

Village of Northbrook
By: *Steve M. Elrod*

ANNEXATION AGREEMENT

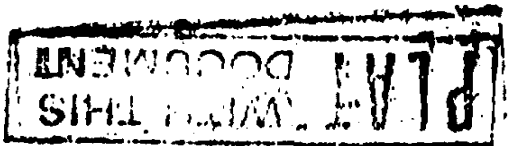
This Agreement is made and entered into this 22 day of November, 1988, by and between the VILLAGE OF NORTHBROOK (the "Village"), by and through the President and Board of Trustees of the Village (the "Corporate Authorities"), *FIRST COLONIAL TRUST COMPANY, successor to *MICHIGAN AVENUE NATIONAL BANK OF CHICAGO, a national banking association, not individually but as Trustee under a Trust Agreement dated June 17, 1987 and known as Trust No. 4645 ("Michigan"), WILLIAM W. JOHNSON AND DIANE D. JOHNSON ("the Johnsons") (Michigan and Johnsons sometimes collectively referred to as "Owner"), and ALIM INTERNATIONAL INC., an Illinois corporation ("Developer").

RECITALS

1. The Village is a Home Rule Unit by virtue of the provisions of the 1970 Constitution of the State of Illinois.
2. Michigan is the record title owner of a certain tract of property consisting of approximately 5.0 acres, generally located at 2375 Landwehr Road, and legally described in the Plat of Annexation, attached hereto and, by this reference, made a part hereof as Exhibit "A" (the "Property").
3. The Johnsons are the sole beneficiaries of the Trust held by Michigan.
4. Developer is the contract purchaser of the Property from Michigan pursuant to a real estate contract dated September 14, 1988.
5. The Property is contiguous to the corporate limits of the Village and not within the limits of any other municipality.
6. Owner and Developer desire and propose to have the Property annexed to the Village in accordance with the terms and provisions of this Agreement.
7. Owner and Developer desire and propose to develop the Property in accordance with the terms and provisions of this Agreement.

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This document prepared by:
STEVEN M. ELROD
65 WEST MONROE ST.
SUITE 800
CHICAGO, IL 60603



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8. Pursuant to the provisions of Section 11-15.1-1 et seq. of the Illinois Municipal Code, Ill. Rev. Stat. ch. 24, § 11-1 5.1-1, a proposed Annexation Agreement, in substance and form substantially the same as this Agreement, was submitted to the Corporate Authorities and, pursuant to notice published in the Northbrook Star on November 3, 1988 as provided by Statute, a public hearing was held thereon on November 22, 1988.

9. Pursuant to due notice and advertisement in the manner provided by law, the Plan Commission of the Village has held such public hearings as are prescribed by law and has made its recommendations with respect to the requested R-4 zoning classification for the property.

10. All petitions and other documents necessary to accomplish the annexation of the Property to the Village have been executed.

11. The Corporate Authorities, after due and careful consideration, have concluded that the annexation of the Property to the Village and its zoning and development pursuant to the terms and conditions herein set forth would further enable the Village to control the development of the area and would serve the best interests of the Village.

AGREEMENT

In consideration of the premises, mutual covenants and agreements herein set forth, and pursuant to the provisions of Ill. Rev. Stat. ch. 24, § 11-15.1-1 et seq., the parties hereto do hereby agree as follows:

1. Premises. The foregoing recitals are hereby made a part of this Agreement.

2. Adoption of Annexation Ordinance. Subsequent to the execution of this Agreement by all parties hereto, the Corporate Authorities shall adopt a valid and binding ordinance annexing the Property to the Village ("the Annexation Ordinance").

3. Adoption of Ordinance Zoning the Property. Subsequent to the adoption of the Annexation Ordinance, the Corporate

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Authorities shall adopt a proper, valid and binding ordinance zoning the Property in the R-4 Single Family Residence District of the Northbrook Zoning Ordinance.

4. Development and Subdivision of the Property.

A. The development of the Property shall consist of a residential subdivision of eleven (11) subdivided lots ("Lots") and a dedicated public street to be known as Donovan Glen Court. Further, the development of the Property shall, except for minor alterations due to final engineering and site work approved by the Village Engineer, be in strict accordance with the following:

- i. the provisions of this Annexation Agreement;
- ii. the Final Subdivision Plat of the Property prepared by John D. McTigue, dated May 31, 1988, and approved by the Village on June 14, 1988 in Resolution No. 88-R-74, and a copy of which is attached hereto and, by this reference, incorporated herein as Exhibit "B" (the "Final Subdivision Plat");
- iii. the final engineering plans, entitled "Site Improvement Plans," prepared by Gary A. Wiss, Incorporated, consisting of seven (7) pages and with latest revision date of November 15, 1988, and initialed by the Village President and the Developer, a copy of which is attached hereto, and by this reference, incorporated herein as Exhibit "C" (the "Final Engineering Plans");
- iv. the provisions as they now exist and as they may, from time to time, be amended, of the R-4 Single Family Residence District of the Northbrook Zoning Ordinance;
- v. all other applicable provisions of the Northbrook Zoning Ordinance as the same may, from time to time, be amended;
- vi. any and all other applicable Village ordinances, including but not limited to the Northbrook

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Subdivision Ordinance, as the same may, from time to time be amended.

B. Pursuant to the recommendation of the Northbrook Plan Commission, the Corporate Authorities have granted variations from Section VI-B-7(e) of the Northbrook Subdivision Ordinance of the lot depth of Lots 4, 5, 6 and 7 abutting the cul-de-sac of Donovan Glen Court in Resolution No. 88-R-52.

5. Donations and Contributions. Developer hereby acknowledges and represents that it has entered into binding agreements with each of the following entities pursuant to which impact donations will be made to each upon development of each Lot in accordance with the terms and conditions of this Agreement:

- a. Northbrook Park District: Developer shall cause a total of \$1,293.00 to be paid to the Northbrook Park District prior to or simultaneously with the issuance of the first certificate of occupancy for a House.
- b. Board of Education of School District 31, Cook County, Illinois ("School District 31"): Developer shall cause \$2,385.00 per house constructed to be paid to School District 31 prior to or simultaneously with the issuance of the certificate of occupancy for each House.

No donations were requested by any other School District nor any other governmental or quasi-governmental agency or body except as described in this Agreement.

6. Annexation Fee. In consideration of the impact of the development of the Property on the Village and the resulting increase in the level of municipal services and administrative costs required thereby, Owner and Developer agree that they shall pay to the Village, in addition to other specific sums required by other paragraphs of this Agreement, the sum of FIVE THOUSAND FIVE HUNDRED (\$5,500.00) DOLLARS (\$500.00 per platted lot), to be deposited into the Village's general fund and used at the discretion of the Village for the general purposes of the Village. Said sum shall be paid by a certified or cashier's check prior to

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the issuance of any building permit for any construction or development on the Property.

7. Construction Restrictions.

a. Construction trailers and models. Owner and Developer shall have the right, subject to the approval of drawings and specifications by applicable Village Staff and other governmental authorities having jurisdiction, to:

- (i) locate a temporary sales pavilion on the Property consisting of a trailer and appropriate parking;
- (ii) construct or place on the Property, at Developer's own risk, a building for use as a model unit and/or office;
- (iii) locate a trailer on the Property for a temporary construction office;

provided, however, that each of the foregoing shall:

- (i) be located in one specific location on the Property to be designated by the Village;
- (ii) comply with all applicable Village codes and ordinances;
- (iii) not receive any occupancy permit while in such temporary use;
- (iv) not exceed the duration period to be established by the Village.

b. Marketing Signs. Owner and Developer may erect, display and maintain marketing signs as permitted by applicable ordinance; provided that such signs are located on the Property and not on any land, fixtures or improvements surrounding the Property. Owner and Developer shall maintain in good repair any and all signs so erected and all such signs shall be removed upon the execution of a contract for a sale of the eleventh Lot.

8. Building Code. All buildings on the Property, including any all buildings and structures permitted pursuant to

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Paragraph 7 of this Agreement, shall be constructed in accordance with the Village Building Code and all other applicable codes, ordinances and regulations existing on the effective date of this Agreement, or as later amended.

9. Recapture. Owner and Developer do hereby unconditionally agree to pay, upon request by the Village, a fair and equitable share of all prior water, sanitary sewer and storm sewer improvements that have been developed in the area surrounding the Property and that benefit the Property. Computation of such recapture benefit has been determined by the Village, based on recapture ordinance No. 80-40 and Resolution 61-R-4, to be as follows:

Water Main	Ordinance No. 80-40 (\$200.00 per acre x 4.62 acres)	\$ 924.00
Sanitary Sewer	Ordinance No. 80-40 (\$300.00 per acre x 4.62 acres)	\$1,386.00
Storm Sewer	Resolution No. 61-R-14 (\$250.00 for first acre plus \$100.00 per acre thereafter)	\$ 612.00
	TOTAL	\$2,922.00

10. On-site Improvements. Owner and Developer shall, at Owner's and Developer's sole expense, construct all improvements on the Property as required by the Village Engineer and as described on the Final Subdivision Plat and the Final Engineering Plans. All such improvements shall be complete prior to the issuance by the Village of a Certificate of Occupancy for any House.

11. Storm Water and Drainage Detention.

A. The areas of the Property designated on the Final Subdivision Plat as "Storm Water and Drainage Detention" shall be continuously maintained in a first rate manner by the Owner and Developer herein, until such time as the individual lots affected by the Storm Water and Drainage Detention are conveyed. The Owner and Developer, and, subsequent to such individual conveyances, the owners of the affected lots, shall, upon request of the Village, perform any maintenance not performed. In the event

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all maintenance referred to in this Paragraph is not performed at any time, the Village, after 10 days prior written notice to the Owner and Developer herein or the owners of the individual lots affected, as the case may be, specifying the work required, may, but shall not be obligated to, enter upon the Property for the purpose of doing such maintenance work as may be reasonably required in the determination of the Village.

B. In the event that the Village shall cause to be performed any work pursuant to this Paragraph, it shall have the right to charge against the Property an amount sufficient to defray the entire cost of such work or action, including administrative costs, either before or after such cost is incurred. If the amount so charged is not paid within 30 days following a demand in writing by the Village for such payment, such charge, together with interest and costs of collection, shall become a lien upon the Property or affected portion of the Property, and the Village shall have the right to collect such charge, interest and costs, and to enforce such lien as in foreclosure proceedings as permitted by law.

C. Nothing in this Paragraph shall be construed to constitute a dedication of any portion of the Storm Water and Drainage Detention to, or an acceptance thereof by, the Village.

D. The Village shall be under no obligation to exercise the rights granted in this Paragraph except as it shall determine to be in its best interest. No failure to exercise any right herein granted to the Village shall be construed as a waiver of that or any other rights.

12. Letter of Credit. Owner and Developer agree that before any permit for any construction or development authorized hereunder is sought or issued for any portion of the Property, it will deposit with the Village Engineer a Letter of Credit, in a form satisfactory to the Village Attorney, in an amount equivalent to: (a) the total amount, plus ten percent (10%), of the actual, executed contracts for the site improvements, including landscaping, for the proposed development; or (b) the total

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amount plus twenty-five percent (25%) of an estimate of all such site improvement costs, including landscaping, in the event that actual, executed contracts for the site improvements are not available. All such contracts and estimates shall be subject to review and approval by the Village Engineer. The letter of credit deposit shall be held by the Village in escrow until completion of the development on the Property and shall be drawn on and retained by the Village in the event that the Owner and Developer fail to install, in a good and workmanlike manner, and in compliance with all the provisions of this Agreement and all applicable codes and regulations, all on-site and off-site improvements, including landscaping, required pursuant to the ordinances of the Village or any of the provisions of this Agreement.

13. Payment of Village Costs. In addition to any other costs, payments, permit fees or other fees required by this Agreement or by applicable Village Ordinances and Codes, Owner and Developer agree that they will pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering and planning fees incurred in connection with the review of plans for the development of the Property and in connection with the negotiation, preparation, consideration and review of this Agreement; including those fees and expenses that the Village has paid and will pay to its legal counsel, Burke, Bosselman & Weaver. Further, Owner and Developer agree that they will continue to be liable for and to pay such costs incurred in connection with any applications, documents or proposals, whether formal or informal, of whatever kind submitted by them during the term of this Agreement in connection with the use and development of the Property. Further, Owner and Developer agree that they shall be liable for and will pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

14. Enforcement. It is agreed that the parties hereto may in law or in equity, by suit, action, mandamus or any other

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proceeding, including specific performance, enforce or compel the performance of this Agreement; provided, however, that Owner and Developer agree that they will not seek and do not have the right to seek to disconnect the Property or to recover a judgment for monetary damages against the Village or any elected or appointed officials, agents, representatives, attorneys or employees thereof on account of the negotiation, execution or breach of any of the terms and conditions of this Agreement. In the event of a judicial proceeding brought by any party to this Agreement against any other party to this Agreement for enforcement or for breach of any provision of this Agreement, the prevailing party in such judicial proceeding shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees incurred in connection with such judicial proceeding.

15. Nature and Survival of Obligations. The parties agree that all charges payable pursuant to this Agreement, together with interest and costs of collection, shall constitute both the personal obligation of the party liable for its payment, and the successors of such party, and also a lien upon the land of such party until paid. The lien of the charges provided for herein shall be subordinate to the lien of any first mortgage now or hereinafter placed upon the Property subject to such charge; provided, however, that such subordination shall apply only to charges which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any charges thereafter becoming due, nor from the lien of any subsequent charge.

16. Notice to Transferee and Release of Transferor. Owner and Developer specifically understand and agree that the obligations assumed by each of them under this Agreement shall be binding upon them and any and all of their heirs, successors, and assigns and the successor owners of record of all or any portion

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of the Property. To assure that heirs, successors, and assigns have notice of this Agreement and the obligation created by it, Owner and Developer agree:

- a. that this Agreement shall be recorded with the Cook County Recorder of Deeds;
- b. to incorporate this Agreement into any and all real estate sales contracts said parties enter into for the sale of all or any portion of the Property to any party not a party to this Agreement; and
- c. to require, prior to the transfer of all or any portion of the Property, the transferee of said Property to execute an enforceable written agreement agreeing to be bound by the provisions of this Agreement and to provide the Village with such reasonable assurance of financial ability to meet those obligations as the Village may require. The Village agrees that upon a successor becoming bound to the personal obligation herein created in the manner herein provided and providing the financial assurances required by this Section, the personal liability of Owner and Developer or other predecessor obligor shall be released to the extent of the transferee's assumption of liability. Owner and Developer agree to notify the Village in writing at least thirty (30) days prior to any date upon which Owner and Developer transfer a legal or beneficial interest in any portion of the Property to a transferee. Owner and Developer shall, at the same time, provide the Village with a fully executed copy of the hereinabove required Agreement by the transferee to be bound by the provisions of this Agreement and the transferee's proposed assurances of financial capability.

17. Nonseverability. It is hereby expressed to be the intent of the parties hereto that should any provision, covenant, agreement or portion of this Agreement or its application to any

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person, entity or property be held invalid by a court of competent jurisdiction, then this entire Agreement shall thereupon be held invalid and of no force or effect, it being the intent of the parties that all of the provisions be treated as an individual whole.

18. Trustee Exculpation. This instrument is executed by First Colonial Trust Company, successor to * Michigan, not personally, but solely as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by Michigan are undertaken by it solely as Trustee, as aforesaid, and not individually, and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against the Trustee by reason of any of the terms, provisions, stipulations, covenants and/or statements contained in this instrument. Any such liability shall be asserted instead against the Property contained in Trust No. 4645 or the beneficiaries thereof or against the signatories hereof, or their successors.

19. Term. This Agreement shall be in full force and effect from and after the date of its execution for a period of twenty (20) years.

20. Amendments. This Agreement may be amended by the same procedure as required by Illinois statutes for its original execution and approval.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals on the date first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

VILLAGE OF NORTHBROOK

By: *Richard T. Johnson*
Village President

ATTEST

Lona N. Lewis

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FIRST COLONIAL TRUST COMPANY,
successor to

MICHIGAN AVENUE NATIONAL BANK OF
CHICAGO, as Trustee under Trust
Agreement dated June 17, 1987,
known as Trust No. 4845

By: *Alfred Benfante*
Vice President

ATTEST:

Mary Rodriguez
Assistant Secretary

William V. Johnson
William V. Johnson

WITNESS:

Thomas W. Mungby

Diane D. Johnson
Diane D. Johnson

WITNESS:

Thomas W. Mungby

ALIM INTERNATIONAL, INC.

By: *Alfred Benfante*
President

ATTEST:

Patrick Lundquist
Secretary

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LIST OF EXHIBITS

- A. Plat of Annexation, prepared by John D. McTigue, dated October 20, 1987.
- B. Final Subdivision Plat, prepared by John D. McTigue, dated May 31, 1988.
- C. Final Engineering Plans, prepared by Gary A. Wiss, Incorporated, with latest revision date of November 15, 1988.

Property of Cook County Clerk's Office

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RESOLUTION NO. 88-R-168

An Annexation Agreement pertaining to the development of an approximate five (5) acre parcel of land at 2375 Landwehr Road was duly published, publicly heard and accepted by Resolution No. 88-R-68 on May 24, 1988. The principals involved at that time were the property owners, William V. and Diane D. Johnson and the Michigan Avenue National Bank of Chicago, not individually, but as Trustee under a Trust Agreement dated June 17, 1987 and known as Trust No. 4645, and the developer, S. G. Royal, Ltd. Subsequently, the developer of the property has been replaced by Alim International, Inc., of Lake Forest, Illinois, and First Colonial Trust Company has become successor to Michigan Avenue National Bank of Chicago.

Pursuant to the provisions of Section 11-15.1-1 et seq. of the Illinois Municipal Code, Ill. Rev. Stat. ch. 24, Sec. 11-15.1-1, a public hearing was held, pursuant to public notice, on November 22, 1988.

NOW THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois, THAT:

Section 1.

Resolution No. 88-R-68, adopted on May 24, 1988, is hereby repealed in its entirety.

Section 2.

The Annexation Agreement for the property at 2375 Landwehr Road between the Village, Alim International, Inc., the Johnsons and First Colonial Trust Company, successor to Michigan Avenue National Bank of Chicago, attached to and by reference made a part of this Resolution, is hereby approved and the Village President and Village Clerk are hereby authorized and directed to execute, on behalf of the Village of Northbrook, said Annexation Agreement.

Section 3.

Upon execution of the Annexation Agreement, the Village Manager is hereby authorized to cause a fully executed copy of said Annexation Agreement to be recorded in the office of the Cook County Recorder of Deeds.

PASSED: This 22nd day of November, 1988.

AYES: (6)

NAYS: (0)

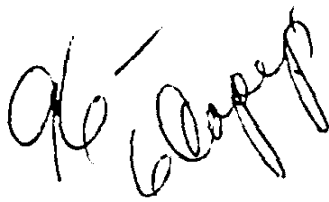
/s/ Richard T. Malone

Village President

ATTEST:

/s/ Luna N. Loris

Village Clerk



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COOK COUNTY RECORDER

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