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THIS DOCUMENT PREPARED BY:

ATTORNEY HARRY E. DE BRUYN
15252 S. HARLEM AVENUE
ORLAND PARK, ILLINOIS 60462

95898740

AFTER RECORDING, RETURN TO:

BOX 360 *29*

DEPT-01 RECORDING \$39.00
T#0009 TRAN 0337 12/27/95 15:46:00
#9795 # RH *-95-898740
COOK COUNTY RECORDER

GENERAL PROPERTY ADDRESS:

BROOKSHIRE DR & WILL COOK RD
ORLAND PARK, IL 60462

P.I.N.: 27-30-316-001 and
27-31-100-018

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BROOK HILLS WEST P.U.D. UNIT THREE

THIS DECLARATION, made on the date hereinafter set forth by Marquette National Bank as Trustee under Trust Agreement dated November 18, 1976, and known as Trust Number 7565, its successors and assigns in interest and hereinafter referred to as "Declarant"

ATTORNEYS' TITLE GUARANTY FUND, II.

WITNESSETH:

WHEREAS, Declarant is the owner of certain land in unincorporated Orland Township, County of Cook, State of Illinois ("Subject Property") which is more particularly described in Exhibit "A" attached hereto, which Subject Property (to be known as Brook Hills West P.U.D. Unit Three) Declarant desires and intends to submit to the covenants, restrictions and conditions hereinafter set forth; and

WHEREAS, the Subject Property is a part of a tract of land, all owned by Declarant, part or all of which may become subject to the covenants, conditions and restrictions; said entire tract is known as Brook Hills West Planned Unit Development and is legally described on Exhibit "B" which is attached hereto; and

WHEREAS, Declarant proposes to cause common open space and site amenities as Declarant deems appropriate in phases of the development of Brook Hills West Planned Unit Development to be subjected to these covenants, conditions, easements, restrictions, charges and liens herein provided (hereinafter "Covenants") for the purpose of preserving and enhancing the value of said land and for the benefit and enjoyment of the persons residing thereon.

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NOW, THEREFORE, Declarant hereby declares that the particular land described in Exhibit "A" and known as Brook Hills West P.U.D. Unit Three, is and shall be held subject to the following covenants, which shall run with the land described in Exhibit "A" and shall be binding upon and shall inure to the benefit of all person having right, title or interest therein (exclusive of any leasehold interest) or any part hereof and their respective heirs, legatees, personal representatives, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Owner" shall mean the Declarant, the record owner, whether one or more persons or entities, of a fee simple title to any single family lot in Brook Hills West P.U.D. Unit Three as described on Exhibit "A" but excluding those having such interest merely as security for the performance of an obligation. An Owner shall include the legal title holder or its nominees of any lot but shall exclude such interest held exclusively by virtue of a leasehold interest. Owner shall also include the Declarant so long as it holds legal title to any lot.

Section 2. "Common Area" shall mean all common open space owned by the not-for-profit corporation for the common use and enjoyment of the Owners.

Section 3. "Site Amenities" shall mean the paths and trail system, the designed open space corridors, and other common open space, if any, and such other site amenities located in Brook Hills West Planned Unit Development as may from time to time be added to these Covenants.

Section 4. "Single Family Lot" shall mean a single family lot as depicted on Exhibit "A" or which may from time to time be added to these covenants as part of Brook Hills West Planned Unit Development.

Section 5. "Declarant" shall mean Marquette National Bank as Trustee under Trust Agreement dated November 18, 1976 and known as Trust No. 7565 and its successors and assigns.

Section 6. "Subject Property" shall mean all of the property described on Exhibit "A" as single family lots and which may be added hereto from time to time as Additional Land pursuant to Article V hereof.

ARTICLE II

PROPERTY RIGHTS

Section 1. Specific Owner's Rights. Every Owner shall have the right to install a DSS Satellite Dish with a diameter not greater than 18 inches, provided said satellite dish is made inconspicuous to neighboring homes and

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street traffic, taking advantage of existing topography or installation of appropriate landscaping if necessary.

Section 2. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to any Common Area and Site Amenities which shall be appurtenant to and shall pass with title to every Lot.

Section 3. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Area and Site Amenities to the members of his family, his tenants, or contract purchasers who reside on the Property.

Section 4. Reservation of Right of Dedication in Developer. Notwithstanding anything herein to the contrary, Developer shall have and maintain the absolute right to dedicate or cause to be dedicated to any local municipality or other public body any portion of the Common Area or Site Amenities hereafter made subject to these Covenants.

Section 5. Limitation of Right. No Owner shall acquire title to such Common Area or Site Amenities by accretion, reliction, submergence or changing water levels, or by adverse possession.

ARTICLE III

COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by Declarant, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor whether or not it shall be so expressed in such deed, is deemed to covenant to pay its proportionate share of the costs of maintaining the Common Areas and Site Amenities including any special assessments that are necessary. Said assessments, together with interest, costs, and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when such assessment became due.

Section 2. Purpose of Assessments. The assessments levied shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and for the improvement preservation and maintenance of the Common Area and Site Amenities. Annual assessments are intended to be a lien against each unit.

Section 3. Annual Assessment. Each and every Owner of a Lot made subject to this Declaration shall be responsible for the payment of an annual assessment on said lot as determined by the Board of Directors (as defined in Section 4 below). Notwithstanding anything contained hereto the contrary,

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only those Lots which have been first conveyed by Declarant to a third party are subject to assessment. The total assessment as determined by the Board of Directors shall be divided by the number of lots liable for the payment of assessments in determining the amount due by each Owner. At the option of the Declarant or Board of Directors, the annual assessment may be paid in equal monthly installments.

Section 4. Board of Directors. Within sixty (60) days after Declarant causes any Common Area or Site Amenities to be subjected to these Covenants, Declarant shall cause an Illinois not-for-profit corporation to be formed to which legal title to the Common Area and Site Amenities shall be conveyed. A Board of Directors of five (5) members shall thereafter be appointed by Declarant, which Directors shall control and maintain the Common Area and Site Amenities and determine the total annual assessment. Prior to the appointment of the Board of Directors by Declarant, responsibility for the control and maintenance of the Common Area and Site Amenities shall remain the exclusive responsibility and obligation of the Declarant or its designated agent.

Within sixty (60) days after conveyance of the last Lot in Brook Hills West Planned Unit Development to any Owner, other than Declarant, or sooner as determined by Declarant, a Board of Directors of five (5) members shall be elected from amongst the Owners to replace the appointed Board, which Board of Directors shall thereafter control and maintain the Common Area and Site Amenities and determine the total annual assessment. The Board of Directors shall have such further or additional authority as determined in the by-laws of said not-for-profit corporation.

Section 5. Special Assessments for Capital Improvement. In addition to the annual assessments authorized above, the Declarant or the Board of Directors may levy special assessments for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of the Common Area or Site Amenities or the improvement thereon. In order to go into effect such special assessment shall obtain the approval of fifty-one (51%) percent of the votes of the Owners voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Effect of Nonpayment of Assessments - Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum. The Board of Directors or Declarant may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or Site Amenities or abandonment of its Lot(s).

Section 7. Subordination of the Lien to Mortgage. The lien of the assessments provided herein shall be subordinate to the lien of any first

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mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IV

DUTIES AND POWERS OF THE BOARD OF DIRECTORS

In addition to the duties and powers inherently charged to and possessed by the Board of Directors under Illinois law as amended from time to time, the responsibilities and duties of the Board of Directors shall include but not be limited to the following over the Common Area and Site Amenities:

- (A) Own, maintain and otherwise manage the Common Areas, trees, shrubs, and other landscaping features which are to be mowed, raked, trimmed, cultivated and watered. Trails, paths and other private facilities, if any, are to be kept in sightly condition.
- (B) Grant easements where necessary for public utilities over the Common Area to serve both the Common Area and the Subject Property.
- (C) Maintain such policy or policies of insurance as the Board of Directors deems necessary or desirable in furthering the purposes of and protecting the interests of the Owners and the Board of Directors.
- (D) Employ a manager or other persons and contract with independent contractors, managing agents, collection agents and others to perform and effectuate all or any part of the duties and powers of the Board of Directors with respect to the Common Area and Site Amenities to the extent permitted by law.
- (E) Establish and maintain a working capital and contingency fund with respect the Common Area and Site Amenities in the amount determined from time to time by the Board of Directors. The fund shall be employed by the Board in such manner as it shall deem fit for the purpose of effectuating the objects and purposes of these Covenants.
- (F) Until such time as the Board of Directors is duly elected, all the powers and duties enumerated above shall be exercised exclusively by the appointed Board of Directors, and prior to its appointment, by the Declarant.
- (G) Within sixty (60) days after appointment of the Board of Directors, the Board shall prepare an annual budget, which budget shall be

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approved or rejected by said Board of Directors at a meeting called for said purpose. The elected Board of Directors shall also be required to prepare an annual budget to be approved or rejected at a properly noticed meeting of the Owners. Copies of the proposed budget shall be provided to each Owner prior to such meeting.

(H) Adopt appropriate by-laws and provide copies to each Owner.

ARTICLE V

ADDITIONAL LAND

Declarant does hereby maintain and reserve the right to add to the provisions of these Covenants any or all of the land legally described on Exhibit "B" attached hereto and commonly known as Brook Hills West Planned Unit Development ("Additional Land"). The addition of any or all of said Additional Land may be made by Declarant amending this Declaration to provide for the addition of said Additional Land. The Additional Land may be added in whatever manner as is deemed appropriate and in the best interests of Declarant. Said Amendment shall take force and effect upon such amendment being placed of record with the Cook County Recorder of Deeds.

ARTICLE VI

GENERAL PROVISION

Section 1. Enforcement. The Declarant, the Board of Directors or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all of these Covenants. Failure by the Board of Directors or by any Owner to enforce any provisions herein contained shall not be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of all or any portion of the Covenants, by legislation, judgment or court order shall in no way affect any other provisions of these Covenants which shall remain in full force and effect.

Section 3. Duration. The Covenants shall run with and bind the land for a term of twenty (20) years after the date upon which these Covenants are recorded, after which time they shall be automatically extended for successive periods of ten (10) years upon the majority vote of the Board of Directors.

Section 4. Amendments. Declarant, or its successors in interest, may amend these Covenants at any time until the last Lot owned by the Declarant in Brook Hills West Planned Unit Development is conveyed to a third party.

After election of the Board of Directors, these Covenants may be amended

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upon a vote of two-thirds (2/3) of the Owners, or three-fourths (3/4) of the members of the Board of Directors, at a meeting called for the purpose of voting on such amendment. The recital in any such amendment that it has been executed and acknowledged by the specified percentage of Owners shall be conclusive and binding on all Owners. All amendments shall be effective upon recordation in the Office of the Recorder of Deeds of Cook County.

Section 5. Trustee's Exculpation. This agreement is executed by Marquette National Bank not personally but as trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Marquette National Bank possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on the said Marquette National Bank personally to perform any covenant either expressed or implied herein contained.

IN WITNESS WHEREOF the undersigned, being the Declarant herein, has hereunto set its hand and seal this _____ day of

DEC 18 1995 1995.

By: 

MARQUETTE NATIONAL BANK, Not Individually
but as Trustee under Trust Agreement dated
November 18, 1976 and known as Trust #7565

Attest: 

Assistant Secretary

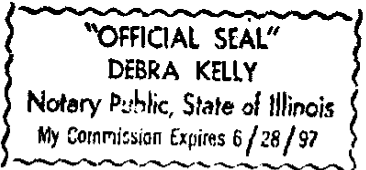
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Debra Kelly, a Notary Public in and for said county in the state aforesaid do hereby certify that Glenn E. Skinner JR, ~~Assistant Vice President~~ ^{TRUST OFFICER}, and Daniel Simmons, Assistant Secretary, of the Marquette National Bank who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers of said Bank, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said bank, as Trustee as aforesaid, for the uses and purposes therein set forth; and the Assistant Trust Officer then and there acknowledged that the Assistant Secretary, as custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as her own free and voluntary act and deed and as the free and voluntary act of said Bank as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 18th day of December, 1995.

Debra Kelly
Notary Public



THIS INSTRUMENT WAS PREPARED BY:

Harry E. DeBruyn
DeBruyn, Taylor and DeBruyn, Ltd.
15252 South Harlem Avenue
Orland Park, IL 60462
(708) 532-3223
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EXHIBIT "A"

Lots 125 to 177, both inclusive, in Brook Hills West P.U.D. Unit Three, being a subdivision in Section 31, Township 36 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Permanent Tax Numbers: 27-30-316-001 and 27-31-100-018

Address of the Property: Brookshire Drive and Will-Cook Road
Orland Park, Illinois.

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EXHIBIT "B"

That part of Sections 30 and 31, Township 36 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois, described as follows, to wit: Beginning at the Northwest corner of the South half of said Section 30; thence East along the half section line of said Section 30, 28 chains and 88 links; thence south to the half section line of said Section 31; thence West along the half section line of said Section 31, 26 chains and 1 link to the West line of said Section 31; thence North along the West line of said Sections 30 and 31, 80 chains and 61 links to the place of beginning, excepting from the aforesaid tract the following: (A) The North 40 acres thereof; (B) that part lying East of a line which is 914.20 feet West of and parallel to the East line of said tract; (C) that part of said tract lying North of a line described as follows: Beginning at a point on the West line of said tract 2244.11 feet South of the Northwest corner of said tract; thence South $89^{\circ}-55'-26''$ East 50.0 feet; thence North $79^{\circ}-30'-10''$ East 305.18 feet; thence South $67^{\circ}-22'-41''$ East 159.37 feet; thence South $83^{\circ}-06'-53''$ East 208.25 feet; thence North $86^{\circ}-51'-25''$ East 67.02 feet; thence South $88^{\circ}-05'-38''$ East 147.93 feet to the East line of said tract (D) That part of said tract lying South of a line described as follows: Commencing at a point on the West line of said tract 2244.11 feet South of the Northwest corner of said tract; thence South $00^{\circ}-04'-34''$ West along the West line of said tract 403.38 feet to the South line of the Southwest quarter of Section 30; thence South $00^{\circ}-20'-53''$ East along the West line of said tract 798.61 feet to the point of beginning; thence North $89^{\circ}-39'-07''$ East 250.0 feet; thence North $66^{\circ}-49'-49''$ East 71.61 feet; thence North $89^{\circ}-39'-07''$ East 130.0 feet; thence South $00^{\circ}-20'-53''$ East 80.0 feet; thence South $85^{\circ}-04'-44''$ East 75.57 feet; thence South $88^{\circ}-05'-38''$ East 31.79 feet; thence South $01^{\circ}-54'-22''$ West 320.0 feet; thence South $55^{\circ}-26'-57''$ East 83.45 feet, thence Westerly, Southerly and Easterly along an arc of a circle convex Southwesterly and having a radius of 65.0 feet for a distance of 204.20 feet (the chord of said arc having a bearing of South $55^{\circ}-26'-57''$ East a distance of 130.0 feet); thence South $55^{\circ}-26'-57''$ East 166.58 feet to a point in the East line of said tract.

Permanent Tax Numbers: 27-30-316-001 and 27-31-100-018
Address of Property: Property located at
Brookshire Drive and Will Cook Road
Orland Park, Illinois 60462

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