right to use and enjoy the Common Area, at any and all reasonable times without fee or charge.

9.03 CONSTRUCTION ON PREMISES: In connection with the construction of improvements to any part of the Premises, the Declarant, its agents and contractors, shall have the right, at the Declarant's own expense, (but shall not be obligated) to make such alterations, additions or improvements to any part of the Premises including, without limitation, the construction, reconstruction or alteration of any temporary or permanent improvements to any structure which shall contain Homes or the Common Area which the Declarant deems, in its sole discretion, to be necessary or advisable, and the landscaping, sodding or planting and replanting of any unimproved portions of the Premises. In connection with the rights provided in the preceding sentence, the Declarant, its agents and contractors, shall have the right of ingress, egress and parking on the Premises and the right to store construction equipment and materials on the Premises without the payment of any fee or charge whatsoever.

9.04 GRANT OF EASEMENTS AND DEDICATIONS: Declarant shall have the right to dedicate portions of the Common Area to the County, the Municipality, park district or any other governmental authority which has jurisdiction over such portions. Declarant shall also have the right to reserve or grant easements over the Common Area to any governmental authority, public utility or private utility for the installation and maintenance of cable TV, electrical and telephone conduit and lines, gas, sewer or water lines, or any other utility services serving any Lot.

9.05 DECLARANT CONTROL OF ASSOCIATION: The first and all subsequent Boards shall consist solely of three (3) persons from time to time designated by the Declarant, which persons may, but need not, be members under Section 5.02. Declarant's rights under this

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Section to designate the members of the Board shall terminate on the first to occur of (i) such time as Declarant no longer holds or controls title to any part of the Development Area, (ii) the giving of written notice by Declarant to the Association of Declarant's election to terminate such rights, or (iii) seven (7) years from the date of Recording hereof. The date on which the Declarant's rights under this Section shall terminate shall be referred to as the "Turnover Date". From and after the Turnover Date, the Board shall be constituted and elected as provided in the By-Laws. Prior to the Turnover Date all of the voting rights at each meeting of the Owners shall be vested exclusively in the Declarant and the Owners shall have no voting rights.

9.06 ARCHITECTURAL CONTROL:

(a) The Declarant shall have the right and power from time to time to adopt reasonable rules and regulations governing the design and exterior finish of all improvements or landscaping from time to time constructed, installed or proposed to be constructed, installed or modified on the Premises. Without limiting the foregoing, no earthmoving, filling, dredging, grading, excavating, installation of landscaping, alteration of landscaping, construction of a building, driveway, walkway, signs or other advertising or promotional devices or any other temporary or permanent improvement to any portion of the Premises or any modification, alteration, renovation, addition or removal of any of the foregoing (including, without limitation, (i) the installation of a fence (other than an underground pet fence which is not visible from above the ground, which may be installed without the prior consent of the holder, if any, of the rights under this Section 9.06 or, if there is no such holder, the Board), (ii) change in the exterior color of a Home, (iii) construction of awnings, antenna or satellite dish, (iv) change or addition to patio or deck, (v) installation of an in-ground swimming pool, outbuilding, play set, gazebo or shed, or (vi) other similar improvements) ("Regulated Work") shall be commenced or maintained with respect to any portion of the Premises without the prior written consent of the Declarant which may be granted or withheld in Declarant's sole and absolute discretion. The Declarant reserves the right and power to promulgate and amend from time to time standards, policies, procedures and guidelines in order to implement the foregoing. If any Regulated Work which requires Declarant approval as provided above is commenced without obtaining the required written consent of the Declarant, then the Declarant may seek any remedy or take any action provided for herein or permitted at law or in equity in order to enforce the provisions hereof, including injunctive relief to stop work and/or restore the portion of the Premises to its condition prior to the commencement of the work. Declarant's decision to approve or disapprove an addition, alteration or improvement in one instance shall not in any way create or establish a precedent for how the Declarant must respond to a request for another alteration, addition or improvement subsequently made, it being understood that circumstances, situations and standards may change and the Declarant reserves the right and power to grant or deny requests as Declarant believes are appropriate in Declarant's sole and absolute discretion.

(b) The Declarant shall have the right and power from time to time to adopt rules and regulations governing the maintenance and upkeep of portions of the Premises, including without limitation, improvements thereto, signs, advertising and landscaping thereon. Without limiting the foregoing, those portions of the Premises on which construction of improvements has not yet commenced shall at all times be maintained in a neat and clean condition and all weeds shall be periodically cut. If in the sole judgment of the Declarant a portion of the Premises is not being maintained in good condition and repair or the appearance of any such portion of the Premises is not of the character and quality of that of other portions of the Premises or is not in compliance

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with rules and regulations adopted from time to time by the Declarant, then without limiting any rights or remedies available to the Declarant hereunder, at law or in equity, Declarant shall have the right to enter upon any such portion of the Premises and perform any maintenance or repair work which it deems necessary or appropriate. The cost of any such work shall be charged to the Owner or party responsible for maintenance of such portion of the Premises if different from the Owner, and shall be payable to the Declarant upon demand. In the event that the party charged for such work fails to make prompt payment of any such amount within thirty (30) days after demand, such amount shall become and continue to be a lien upon the portion of the Premises owned by such party until such time as payment is made in full; provided, that any such lien shall be subordinate to the lien of any Mortgagee on a Lot Recorded prior to the date on which any such amount becomes a lien against a Lot as provided above.

(c) Any one or more of the rights and powers of the Declarant under this Section may be delegated to one or more individuals or entities designated from time to time by the Declarant.

(d) Subject as hereinafter provided, from time to time, the Declarant may enter into an agreement ("Transfer Agreement") with the Association whereby the Declarant assigns and transfers to the Association some or all of its rights and powers under Subsections (a) and (b). Any Transfer Agreement shall be executed by both the Declarant and the Association and shall be recorded; provided, that the execution of the Transfer Agreement by the Association shall be approved in advance by action of the Voting Members at an annual meeting or special meeting of the Voting Members. A Transfer Agreement may include such terms as are agreed upon between the Declarant and the Association. From and after the recording of a Transfer Agreement, the rights and powers of the Declarant under Subsections (a) and (b) which are transferred to the Association pursuant to the Transfer Agreement, shall be administered as provided in the Transfer Agreement. Any rights and powers of the Declarant under Subsections (a) and (b) which are not transferred to the Association pursuant to a Transfer Agreement shall expire and terminate at such time as the Declarant no longer holds or controls title to any portion of the Development Area.

9.07 OTHER RIGHTS: The Declarant shall have the right and power to execute all documents and do all other acts and things affecting the Premises which, in Declarant's opinion, are necessary or desirable in connection with the rights of Declarant under this Declaration.

9.08 ASSIGNMENT BY DECLARANT: All rights which are specified in this Declaration to be rights of the Declarant are mortgageable, pledgeable, assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure, or otherwise) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No such successor assignee of the rights of Declarant hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

ARTICLE TEN Amendment

10.01 SPECIAL AMENDMENTS: Anything herein to the contrary notwithstanding, Declarant reserves the right and power to Record a special amendment ("Special Amendment")

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to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Fannie Mac, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Lots, (iii) to correct errors, ambiguities, omission or inconsistencies in the Declaration or any Exhibit, (iv) to amend Exhibit A to include additional real estate, or (v) to bring the Declaration into compliance with applicable laws, ordinances or governmental regulations. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and Record Special Amendments. The right and power of the Declarant to make Special Amendments hereunder shall terminate five (5) years after such time as Declarant no longer holds or controls title to a portion of the Development Area.

10.02 AMENDMENT: Subject to Section 10.01 and Article Eleven, the provisions of this Declaration may be amended, abolished, modified, enlarged, or otherwise changed in whole or in part by the affirmative vote of Voting Members representing at least Seventy-Five percent of the total votes or by an instrument executed by Owners of at least Seventy-Five Percent (75%) of the Lots; except, that (i) the provisions of this Section 10.02 may be amended only by an instrument executed by all of the Owners and all Mortgagees, (ii) Article Nine or any other provisions relating to the rights of Declarant may be amended only with the written consent of the Declarant, (iii) no amendment to the Declaration which changes the ratio of assessments against Owners shall become effective without the consent of all Mortgagees, and (iv) Article Thirteen may only be amended with the written consent of the Municipality. No amendment which removes Premises from the provisions of this Declaration shall be effective if as a result of such removal, an Owner of a Lot shall no longer have the legal access to a public way from his Lot. No amendment shall become effective until properly Recorded.

ARTICLE ELEVEN Mortgagees Rights

11.01 NOTICE TO MORTGAGEES: Upon the specific, written request of Mortgagee or the insurer or guarantor of a Mortgagee's mortgage, such party shall receive some or all of the following:

(a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Lot covered by the Mortgagee's mortgage;

(b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners; provided, that, if an audited statement is not available, then upon the written request of the holder, insurer or guarantor of a Mortgage, the Association shall permit such party to have an audited

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statement for the preceding fiscal year of the Association prepared at such party's expense;

(c) Copies of notices of meetings of the Owners;

(d) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Common Area.

(f) Notice of any default by the Owner of the Lot which is subject to the Mortgagee's mortgage under this Declaration, the By-Laws or the rules and regulations of the Association which is not cured within 30 days of the date of the default;

(g) The right to examine the books and records of the Association at any reasonable times; and

(h) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

The request of any such party shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association.

11.02 INSURANCE PROCEEDS/CONDEMNATION AWARDS: In the event of (i) any distribution of any insurance proceeds hereunder as a result of damage to, or destruction of, any part of the Common Area or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Common Area, any such distribution shall be made to the Owners and their respective Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the Mortgagee of a Lot with respect to any such distribution to or with respect to such Lot; provided, that, nothing in this Section shall be construed to deny to the Association the right (i) to apply insurance proceeds to repair or replace damaged Common Area or (ii) to apply proceeds of any award or settlement as a result of eminent domain proceedings as provided in Article Four.

ARTICLE TWELVE Annexing Additional Property

12.01 IN GENERAL: Declarant reserves the right at any time and from time to time prior to ten (10) years from the date of Recording of this Declaration to annex, add and subject additional portions of the Development Area to the provisions of this Declaration as additional Premises by recording a supplement to this Declaration (a "Supplemental Declaration"), as hereinafter provided. Any portion of the Development Area which is subjected to this Declaration by a Supplemental Declaration shall be referred to as "Added Premises"; any portion of any Added Premises which is made part of the Common Area shall be referred to as "Added Common Area"; and any Lots contained in the Added Premises shall be referred to as "Added Lots". After the expiration of said ten (10) year period, Declarant may exercise the rights described herein to annex, add and subject additional portions of the Development Area to the provisions of this Declaration, provided that the consent the Owners (by number) of two-thirds (2/3) of all Lots then subject to this Declaration is first obtained.

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12.02 POWER TO AMEND: Declarant hereby retains the right and power to Record a Supplemental Declaration, at any time and from time to time as provided in Section 12.01, which amends or supplements Exhibit B. Exhibit B may only be amended or supplemented pursuant to this Article to add portions of the Development Area to Exhibit B and shall not be amended to reduce or remove any real estate which is described in Exhibit B immediately prior to the Recording of such Supplemental Declaration. A Supplemental Declaration may contain such additional provisions affecting the use of the Added Premises or the rights and obligations of owners of any part or parts of the Added Premises as the Declarant deems necessary or appropriate.

12.03 EFFECT OF SUPPLEMENTAL DECLARATION: Upon the Recording of a Supplemental Declaration by Declarant which annexes and subjects Added Premises, Added Common Area, or Added Lots to this Declaration, as provided in this Article, then:

(a) The easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges set forth and described herein shall run with and bind the Added Premises and inure to the benefit of and be binding on any Person having at any time any interest or estate in the Added Premises in the same manner, to the same extent and with the same force and effect that this Declaration applies to the Premises, and Persons having an interest or estate in the Premises, subjected to this Declaration prior to the date of the Recording of the Supplemental Declaration;

(b) Every Owner of an Added Lot shall be a member of the Association on the same terms and subject to the same qualifications and limitations as those members who are Owners of Lot immediately prior to the Recording of such Supplemental Declaration;

(c) In all other respects, all of the provisions of this Declaration shall include and apply to the Added Premises (including the Added Common Area or the Added Lots, if any) made subject to this Declaration by any such Supplemental Declaration and the Owners, mortgagees, and lessees thereof, with equal meaning and of like force and effect and the same as if such Added Premises were subjected to this Declaration at the time of the Recording hereof;

(d) The Recording of each Supplemental Declaration shall not alter the amount of the lien for any Charges made to a Lot or its Owner prior to such Recording;

(e) The Declarant shall have and enjoy with respect to the Added Premises all rights, powers and easements reserved by the Declarant in this Declaration, plus any additional rights, powers and easements set forth in the Supplemental Declaration; and

(f) Each Owner of an Added Lot which is subject to assessment hereunder shall be responsible for the payment of the Common Assessment pursuant to Section 6.02, but shall not be responsible for the payment of any special assessment which was levied prior to the time that the Added Lot became subject to assessment hereunder.

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ARTICLE THIRTEEN Municipality Rights

13.01 IN GENERAL: In addition to any rights, powers, or easements granted to the Municipality elsewhere in this Declaration, the Municipality shall have the rights, powers, and easements set forth in this Article.

13.02 ENFORCEMENT: The Municipality shall have the right, but not the obligation, to enforce covenants or obligations of the Association as defined and provided for within the Declaration, and further shall have the right, upon thirty (30) days' prior written notice specifying the nature of a default, to enter upon the Common Area and/or Landscape Buffer Easement and cure such default, or cause the same to be cured at the cost and expense of the Declarant, Association or the Owners. The Municipality also shall have the right to charge or place a lien upon the property of the Declarant, Association or the Owners for the repayment of such costs and expenses, including reasonable attorneys' fees in enforcing such obligations.

Further, in the event that the Association shall fail to or refuse to perform maintenance or repair work on any portion of the Common Area and/or Landscape Buffer Easement within a reasonable period of time after written notice from the Municipality to the Association to do so, the appropriate employees and agents of the Municipality shall have the right, but not the obligation, to enter upon the Common Area and/or Landscape Buffer Easement, as the case may be, from time to time as may be necessary to perform said repair and maintenance work at the cost of the Association. In such event, the Municipality shall have a lien upon the Common Area, Landscape Buffer Easement and the Lots for the reasonable cost and expense of the work performed by it; each Owner shall be liable for the payment of his Lot's proportionate share of such costs. Such lien may be foreclosed and enforced by the Municipality, which may also recover all reasonable costs and attorneys' fees in so doing, in the manner provided by law. Upon the recording of this Declaration, the initial Board of Directors and all subsequent Boards of Directors, upon accepting their respective offices, and all Owners, upon acquiring title to their respective Lots, shall be bound by and are deemed to consent to the provisions of this paragraph.

This and the preceding paragraph may not be amended without approval of the Municipality notwithstanding any other provision of this Declaration.

13.03 MAINTENANCE: The Association shall maintain the Common Area, including, without limitation, the Southern Landscape Buffer Easement, in compliance with all applicable laws and ordinances of the Municipality and all governmental bodies having jurisdiction over the Premises, as such laws and ordinances may be amended and enforced from time to time.

ARTICLE FOURTEEN Tree Removal/Tree Replacement/Western Landscape Buffer Easement Provisions

14.01 TREE REMOVAL: No Owner shall remove, or permit the removal of, any Tree which exceeds twelve (12) inches in diameter, measured forty-eight (48) inches from the ground (i.e., diameter at breast height, hereinafter defined as "DBH"), with a condition rating of 1, 2 or 3 as identified in the Village Code, without the prior consent of the holder, if any, of the rights under Section 9.06 hereof, or, if there is no such holder, the Board. In addition, no Owner shall remove, or permit the removal of, any tree which (x) exceeds twelve (12) inches DBH, with a

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condition rating of 1, 2 or 3 as identified in the Village Code, and (y) is classified by the Municipality as a Species Group A Tree (as described in Section 14.02 below), without the prior consent of, and a removal permit issued by, the Municipality. Should any Owner desire to remove any such tree, such Owner shall retain the services of a certified professional arborist, and submit to the holder of the rights under Section 9.06 hereof, or, if there is no such holder, the Board, a completed Tree Removal Request in the form attached hereto as Exhibit C. The holder of the Section 9.06 rights or the Board, as the case may be, shall review such request, and determine whether or not the removal of such tree shall be permitted. Such determination shall be based upon standards established by such holder or the Board, as the case may be, in accordance with good forestry practice, including, without limitation, whether it is necessary to remove a tree which poses a safety hazard to pedestrian or vehicular traffic or threatens to cause disruption of public safety, whether it is necessary to remove a tree which poses a safety hazard to structures, whether it is necessary to remove a tree which is dead, dangerous, diseased, insect infected or has been weakened by age, storm, fire or other injury, or whether it is necessary to observe good forestry practice, such as the number of healthy trees a given parcel of land will support. The holder of the Section 9.06 rights or the Board, as the case may be, shall have the right to come upon such Owner's Lot to inspect the tree(s) listed in the Tree Removal Request and shall notify the Lot Owner of its determination within fifteen (15) days following receipt of the Tree Removal Request. Such notification shall also include a determination by such holder of the Section 9.06 rights or the Board, as the case may be, as to whether replacement of the tree(s) to be removed is required pursuant to Section 14.02 hereof. Such determination shall not be deemed and/or construed as the consent of the Municipality to such removal. It shall be up to the Owner to obtain the consent of, and a removal permit issued by, the Municipality prior to the removal of any tree that (x) exceeds twelve (12) inches DBH, with a condition rating of 1, 2 or 3 as identified in the Village Code, and (y) is classified by the Municipality as a Species "A" Tree. The terms of this Section 14.01 are not intended to affect any requirements of the Municipality, and it shall be the responsibility of any Owner to determine the current tree removal requirements of the Municipality and conform thereto. Any tree removal shall be completed by the Owner of the affected Lot, at its sole cost and expense, in accordance with good industry practice.

14.02 TREE REPLACEMENT: The Illinois Arborist Association ("IAA") has promulgated a tree rating system, which is contained in its publication "Species Rating and Appraisal Factors for Illinois" (1994). The Municipality has adopted the IAA's rating system, and classified trees into three (3) Species Groups. Species Group A includes trees rated 70 or above on the IAA rating system, Species Group B includes trees rated at 50 or 60 on the IAA rating system, and Species Group C includes trees rated below 50 on the IAA rating system. Should any Owner (after receipt of the consent of the holder of the Section 9.06 rights or the Board, as the case may be, and the prior consent of, and a removal permit issued by, the Municipality) remove a Species Group A Tree, such Owner shall be required to replace such tree with trees of such size and species as are appropriate to the site and the particular situation and comply with any requirements of the Municipality. Should any Owner (after receipt of the consent of the holder of the Section 9.06 rights or the Board, as the case may be) remove a Tree from the Western Landscape Buffer Easement, which tree was not dead, dangerous, diseased, insect infected or materially weakened by age, storm, fire or other injury, such Owner shall be required to replace such tree with trees of such size and species as are appropriate to the site and the particular situation. In either event, the Owner shall cause a professional arborist to prepare a tree replacement plan, which tree replacement plan, with respect to replacement of a Species

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Group A Tree, shall be subject to the approval of the Municipality and the holder of the Section 9.06 rights or the Board, as the case may be, and with respect to any other tree covered by the terms of this Section 14.02, shall be subject to the approval of the holder of the Section 9.06 rights or the Board, as the case may be. The tree replacement plan may be submitted by any Owner together with its Tree Removal Request. The holder of the Section 9.06 rights or the Board, as the case may be, shall have the right to come upon such Owner's Lot review the tree replacement plan and shall notify the Lot Owner of its determination within fifteen (15) days following receipt of the tree replacement plan. Such determination shall not be deemed and/or construed as the consent of the Municipality to such replacement plan. It shall be up to the Owner to obtain any approvals of the tree replacement plan required by the Municipality. Any tree replacement shall be completed by the Owner of the affected Lot, at its sole cost and expense, in accordance with good industry practice.

14.03 WESTERN LANDSCAPE BUFFER EASEMENT: The Western Landscape Buffer Easement affects Lots 1-11. Each Owner of Lot affected by the Western Landscape Buffer Easement shall be responsible for the care and maintenance of the portion of the Western Landscape Buffer Easement within such Lot, which care and maintenance shall include, without limitation, added planting, replanting, care and maintenance of trees, shrubs, flowers, grass and all other landscaping on such portion of the Western Landscape Buffer Easement. Such care and maintenance shall be conducted in accordance with the requirements of the Municipality and the standards and requirements set from time to time by the Board. Each Owner of Lot affected by the Western Landscape Buffer Easement shall maintain the grass, shrubs, trees, and flowers, if any, installed by the Declarant on such portion of the Western Landscape Buffer Easement within such Lot ("Western Landscape Buffer Easement Initial Plantings") in accordance with generally accepted landscape maintenance standards, including mowing, trimming, fertilization, pruning, re-mulching, applications of insect and disease control, as needed, and any other maintenance which will promote the health of the Initial Plantings. If any such Owner fails to maintain the Western Landscape Buffer Easement Initial Plantings located on such Owner's Lot in accordance with generally acceptable landscape maintenance standards and any Western Landscape Buffer Easement Initial Plantings die or decline as a result of this failure, then such Owner shall be responsible for the replacement of the declining or dead Western Landscape Buffer Easement Initial Plantings located on such Owner's Lot, including, but not limited to replacements required by the Municipality in connection with the Municipality's acceptance of the Western Landscape Buffer Easement Initial Plantings. Except as specifically provided in this Article 14, no earthmoving, filling, dredging, grading, excavating, installation of landscaping, alteration of landscaping, or any modification, alteration, renovation, addition or removal of any of the foregoing shall take place within the Western Landscape Buffer Easement without the prior consent of the holder, if any, of the rights under Section 9.06 hereof, or, if there is no such holder, the Board. Any such consent may be granted or withheld in the sole and absolute discretion of such holder, or the Board, as the case may be. No buildings, driveways, walkways, signs, patios, decks, swimming pools, outbuildings, play sets, gazebos, sheds, fences or other similar improvements shall be installed, constructed, maintained or otherwise located on the Western Landscape Buffer Easement.

14.04 ENFORCEMENT: If in the sole judgment of the holder, if any, of the rights under Section 9.06 hereof, or, if there is no such holder, the Board, an Owner violates the provisions of this Article 14, then without limiting any rights or remedies available to such holder or the Board, as the case may be, hereunder, at law or in equity, the holder, or the Board, as the case

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may be, shall have the right to enter upon such Owner's Lot and perform any work to correct such violation which it deems necessary or appropriate. The cost of any such work shall be charged to the Owner or party responsible for maintenance of such Lot if different from the Owner, and shall be payable to the holder, or the Board, as the case may be, upon demand. In the event that the party charged for such work fails to make prompt payment of any such amount within thirty (30) days after demand, such amount shall become and continue to be a lien upon such Owner's Lot until such time as payment is made in full; provided, that any such lien shall be subordinate to the lien of any Mortgagee on such Lot Recorded prior to the date on which any such amount becomes a lien against such Lot as provided above. If any tree removal which requires approval as provided above is commenced without obtaining the required written consent of the holder of the Section 9.06 rights or the Board, as the case may be, then the holder of the Section 9.06 rights or the Board, as the case may be, may seek any remedy or take any action provided for herein or permitted at law or in equity in order to enforce the provisions hereof, including injunctive relief to stop such tree removal. If any alteration of the Western Landscape Buffer Easement prohibited above is commenced, or any alteration thereof which requires approval as provided above is commenced without obtaining the required written consent of the holder of the Section 9.06 rights or the Board, as the case may be, then the holder of the Section 9.06 rights or the Board, as the case may be, may seek any remedy or take any action provided for herein or permitted at law or in equity in order to enforce the provisions hereof, including injunctive relief to stop such alteration of the Western Landscape Buffer Easement.

ARTICLE FIFTEEN

Miscellaneous

15.01 NOTICES: Any notice required to be sent to any Owner under the provisions of this Declaration or the By-Laws shall be deemed to have been properly sent if (i) mailed, postage prepared, to his or its last known address as it appears on the records of the Association at the time of such mailing, (ii) transmitted by facsimile or e-mail to his or its facsimile number or e-mail address as either appears on the records of the Association at the time of such transmittal, or (iii) when personally delivered to his or its Lot. The date of mailing, or the date of transmission if the notice is sent by facsimile or e-mail, shall be deemed the date of service.

15.02 CAPTIONS: The Article and Section headings are intended for convenience only and shall not be construed with any substantive effect in this Declaration. In the event of any conflict between statements made in recitals to this Declaration and the provisions contained in the body of this Declaration, the provisions in the body of this Declaration shall govern.

15.03 SEVERABILITY: Invalidation of all or any portion of any of the easements, restrictions, covenants, conditions, or reservations, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration which shall, and all other provisions, remain in full force and effect.

15.04 PERPETUITIES AND OTHER INVALIDITY: If any of the options, privileges, covenants or rights created 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 provisions shall continue only until twenty-one (21) years after the death of the

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survivor of the now living lawful descendants of George W. Bush, the President of the United States at the time this Declaration is Recorded.

15.05 TITLE HOLDING LAND TRUST: In the event title to any Lot is conveyed to a title holding trust, under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all Charges and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Lot.

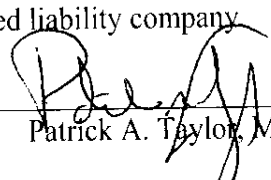
15.06 WAIVER OF IMPLIED WARRANTY OF HABITABILITY AND OTHER WARRANTIES: Illinois courts have held that every contract for the construction of a new home in Illinois carries with it a warranty that when completed, the home will be free of defects and will be fit for its intended use as a home. The courts have also held that this "Implied Warranty of Habitability" does not have to be in writing to be a part of the contract and that it covers not only structural and mechanical defects such as may be found in the foundation, roof, masonry, heating, electrical and plumbing, but it also covers any defect in workmanship which may not easily be seen by the buyer. However, the courts have also held that a seller-builder and buyer may agree in writing that the Implied Warranty of Habitability is not included as a part of their particular contract. Each buyer of a Home from Declarant agreed in the purchase contract that the Declarant has excluded and disclaimed the Implied Warranty of Habitability and all other implied warranties, whether created judicially, statutorily or by common law, including the implied warranty of fitness for a particular purpose. Such exclusion and disclaimer shall apply to and bind any subsequent Owner of a Home and, accordingly, no Owner of a Home shall be able to assert a claim against Declarant for a breach of the Implied Warranty of Habitability or any other implied warranty.

Dated: July 25, 2008

DECLARANT:

HOFFMAN ESTATES THREE LLC, an Illinois limited liability company

By: _____


Patrick A. Taylor, Manager

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EXHIBIT A TO
DECLARATION FOR DEVONSHIRE WOODS ESTATES

The Development Area

All Lots in Devonshire Woods Estates Subdivision, being a subdivision in Section 8, in Township 41 North, Range 9 East of the Third Principal Meridian, in Cook County, Illinois, pursuant to the plat thereof recorded in Cook County, Illinois on July 25, 2007 as Document No. 0720615092.

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EXHIBIT B TO
DECLARATION FOR DEVONSHIRE WOODS ESTATES

The Premises

- I. Lots. Each of the following described lots shall be a "Lot" hereunder:

Lots 1 through 55, both inclusive, in Devonshire Woods Estates Subdivision, being a subdivision in Section 8, in Township 41 North, Range 9 East of the Third Principal Meridian, in Cook County, Illinois, pursuant to the plat thereof recorded in Cook County, Illinois on July 25, 2007 as Document No. 0720615092 (the "Devonshire Woods Estates Subdivision")

- II. Common Area:

Outlots D and E in Devonshire Woods Estates Subdivision.

P.I.Ns: 06-08-101-006, 06-08-200-003, 06-08-200-004, 06-08-206-008

ADDRESSES: Various addresses on Bur Oak Drive, Hickory Drive and Pondview Drive, all in Hoffman Estates, Illinois

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EXHIBIT C TO
DECLARATION FOR DEVONSHIRE WOODS ESTATES

Tree Removal Request

[See Attached]

Property of Cook County Clerk's Office

