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DECLARATION OF PROTECTIVE COVENANTS  
FOR  
SOUTHWICK CORPORATE PARK  
MATTESON, ILLINOIS

Property of Cook County Clerk's Office

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## DECLARATION OF PROTECTIVE COVENANTS FOR SOUTHWICK CORPORATE PARK MATTESON, ILLINOIS

This Declaration is made this 28<sup>th</sup> day of April, 1989, by PALOS BANK & TRUST COMPANY, not personally, but solely as Trustee under Trust Agreement dated March 1, 1988, and known as Trust Number 1-2676 (hereinafter referred to as "Trustee"), as owner of record of all of the real property subject to this Declaration.

WHEREAS, the Trustee is the owner of record of all of the real property subject to this Declaration, and SOUTHWICK PROPERTIES, INC., an Illinois corporation (hereinafter referred to as "Developer") is the managing agent for the owner of the property; and

WHEREAS, Trustee desires to subject such real property to the covenants, conditions and restrictions hereinafter set forth, for the benefit of such property and each present and future owner thereof, during the term of this Declaration.

NOW, THEREFORE, the Trustee declares that the real property described in Article I is and shall be held, transferred, sold, conveyed, leased and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

### ARTICLE I PROPERTY SUBJECT TO DECLARATION

The real property (hereinafter referred to as "Property") that is and shall be held, transferred, sold, conveyed, leased and occupied, subject to this Declaration, is located in the Village of Matteson, County of Cook, State of Illinois; is commonly known as SOUTHWICK CORPORATE PARK, and is legally described under the captions Parcel A and Parcel B in the Exhibit which is attached hereto and made a part hereof.

Additional property may be made subject to this Declaration at any time by the filing of record with the Recorder of Deeds of Cook County, Illinois, of a "Supplemental Declaration of Protective Covenants for SOUTHWICK CORPORATE PARK, Matteson, Illinois.

### ARTICLE II PURPOSE OF THIS DECLARATION

SECTION 2.1 The Property is hereby subjected to the covenants, conditions and restrictions herein declared, all of

which shall be deemed to run with the property, and each and every parcel thereof, to provide for the proper use and appropriate development and improvement of the Property so as to:

- a. protect the owners and occupants of buildings located on the property against improper development and use of surrounding lots;
- b. prevent the erection or construction of improvements with improper or unsuitable materials of improper quality;
- c. ensure adequate and reasonably consistent development of the Property;
- d. encourage and ensure the erection of attractively designed permanent improvements appropriately located within the Property in order to achieve harmonious appearance and function;
- e. provide for maintenance of the Detention Area Easements;
- f. provide for repair and maintenance of the five (5) foot wide asphalt strip (jogging path), located in the Boundary Easement; and
- g. provide for repair and maintenance of the Monument Sign at the entrance to SOUTHWICK CORPORATE PARK.

SECTION 2.2 These protective covenants are further intended to complement all applicable governmental regulations, and where conflicts occur, the most strict or rigid requirements shall be applied. Notwithstanding the foregoing, nothing contained in this Declaration shall be construed in any way so as to restrict or affect the Village of Matteson's, or any other applicable governmental authority's power and authority to review the plans and specifications for all proposed Improvements to insure compliance with all applicable governmental regulations regarding the issuance of building permits or any other applicable permits required in connection with such Improvements.

ARTICLE III  
DEFINITIONS

For the purpose of this Declaration, the following terms shall have the following meanings;

SECTION 3.1 "Association" shall mean the Southwick Corporate Park Association, an Illinois not-for-profit corporation.

SECTION 3.2 "Board" shall mean the Board of Directors of the Association

SECTION 3.3 "Committee" shall mean the Architectural Control Committee described in Article X hereof.

SECTION 3.4 "Declaration" shall mean this Declaration of covenants, conditions and restrictions.

SECTION 3.5 "Developer" shall mean Southwick Properties, Inc., an Illinois corporation, its successors and assigns who are specifically assigned the respective rights and obligations of Developer hereunder.

SECTION 3.6 "Improvements" shall mean and include buildings, outbuildings, roads, driveways, pedestrian walkways, parking areas, outdoor lighting, fences, screening walls and barriers, retaining walls, stairs, decks, windbreaks, hedges, lawns, private sidewalks, planted trees and shrubs, plantings, poles, signs, loading areas and all other structures or landscaping improvements of every type and kind although not specifically enumerated.

SECTION 3.7 "Lot" shall mean a portion of the Property, usually a subdivided lot of record, used for or intended to be used for the construction of structures which have frontage upon a street. For the purpose of this Declaration, however, a "Lot" is not required to coincide with a lot of record.

SECTION 3.8 "Lot Area" shall mean the gross area, in acres, of a subdivided lot, including public utility, drainage and access easements and detention area easements and excluding public street right-of-ways as shown on or determined from a Plat of Subdivision or Plat of Resubdivision presently recorded or hereafter recorded regarding the Property or any additional property hereinafter made subject to this Declaration.

SECTION 3.9 "Mortgage" shall mean either a mortgage or deed of trust creating a lien against a portion of the Property given to secure an obligation of the owner of such portion of the Property.

SECTION 3.10 "Occupant" shall mean any firm, corporation, partnership, natural person or legal entity, public or private, legally entitled to occupy or use any part or portions of a Lot.

SECTION 3.11 "Owner" shall mean the record owner (or the beneficiaries of a land trust which may be a record owner), of a fee simple title to any Lot, whether one or more persons or entities.

SECTION 3.12 "Person" shall mean any natural individual, corporation, partnership, trustee, or any other legal entity capable of holding title to real property.

SECTION 3.13 "Property" shall mean the real property described in Article I hereof.

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SECTION 3.14 "Detention Area Easement" shall mean the storm water detention easement areas depicted on The Plat of Resubdivision recorded in the Office of the Recorder of Deeds, Cook County, Illinois on April 19, 1989 as Document No. 89-172767.

SECTION 3.15 "Subdivision Plat" shall mean any plat of subdivision or resubdivision encompassing all or any part of the Property and duly recorded in the office of the Recorder of Deeds of Cook County, Illinois.

SECTION 3.16 "Boundary Easement" shall mean the twenty (20) foot wide public utility, drainage and access easement as depicted on the Plat of Subdivision along the North, West and Southern boundary lines of the Property.

SECTION 3.17 "Monument Sign" shall mean the sign to be erected adjacent to Cicero Avenue in the North East corner of Lot 34.

## ARTICLE IV GENERAL RESTRICTIONS

SECTION 4.1 Each Owner shall maintain or cause to be maintained its Lot, the Boundary Easement and all Improvements located thereon, excluding the Detention Area Easement and the five (5) foot wide asphalt strip located within the Boundary Easement. Maintained areas shall include the exterior of all buildings, pedestrian walks, parking lots, storage areas, refuse collection areas, and landscaped areas. The Lot shall be kept in a clean, sightly and safe condition, and each Owner shall at all times cause the prompt removal of all papers, debris and refuse therefrom and the removal of snow and ice from paved areas.

SECTION 4.2 In the event of damage or destruction to any Improvement by reason of fire or other casualty, the Owner of the Lot on which such Improvements were located shall thereafter promptly restore such Improvements to the condition existing prior to such damage or destruction, or raze and remove such Improvements and landscape the Lot in a sightly manner, or construct new Improvements after complying with the provisions of Article X.

SECTION 4.3 Subject to the consent of the Holder of any existing Mortgage, and;

a. in the event construction of any Improvement on a Lot ceases for a period of six (6) months prior to the enclosure of such Improvement, or

b. in the event construction of any Improvement ceases for a period of six (6) months after the Improvement is enclosed, the Owner, upon written demand of the Association, shall raze and remove any Improvement not enclosed, and shall landscape the Lot in compliance with the requirements of Article X hereof.

SECTION 4.4 No Owner shall conduct, or permit any person to conduct any unlawful activity on the Lot owned by such Owner.

SECTION 4.5 All equipment used in clearing, excavating or construction on a Lot that is not rubber-tired shall be loaded or unloaded only within the boundary lines of the Lot. During clearing, excavating or construction, the Owner of the Lot on which the work is performed shall cause the roads and sidewalks within or bordering on the Property to be kept clear of dirt and debris caused by such clearing, excavating or construction and shall be responsible for any damage to such roads and sidewalks.

SECTION 4.6 No trailer, temporary building or structure of any kind shall be permitted except during construction of a permanent Improvement. Such trailer, temporary building or structure shall be removed as promptly as practicable and in any event not later than thirty (30) days after the issuance by the Village of Matteson of any occupancy permit for such permanent improvement.

SECTION 4.7 No Owner shall cause or allow any activity which shall cause air, water, soil or noise pollution which would violate any applicable laws, ordinances, rules and regulations of any governmental authority having jurisdiction over the Property. Without limiting the generality of the foregoing, no Owner shall willingly or knowingly drain or dump any refuse, sewage or other materials into any detention facility located on the Property.

SECTION 4.8 If any Owner shall fail to perform any obligation created under these Declarations including, but not limited to, maintenance, landscaping, or lawn care, the Association may give written notice to the Owner specifying the manner in which the Owner has failed to so perform. If such failure has not been corrected within fifteen (15) days after such notice; or if such work, if it cannot be completed within a fifteen (15) day period, has not been commenced within such period and thereafter diligently completed, the Association may enter upon the Parcel and perform such work. Provided, however, if an Owner disputes a determination by the Association that the Owner has failed to perform any such obligation the Owner may request a hearing before the Architectural Control Committee to make a factual determination. Upon such hearing the Committee must find an obligation by a vote of at least four members of the Committee for the obligation to apply.

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The cost of any work shall be assessed against and paid by the Owner within thirty (30) days of the date of rendering a statement therefor which statement shall specify the details of the work performed by the Association and the costs thereof. Such statement may include, at the Association's option, a charge of twenty five percent (25%) of the direct costs thereof to help defray the Association's administrative expenses connected with performing such work. The provisions of Article XII shall apply to the aforesaid assessment.

The Association:

- (1) by reason of its holding of any hearing;
- (2) by making any determination of an unmet obligation or nuisance by an Owner; or
- (3) by the performing any work on any Lot

shall not be liable or responsible to the Owner for any losses or damage thereby sustained by the Owner or anyone claiming by or under the Owner, except for gross negligence or wanton and willful conduct.

## ARTICLE V DEVELOPMENT STANDARDS

SECTION 5.1 No building or other structure shall be constructed, enlarged, altered or maintained on a Lot except in compliance with this Declaration, covenants and restrictions of record and with all laws, ordinances, rules and regulations of all governmental authorities having jurisdiction over the Property.

SECTION 5.2 Each Owner shall provide landscaped areas on his Lot as approved under Article X herein for all areas not improved with structures, buildings or pavement within twelve (12) months after the date of the instrument granting title to Owner. The Association may extend said twelve (12) month period during the period of actual building construction or for other good cause shown.

SECTION 5.3 All trash receptacles and storage areas, service yards, electrical cage enclosures, incinerators and similar equipment for the disposal of materials, and storage tanks, shall be screened from view from access streets and adjacent properties by means of a fence, berm, wall or dense opaque landscaping materials.

SECTION 5.4 All curb cuts shall be designed so as to create a means of ingress and egress for each Lot consistent with efficient traffic patterns and which will not unnecessarily hinder traffic flow to or from other Lots.



SECTION 5.5 All electrical service, gas service and telephone lines in the Property shall be placed underground, provided, however, that placement within buildings or structures or attached to their walls may be above ground so long as they are appropriately screened and approved by the Architectural Control Committee as set forth in Article X below.

SECTION 5.6 All temporary and permanent signage shall conform to applicable ordinances of the Village of Matteson.

SECTION 5.7 All access driveways and parking areas shall have a wearing surface of asphalt, concrete or other similar hardsurfaced material.

ARTICLE VI  
DETENTION AREA EASEMENTS

SECTION 6.1 The Association shall maintain the Detention Area Easements and shall ensure adequate storm water storage and flow through those areas designated as "Detention Area Easements". The Owner, its heirs, successors and assigns shall not modify the grades or slopes of the Detention Area Easements or any other surface water runoff or flow pattern without the prior written consent of both the Village of Matteson, its successors and assigns and the Association.

SECTION 6.2 In the event the Association, its successors or assigns shall fail to properly maintain the Detention Area Easements, the Village of Matteson, its successors and assigns may, upon fifteen (15) days prior written notice, have the right to enter upon the Detention Area Easements to perform, or have performed on the Village of Matteson's behalf, any maintenance work to or upon the easement reasonably necessary to ensure adequate storm water storage and flow of storm water through the Detention Area Easements serving the Property. The Village of Matteson shall have a right to be reimbursed from the Association the cost of such work together with an additional sum of twelve percent (12%) of the cost of such work. The Village of Matteson may seek money damages against said Association, its successors or assigns in a civil action brought in the Circuit Court of Cook County, Illinois. The Village shall also be entitled to collect, in addition to the costs of said work, actual reasonable costs incurred by the Village of Matteson for engineering fees, attorneys fees, court fees and other costs associated with collection under this paragraph 6.2.

SECTION 6.3 Trustee and Developer hereby specifically reserve the right to enter upon any Detention Area Easements during the time that Trustee, its successors or assigns retain



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ownership of any portion of the Property, and until Trustee has sold all of its interest in the Property for the purpose of maintaining, altering or changing the detention easements. Provided, however, no alterations shall be made by the Trustee or Developer without the express written consent of the Village of Matteson. Provided further that Trustee or Developer shall restore any altered, changed or maintained easement in a similar manner as the pre-existing landscape plan, considering alterations actually made. For the purpose of this Article VI, the conveyance by Trustee of legal title to a portion, or all of the Property to a different entity which shall hold legal title for the benefit of Trustee's beneficiaries, their successors or assigns, shall not constitute a sale. Trustee and Developer shall initially landscape the Detention Area Easements, but all subsequent landscaping maintenance and replacements, except as otherwise provided in this Section 6.3 shall be provided by the Association.

## ARTICLE VII MONUMENT SIGN

SECTION 7.1 Trustee and Developer will cause a MONUMENT SIGN to be erected in the North East Corner of Lot 34 and will grant to the Association appropriate easement rights, as determined by the Trustee and Developer, to enter upon that portion of Lot 34 where the Monument Sign will be erected for the purpose of repairing and maintaining said Monument Sign.

SECTION 7.2 The Monument Sign will bear the name/legend, SOUTHWICK CORPORATE PARK thereon as well as the names of the three (3) hotels/motels to be erected on Lots 29, 30 and 31. No other names will be allowed on the Monument Sign.

SECTION 7.3 The Owners of Lots 29, 30 and 31 shall each be responsible for Twenty Five Percent (25%) of the cost to repair and maintain the Monument Sign, including electric use, licenses and any other cost or expenses associated with the Monument Sign and the Association shall be responsible for the remaining Twenty Five Percent (25%) of said cost. The Owners of Lots 29, 30 and 31 shall be solely responsible for the initial cost and subsequent repair and maintenance of their respective signage panels on the Monument Sign. The Owners of Lots 29, 30 and 31 shall pay for their proportionate share of the cost to repair and maintain the Monument Sign within thirty (30) days of being rendered a statement therefor, by the Association, or initially by the Trustee and Developer, which specifies the details of the charges.

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ARTICLE VIII  
BOUNDARY EASEMENT

SECTION 8.1 Trustee and Developer will cause a five (5) foot wide asphalt strip suitable for jogging to be installed within the Boundary Easement.

SECTION 8.2 The Association shall be responsible for the repair, maintenance and replacement of the five (5) foot wide asphalt strip, but the remaining portion of the Boundary Easement shall be initially landscaped in accordance with Article IX and thereafter maintained by the respective Owners of the Lots on which the Boundary Easements are located, and such maintenance shall minimally consist of the work required to mow, water, fertilize, weed, trim and replant any grass, vegetation or other installed landscaping. The Owners shall also be responsible for the removal of trash and debris from whatever source and shall otherwise keep the Boundary Easements, as well as all other landscaped areas of the Lot in an attractive, sightly and well-kept condition.

SECTION 8.3 The Association may elect, upon reasonable notice to the Owners of the Boundary Easements, to assume the responsibility for mowing those areas so as to insure uniform mowing standards and schedules for the enhancement and beautification of the Boundary Easements.

ARTICLE IX  
LANDSCAPING

SECTION 9.1 All landscaping shall conform to applicable ordinances of the Village of Matteson. In addition to compliance with said ordinances, every Lot on which a building is constructed in SOUTHWICK CORPORATE PARK shall be landscaped by the Owner in accordance with a landscaping plan designed pursuant to the following landscaping plan guidelines ("Landscape Plan") which shall be a necessary part of the submittal of the plans to be submitted to and approved by Developer or the Association, as the case may be in the manner provided in Section 10.2.

A. Grass Areas All front, side or rear yards of Lots improved with a building, including the twenty (20) foot Boundary Easement and any other easement areas for utilities, etc., exclusive of driveway, sidewalks, parking areas, patios and plazas or other landscaped areas, shall be seeded or sodded with blue grass predominant seed or sod mixtures.

B. Trees and Shrubs Trees and Shrubs shall be grouped in clusters and oriented to harmonize with adjacent landscaping

in place or with any proposed Landscape Plan previously approved for improvements under construction. Two (2) units, as those units are hereinafter described, should be installed (minimally) every one hundred (100) lineal feet in the twenty five (25) foot building line and Boundary Easement areas of each Lot.

Unit 1: Groupings of three (3) flowering crabs in a fibermulched area;

Unit 2: One (1) shade tree of not less than three (3) inches in diameter with two (2) flowering crabs within fifty (50) feet of the tree;

Unit 3: Grouping of one (1) shade tree of not less than three (3) inches in diameter with two (2) blue spruce in a fibermulched area;

Unit 4: Grouping of five (5) Austrian pine in a fibermulched area;

Unit 5: Two (2) shade trees of not less than three (3) inches in diameter with sod to the tree base.

SECTION 9.2 Landscaping in accordance with approved Landscaping Plan shall be installed within three (3) months from the date of occupancy or substantial completion of the building, whichever first occurs, unless weather or other similar reason shall cause Developer or the Association, as the case may be, to approve in writing another date by which such landscaping shall be completed.

## ARTICLE X ARCHITECTURAL CONTROL COMMITTEE

SECTION 10.1 There is hereby created an Architectural Control Committee consisting of five (5) persons (the "Committee"). The right to appoint and remove all members of the Committee, or the alternative right to solely act as the Committee, shall vest solely in the Developer, its successors and assigns, until such time as: (i) final plans and specifications for the development of eighty percent (80%) of the Property have been approved by the Committee and the Village of Matteson; or (ii) the Developer relinquishes such rights in favor of the Association; or (iii) the Trustee has sold eighty percent (80%) of the Property, whichever event shall first occur. Thereafter, the members of the Committee shall be appointed by the Board and shall each serve for a term of one (1) year. Committee members are not required to be members of the Association. For purposes of this Section 10.1, the conveyance by Trustee of legal title to a portion of the Property to a different entity which shall hold legal title for the benefit of Trustee's beneficiaries, their successors or assigns, shall not constitute a sale.

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SECTION 10.2 No improvements shall be constructed or placed on any lot until final plans and specifications showing the site plan, all existing or proposed Improvements have been submitted to, and approved in writing by the Committee, or by the Developer, as the case may be. AN Owner may choose to submit a preliminary concept to the Committee, which concept, if approved, may be incorporated into final plans and specifications. If a preliminary concept is approved by the Committee, a final plan which is substantially similar to the preliminary concept plan shall be approved by the Committee as to those items submitted in the preliminary concept.

The Owner shall request architectural review in writing, and shall furnish sufficient copies of each of the following:

1. Proposed uses of the Lot and buildings;
2. The lot site plan showing:
  - a. the location and dimensions, of all buildings and structures;
  - b. parking areas, including number and size of parking spaces;
  - c. loading and storage facilities and areas; and
  - d. means of ingress, egress, curb cuts and pedestrian walkways.
3. The Landscape Plan, prepared by a landscape architect in accordance with the Landscaping Plan guidelines as set forth in Article IX showing (i) size, location, type and species of all ground cover and plantings; (ii) any underground lawn sprinkling system; and (iii) grading and drainage plans,
4. Drawings and specifications of all exterior building surfaces, showing elevations and including the color, quality and type of exterior construction materials;
5. Outdoor lighting plan showing the type, style, size, color and candlepower of all outdoor light fixtures;
6. Any additional information reasonably required for, or requested by the Committee which shall enable the Committee to determine the location, character, design, use, scale and appearance of the proposed Improvement.

Changes in approved plans and specifications, or subsequent alterations, additions and changes to any existing Improvement that affects building size, placement or external appearance must be similarly submitted to and approved by the Committee.

SECTION 10.3 The Committee, or the Developer, as the case may be, shall disapprove preliminary concepts or plans and specifications submitted to it in the event the same are not in accordance with this Declaration or if the concept or final plans and specifications submitted are incomplete, and shall specify the reason for such disapproval. The Committee shall consider

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any request which is submitted in accordance with the terms hereof on the basis of its conformity and harmony of external design and location in relation to surrounding structures, relation of topography, grade and finish ground elevation of the Lot being improved to that of neighboring sites, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical, air conditioning and rooftop installations, and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration. The Committee shall, within thirty (30) days after the submission of such complete plans and specifications approve or disapprove any such request in writing. In the event such plans and specifications are disapproved, the Committee shall specify the reasons therefor. If the Committee fails to so approve or disapprove such request within thirty (30) days after such plans and specifications are submitted, such request shall be deemed approved. The decision of the Committee shall be final, but the Committee shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.

SECTION 10.4 Upon obtaining the final plan approval of the Committee, the Owner shall, as soon as practicable, proceed diligently with the commencement and completion of all approved Improvements.

SECTION 10.5 The Architectural Control Committee, by the written consent of four-fifths of the members thereof, or by the decision of the Developer, as the case may be, is hereby authorized and empowered to grant reasonable variances from the provisions of this Declaration, or any portion hereof, in order to overcome practical difficulties and to prevent unnecessary hardship in the application of the provisions contained herein; provided, however, that said variances shall not materially injure any of the Property or Improvements within the Property, and shall otherwise be subject to all applicable laws, ordinances, rules and regulations of any governmental agency or political subdivision having jurisdiction over the Property. No variance granted pursuant to the authority granted herein shall constitute a waiver of any provision of this Declaration as applied to any other Person, Owner or Lot.

SECTION 10.6 Neither the Committee, the Association, the Developer, nor any member, employee or agent thereof, shall be liable to any Owner, to anyone submitting plans for approval, or to any other Person, by reason of good faith exercise of judgment or mistake or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any such plans and specifications or for any other action in connection with its or their duties hereunder. No Committee member shall receive any compensation for serving on the Architectural Control Committee.



ARTICLE XI  
SOUTHWICK CORPORATE PARK ASSOCIATION

SECTION 11.1 Developer will cause to be incorporated a not-for-profit corporation known as the SOUTHWICK CORPORATE PARK ASSOCIATION and said corporation shall have the power: (a) to provide for the selection of members to serve on the Architectural Control Committee as set forth in Article X above; (b) to provide for the enforcement of the provisions of this Declaration; (c) to provide such other services and facilities as may be authorized from time to time by the affirmative vote of 60% of the votes cast; (d) in general to maintain and promote the desired character of the development; (e) to exercise the powers of not-for-profit corporations pursuant to the General Not For Profit Corporation Act of Illinois; and (f) to levy assessments against the Property for maintenance fees, Declaration enforcement costs and Architectural Control Committee expenses. Pursuant to this Declaration, the Board of Directors of the Association shall constitute the final administrative authority (except as otherwise expressly provided in Article X above) and all decisions of the Board with respect to the administration of the Property shall be binding. All rights, titles and obligations vested or imposed upon the Association by this Declaration shall be held and performed by the Board. The By-Laws for governing the Association shall be those duly enacted by the Association.

If any Owner or Owners believe that:

- a. the disapproval of any plans and specifications;
- b. the finding of an unfulfilled declaration obligation; or
- c. The finding of a nuisance or violation under this Declaration or the Association By-Laws is arbitrary and capricious, the Owner must, as its sole remedy submit the matter to final and binding arbitration pursuant to the provisions of the Illinois Uniform Arbitration Act and the rules of the American Arbitration Association not in conflict with said Act. The fees for the arbitrator and a court reporter shall be divided equally between the Owner and the Association. All other costs shall be born by the party incurring same. The parties to arbitration agree to cooperate in providing relevant documents, witnesses, employees, agents and contractors requested by the other party. No arbitrator shall vary from, or change the provisions of this Declaration.

SECTION 11.2 Every Owner of a Lot shall be a member of the Association. No Owner shall have more than one membership for



each Lot owned. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership.

SECTION 11.3 The Association shall have one class of membership and each member shall have votes equal to the number of acres and fraction thereof contained in the Lot Area Owner owns; therefore, votes may be fractional. In no event shall the votes cast with respect to any Lot be cast by more than one Person. The foregoing notwithstanding, the sole vote in the Association shall vest in the Developer until such time as the first to occur of: (i) ninety (90) days after the sale and transfer by the Trustee of eighty percent (80%) of the Property; or (ii) Developer's relinquishment of the right to exercise the sole vote of the Association, which shall be delivered in writing to the Association. In the event Developer relinquishes the right to exercise the sole vote of the Association, as aforesaid, it shall be entitled to cast votes equal to the total acreage contained in the Lot Area owned by the Trustee. If more than one Person is the record owner of any Lot, or an Owner is a trustee, corporation, partnership or other legal entity, the votes for such Lot shall be exercised as such Owner or Owners of that Lot shall designate. Such designation shall be made in writing to the Board or in such other manner as the Board may determine.

SECTION 11.4 The Association shall be governed by a Board of Directors as provided in the By-Laws of the Association. Except for directors appointed by the Developer, directors shall be members (or, in the case of a corporation, partnership or trustee member, any party designated by such corporation, partnership or trustee member) of the Association. Prior to the appointment of the first Board, the Developer may exercise all rights, powers and privileges and act in the capacity of the Board and may perform all of its functions as set forth in this Declaration and in the By-Laws of the Association.

SECTION 11.5 Notwithstanding anything contained in this Declaration or the By-Laws of the Association to the contrary, the first Board and each subsequent Board shall consist of, and vacancies on the Board shall be filled by, such persons as the Developer shall from time to time appoint, who may, but need not be members of the Association until the first to occur; (i) ninety (90) days after the sale and transfer of title by the Trustee of eighty percent (80%) of the Property; or (ii) Developer's relinquishment of its right to appoint all members of the Board, which shall be delivered in writing to the Association. Without the prior written consent of the Developer, neither this Declaration, the Articles of Incorporation of the Association, nor its By-Laws shall be amended, modified or changed to in any way diminish the authority of the Board or the

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rights of Developer while the Developer has the right to appoint any members of the Board. The Developer may, from time to time, by written notice to the Association, elect to relinquish its right to appoint any one or more directors and continue to exercise its right to appoint the remaining members of the Board for the period hereinabove specified. All directors not appointed by Developer shall be elected as hereinafter provided.

SECTION 11.6 Upon termination of Developer's right to appoint any or all of the directors as provided in Section 11.5 above, those directors not subject to appointment by the Developer shall be elected by the members at the annual meeting of the Association called by the President of the Association, by the Developer, or by any three (3) members, except as provided in Section 11.7 below. Such meeting shall be called by notice sent pursuant to the By-Laws of the Association. Notwithstanding the provisions of Section 11.3 above, in the event Developer relinquishes its right to appoint one or more directors, but not its right to cast the sole vote in the Association, the members shall have the right to elect such director(s) in accordance with the By-Laws, however, the members will have no other voting rights.

SECTION 11.7 The first annual meeting of members shall be held not later than the first to occur of: (i) ninety (90) days after the sale and transfer of title by the Trustee of eighty percent (80%) of the Property; (ii) sixty (60) days after Developer's relinquishment of its right to appoint one (1) or more members of the Board. Developer shall cause to be sent written notice of such first annual meeting not less than fifteen (15) days in advance of such meeting.

SECTION 11.8 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 or officers except for any acts or omissions found by a court to constitute gross negligence or fraud. The Association shall indemnify and hold harmless the directors and officers, their heirs and legal representatives, against all contractual and other liabilities to 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 fraudulently or with gross negligence. The foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to attorneys' 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 officer or director

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may be involved by virtue of 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 finally be adjudged in such action, suit or proceeding to be liable for 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 gross negligence or fraud in the performance of his duties as such director or officer.

SECTION 11.9 All funds collected by the Board shall be held and expended for the purposes designated in this Declaration and the By-Laws. All contracts and agreements entered into by the Board or the officers of the Association shall be deemed executed by said parties, as the case may be, as agent for the Owners or the Association.

ARTICLE XII  
ASSESSMENTS LEVIED BY THE ASSOCIATION

SECTION 12.1 The Association shall have the right, power and duty to levy assessments against the Owners and the Property for costs incurred by the Association and the Committee in carrying out the purposes of the Association including land maintenance and the costs of enforcing this Declaration.

The initial annual assessment payable to the Association shall be fixed by the Developer in its reasonable discretion, giving due consideration to the cost of maintenance for the prior twelve (12) month period. Commencing with each fiscal year the Board shall estimate its costs of operation for the coming year and the same shall be assessed and paid in advance, at least annually by each Owner, and the Developer or at such other times as the Board directs. Such assessment may take into account reserves for any contemplated repair, replacement or renewal of a specific improvement used for the benefit of any portion of the Property.

SECTION 12.2 Each Owner's share of any assessment levied hereunder shall be determined by multiplying the total assessment times a fraction, the numerator of which is the total acreage contained in the Lot owned by said Owner, and the denominator of which shall be the total acreage of the Property (exclusive of dedicated street right-of-ways).

Each Owner's assessment may be increased by an additional assessment, if any, which may arise by the application of paragraph 4.8 of this Declaration.

The charge will become delinquent when not paid within

thirty (30) days after it becomes due. Any Owner acquiring title after the beginning of the Association's fiscal year shall have its assessment pro-rated for the time of actual ownership.

SECTION 12.3 The assessments levied by the Association may be used: (a) for any and all costs and expenses as hereinabove provided in this Declaration; (b) for operating expenses of the Association incurred by the Architectural Control Committee, except that such funds shall not be used for fees for outside experts engaged to assist the Architectural Control Committee, unless said outside experts are specifically requested by a member of the Architectural Control Committee who has been appointed by a member of the Association other than the Developer, or for compensation to any member serving on the Architectural Control Committee; (c) operational expenses incurred by the board including, but not limited to, management, costs, insurance premiums, professional fees for architects, engineers, accountants and attorneys incurred by the Board; (d) for enforcing the provisions of this Declaration; or (e) for doing any other thing necessary or desirable, in the opinion of the Board to keep the Property neat and in good order, or which in the opinion of the Board may be of general benefit to the Owners or occupants of the land included in the Subdivision.

SECTION 12.4 The Association shall have a lien upon all the Lots in the Property to secure the payment of maintenance charges due and to become due, and the Owner of any such Lot shall be personally liable for all maintenance charges.

Upon demand, the Association shall furnish to any Owner or mortgagee or person interested in a Lot a certificate showing the unpaid maintenance charges against any Lot.

ARTICLE XIII  
OTHER PROVISIONS

SECTION 13.1 The covenants, conditions and restrictions created by this Declaration shall attach to and run with the Property and shall be binding on every Person who may hereafter come into ownership, occupancy or possession of any portion of the Property. By the registration or acceptance of the conveyance of a lot or any interest or right therein (including fee or leasehold) the Person to whom such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration, whether or not any reference to this Declaration is contained in the instrument by which such Person acquired such interest or right. The rights, liabilities and obligations set forth herein shall attach to and run with the ownership of a Lot and may not be severed or alienated from such ownership.

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SECTION 13.2 The result of every action or omission whereby any covenant, condition or restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy either public or private, available at law or in equity against an Owner or occupant of any premises in the Property shall be applicable against such nuisance and may be enforced by the Association or by any Owner.

SECTION 13.3 The failure of the Association or any Owner to enforce any provision herein contained shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other provision.

SECTION 13.4 All covenants, liens and other provisions set forth herein shall be subject to and subordinate to all Mortgages now or hereafter executed, encumbering any of the Property, and none of said covenants, liens or other provision shall supersede or in any way reduce the security or affect the validity of any such Mortgage. However, if any portion of the Property is acquired by deed in lieu of foreclosure, or under the provisions of any deed of trust in the nature of a mortgage, or sold under foreclosure of any mortgage, or under any judicial sale, any grantee under such deed or purchaser at such sale, his or its grantees, heirs, personal representatives, successors or assigns shall hold any such portion of the Property subject to all the covenants, liens and other provisions of this Declaration.

SECTION 13.5 Trustee reserves the right from time to time to subdivide and resubdivide portions of the Property owned by it for the purpose of creating additional Lots within the property without the consent of any Owner. However, no Owner shall subdivide or resubdivide any Lot or part thereof without the prior written approval of the Developer or Trustee.

SECTION 13.6 If any provision of this Declaration is held to be invalid by any Court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

SECTION 13.7 Each Owner of a Lot in the SOUTHWICK CORPORATE PARK shall file the correct mailing address of such Owner with the Association and shall notify the Association promptly in writing of any subsequent change of address. The Association shall maintain a file of such addresses and make the same available to appropriate parties. A written or printed notice deposited in the United States Post Office, postage prepaid, and addressed to any Owner at the last address filed by such Owner with the Association shall be sufficient and proper notice to such Owner wherever notices are required in this Declaration, and shall be deemed delivered three (3) business days after mailing.

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SECTION 13.8 The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of SOUTHWICK CORPORATE PARK.

SECTION 13.9 In the event title to a Lot is held by a land trust under which all powers of management, operation and control remain vested in the trust beneficiary or beneficiaries then the trust estate under said trust and the beneficiaries thereunder from time to time shall be liable for payment of any obligation, lien or indebtedness created under this Declaration against the Lot. No claim shall be made against any such title holder trustee personally for any claim or obligation created hereunder and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the premises notwithstanding any transfers of beneficial interest or in the title to such real estate.

SECTION 13.10 Until such time as the Board provided for in this Declaration is formed, the Developer shall exercise any and all of the powers, rights, duties and functions of the Association and the Board.

SECTION 13.11 This Declaration may be amended by an instrument executed by the Owners of no less than 65% of the total acreage of the property (exclusive of dedicated public street right-of-ways) subject to assessment under this Declaration; provided:

- a. that Trustee consents thereto for so long as Trustee owns any of the Property;
- b. that no amendment shall in any manner affect any right with respect to any storm water detention easement area without the consent of all the Owners of the Property and the Village of Matteson;
- c. that the manner of determining the percentage of assessments allocated to each Lot shall not be affected without the consent of the Owners of each Lot so affected; and
- d. no amendment shall affect the right of any mortgage holder without such mortgage holder's consent. Any amendment shall become effective upon recording with the Recorder of Deeds of Cook County, Illinois. For the purpose of this Section 13.11 the conveyance by Trustee of legal title to a portion, or all of the property to a different entity which shall hold legal title for the benefit of Trustee's beneficiaries, their successors or assigns, shall not constitute a sale.

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EXHIBIT ATTACHED TO AND FORMING A PART OF THE DECLARATION OF PROTECTIVE COVENANTS FOR SOUTHWICK CORPORATE PARK, MATTESON, ILLINOIS

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## LEGAL DESCRIPTION

### Parcel A

Lots 4 through 13 and Lots 16 through 25 in S/W Corporate Park, being a subdivision of part of the Southeast Quarter of Section 21, Township 35 North, Range 13 East of the Third Principal Meridian, according to the Plat thereof recorded September 12, 1988 as Document Number 88-415216, Cook County, Illinois.

### Parcel B

Lots 29 through 35 in S/W Corporate Park Resubdivision being a resubdivision of Lots 1, 2, 3, 14, 15, 26, 27 and 28 in S/W Corporate Park, being a subdivision of part of the Southeast Quarter of Section 21, Township 35 North, Range 13 East of the Third Principal Meridian, according to the Plat thereof recorded April 19, 1989 as Document Number 89-172767, Cook County, Illinois.

Permanent Real Estate Tax Identification Number: 31-21-401-011

Address of Property:

Southwick Corporate Park  
Cicero Avenue and Southwick Drive  
Matteson, Illinois 60443

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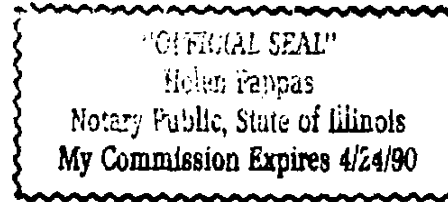
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Given under my hand and official seal this 28th day of  
April, 1989.

*Helen Pappas*

Notary Public



Property of Cook County Clerk's Office

This Document Prepared By and After  
Recording Should be Returned to  
GEORGE F. LA FORTE  
4747 Lincoln Mall Drive  
Suite 601  
Matteson, Illinois 60443  
312 747 1770

**BOX 333 - WJ**

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