

# UNOFFICIAL COPY

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## COVENANTS, CONDITIONS, RESTRICTIONS AND RIGHTS AGREEMENT

THIS COVENANTS, CONDITIONS, RESTRICTIONS AND RIGHTS AGREEMENT (hereinafter sometimes referred to as this "Agreement") is made and entered into as of this 22 day of December, 1995, by and between RANDHILL PARK CEMETERY ASSOCIATION, INC., an Illinois Corporation (hereinafter referred to as "Randhill") and JAMES M. MOSER and DIANE R. MOSER, with an address at 3331 N. Ridge Avenue, Arlington Heights, IL 60004 (hereinafter collectively referred to as "Moser").

4350  
4000  
PN

### WITNESSETH:

WHEREAS, Randhill is the fee owner of certain real estate located in Cook County, Illinois, North of and adjacent to Rand Road (U. S. Route 12) and commonly known as Shalom Memorial Park and being more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Cemetery"); and

WHEREAS, Randhill is the fee owner of certain real estate located immediately to the East of the Cemetery and located West of Kennicott Avenue in the Village of Arlington Heights, Illinois and being more particularly described on Exhibit "B" attached hereto and made a part hereof (the "Triangle Parcel"); and

DEPT-01 RECORDING \$43.50  
T#0014 TRAN 1249 01/19/96 09:16:00  
#6548 # JW \*-96-050669  
COOK COUNTY RECORDER

WHEREAS, MOSER has contracted to purchase the Triangle Parcel from Randhill and has requested that Randhill sell to Moser, after the sale of the Triangle Parcel, an additional parcel of real estate, located immediately adjacent to the Triangle Parcel, and being more particularly described on Exhibit "C" attached hereto and made a part hereof (the "Additional Parcel") so that Moser may develop and improve both parcels and construct certain improvements thereon; and

DEPT-10 PENALTY \$10.00

WHEREAS, by reason of the proximity of the Triangle Parcel and the Additional Parcel to the Cemetery (which for ease of reference may be collectively referred to as the "Moser Parcel"), the Cemetery has a substantial interest in the development in the Moser Parcel; and

WHEREAS, as additional consideration for and as condition of the sale of the

SAS - A DIVISION OF INTERCOURTY

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Triangle Parcel to Moser and as additional consideration for and as condition of the sale of the Additional Parcel to Moser, the parties have agreed to subject the Moser Parcel to the terms, conditions and provisions of this Agreement in the manner hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, do hereby agree as follows:

## 1. IMPROVEMENTS TO THE MOSER PARCEL

No structure shall be constructed upon the Moser parcel which shall exceed a height which shall cause any part of such structure to exceed fourteen feet measured from the base elevation of any part of the Cemetery lot line lying adjacent to the Moser Parcel. At no place on the West or South sides of any structure constructed on the Moser Parcel shall any sign, banner, poster, flag, streamer, lighting fixture or attachment be placed above eight feet above ground level. No improvement shall be located closer than ten feet from any lot line which is contiguous with any part of the Cemetery

As used in this Agreement, the word "construction" includes, without limitation, initial construction, alterations, restoration, modernization, expansion, demolition, razing, new construction, reconstruction and replacement.

## 2. MAINTENANCE OF THE MOSER PARCEL

The owner of the Moser Parcel shall at all times, at its sole cost and expense, maintain the area adjoining to the lot lines of the Cemetery so as to prevent any erosion or soil from the Cemetery and to prevent any water drainage on to the Cemetery. Owner shall remove all debris from along the lot line (on the Moser Parcel only) which may accumulate along the fence separating the Moser parcel from the Cemetery, and prevent the dumping or non-naturally occurring accumulation of snow or ice from against the fence.

## 3. EASEMENT

The following easement is hereby granted by Moser: a perpetual non-exclusive easement in favor of the Cemetery and successor title holders from time to time of the

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Cemetery (other than such portion of the Cemetery property which may be hereafter sold for non-cemetery uses), in, under, over and across strips of land within the Moser Parcel ten feet in width adjacent to and extending along the Westerly and Southerly boundaries of the Moser Parcel for their entire distances ( the "Maintenance Parcel"), for the purposes of 1) erecting, maintaining, inspecting and repairing any and all fences along the contiguous borders between the Cemetery and the Moser Parcel; and 2) tending, pruning, maintaining and replacing trees, shrubs or other vegetation located on the Cemetery property. The owner of the Moser Property shall not install any buildings or improvements which would act to restrict or interfere with the Cemetery's exercise of the aforesaid easement rights.

The Cemetery and its successors and assigns, their employees, agents, contractors and appointees shall take all reasonably necessary precautions to protect Moser and his successors, transferees and assigns from all damages and liability, including attorneys fees, in connection with their exercise of the easement rights hereunder, and agrees to indemnify and hold harmless Moser, his successors, transferees and assigns, from and against any and all claims, actions, costs, damage and liability which they may sustain, either personal injury or damage to property, as a result of their exercise of the easement rights herein contained.

#### 4. GENERAL RESTRICTIONS ON USE

Moser, or Moser's transferees, successors or assigns, shall not use, or allow to be used, the Moser Parcel for any purpose, activity, trade or manner, which shall cause the emission of noxious, toxic, annoying or offensive fumes, sounds, substances or odors, by any reason whatsoever, including, without limitation, by reason of dust, dirt, smoke, liquid waste, noise or sounds (due to intermittence, beat, frequency, shrillness, loudness or otherwise), glare, vibration or radiation, caustic, corrosive fuel or gas, which shall cause any interference, intrusion, hindrance, impediment or obstacle with the operation of the Cemetery, or any part or portion thereof. Moser hereby acknowledges that the standard of measure used to determine the level of any breach of this provision will be, by necessity of operation of the Cemetery, unusually severe. At the time of execution of this Agreement, Moser has declared his intent to construct a single story building for the intended uses of office, warehouse and light fabricating. Both parties acknowledge that the use aforesaid, absent an interfering effect as set forth in this section, should not

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violate this Agreement.

## 5. COVENANTS TO RUN WITH LAND

Each and all of the covenants, restrictions, conditions and provisions contained in this Agreement, whether of an affirmative or negative nature, (a) are made for the direct benefit of the Cemetery, and every portion thereof, and constitute covenants running with the land; (b) shall bind every owner of a portion of the Moser Parcel and their successors and assigns; (c) inure to the benefit of the parties hereto, their successors and assigns; and (d) shall bind every successor owner of any portion of the Cemetery which abuts the Moser Parcel.

## 6. TERM

This Agreement and each and every condition hereof shall continue for so long as the Cemetery is being operated as a cemetery, but in no event after ninety-nine years from the date hereof.

## 7. REMEDIES

Cemetery may institute suit in a court of equity to the fullest extent permitted by law to compel compliance with the terms and conditions of this Agreement, it being agreed that the remedy at law for breach of any such term, covenant or condition is not adequate. Unless the breach of this Agreement is one which requires immediate intervention, a thirty (30) day right to cure after notice of breach shall be allowed.

## 8. WAIVERS

No delay or omission in exercising any right or remedy accruing under the provisions of this Agreement shall impair any right or remedy or be construed to be a waiver thereof. No express waiver of any default, right or remedy shall affect any default or relate to any period of time other than the default, right or remedy specified in such express waiver.

## 9. PARTIAL INVALIDITY

If any term, provision, condition or covenant contained in this Agreement shall, to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the

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remainder of this Agreement shall not be affected thereby, and each and every other term, provision and condition of this Agreement shall, nevertheless, remain in full force and effect.

## 10. FEES AND COSTS

At any time that Randhill, or its successors in interest, shall be required to incur any cost, including all attorneys fees, due to the owner of the Moser Parcel committing or allowing a breach of this Agreement, which shall occur for greater than thirty (30) days after written notice of same is tendered via first class mail to the last known address of the owner of the Moser Parcel, then the owner of the Moser Parcel shall reimburse the owner of the Cemetery for all such costs within 30 days of demand for same being tendered. Failure to remit such costs and expenses shall result in a lien for same being allowed against the real estate comprising the Moser Parcel.

## 11. GOVERNING LAW

This Agreement shall be governed by, and enforced under and in accordance with the laws of the State of Illinois and in the Circuit Court of Cook County.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first written above.

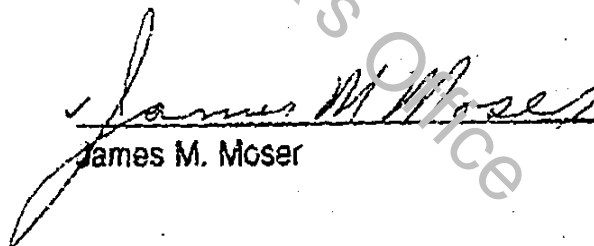
RANDHILL PARK CEMETERY  
ASSOCIATION, Inc.

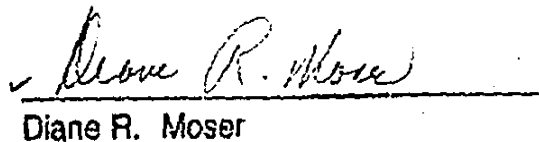
By: \_\_\_\_\_

its: President

Attest:

\_\_\_\_\_  
its: Secretary

  
James M. Moser

  
Diane R. Moser

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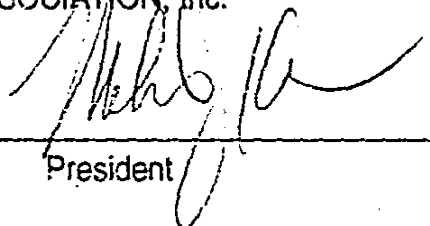
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RANDHILL PARK CEMETERY  
ASSOCIATION, Inc.

By:   
its: President

James M. Moser

Attest:

  
its: Asst. Secretary

Diane R. Moser

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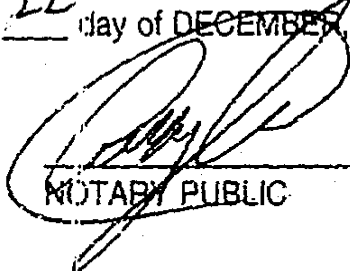
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I, the undersigned, a Notary Public in and for said county, in the State aforesaid, DO HEREBY CERTIFY that MELVIN J. KLEIN and MAYNARD GROSSMAN, personally known to me to be the President and Asst. Secretary of Randhill Park Cemetery Association, Inc., are the same persons whose names subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they have signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 22 day of DECEMBER, 1995.



  
NOTARY PUBLIC

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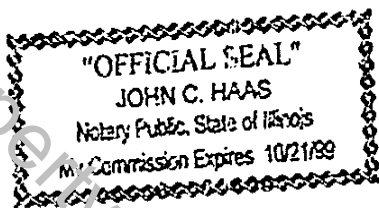
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I, the undersigned, a Notary Public in and for said county, in the State aforesaid. DO HEREBY CERTIFY that JAMES M. MOSER and DIANE R. MOSER, personally known to me to be the same persons whose names subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they have signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 22 day of DECEMBER, 1995.



*John C. Haas*  
NOTARY PUBLIC

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## LEGAL DESCRIPTION

The South 969.60 feet of the Northwest  $\frac{1}{4}$  of Section 7, Township 42 North, Range 11 East of the 3rd Principal Meridian (except parts taken for Frontage Road, also except the East 339.87 feet of the North 769.0 feet thereof, and also except that part described as follows: Beginning at the intersection of the North line of said South 969.60 feet and the Easterly line of Frontage Road; thence Easterly along the North line of said South 969.60 feet, 820.0 feet; thence Southerly parallel with the Easterly line of said Frontage Road, 425.0 feet; thence Westerly parallel with the North line of said South 969.60 feet, 820.0 feet to the Easterly line of said Frontage Road; thence Northerly along the Easterly line of said Frontage Road, 425.0 feet to the point of beginning, and also except that part thereof described as follows: Beginning on the North line of said South 969.60 feet, 820.0 feet East of the East line of Frontage Road; thence South parallel with the East line of Frontage Road, 637.62 feet; thence East parallel with the North line of said South 969.60 feet, 1373.87 feet to a point on a line 339.87 feet West of and parallel with the East line of said Northwest  $\frac{1}{4}$ ; thence North along the line 339.87 feet West of and parallel with the East line of said Northwest  $\frac{1}{4}$ , 637.23 feet to the North line of said South 969.60 feet; thence West along the North line of said South 969.60 feet, 1353.32 feet to the point of beginning, and also except that part thereof described as follows: Beginning on the Easterly line of Frontage Road at a point 425.0 feet Southerly (as measured along the Easterly line of Frontage Road) from the North line of said South 969.60 feet; thence Easterly parallel with the North line of said South 969.60 feet, 820.0 feet; thence Southerly parallel with the Easterly line of said Frontage Road, 212.62 feet; thence Southwesterly along a line forming an interior angle of 94 degrees 18 minutes 48 seconds with the last described course, 166.92 feet; thence Southwesterly along a line forming an interior angle of 193 degrees 55 minutes 00 seconds with the last described course, 327.45 feet; thence Southwesterly along a line forming an interior angle of 196 degrees 19 minutes 33 seconds with the last described course, 89.66 feet; thence Southwesterly along a line forming an interior angle of 200 degrees 55 minutes 00 seconds with the last described course, 86.23 feet; thence Southwesterly along a line forming an interior angle of 197 degrees 27 minutes 54 seconds with the last described course, 96.65 feet; thence Westerly parallel with the North line of said South 969.60 feet, 190.54 feet to a point on the Easterly line of Frontage Road, said point being 25.73 feet North from the South line of said Northwest  $\frac{1}{4}$  of Section 7; thence Northerly along said Easterly line of Frontage Road, 519.33 feet to the point of beginning, and also except the East 80.0 feet of the North 198.0 feet of the South 200.60 feet of the Northwest  $\frac{1}{4}$  of said Section 7; all in Cook County, Illinois.

PIN: 03-07-100-016

EXHIBIT A

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THAT PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED BY A LINE DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7; THENCE EAST ALONG THE SOUTH LINE OF THE SAID SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7, A DISTANCE OF 128.79 FEET TO THE WEST LINE OF KENNICOTT AVENUE; THENCE NORTH AND WEST ALONG THE SAID WEST LINE OF KENNICOTT AVENUE THE FOLLOWING 3 COURSES, NORTH AND WEST ALONG A CURVED LINE, CONVEX TO THE EAST AND HAVING A RADIUS OF 351.76 FEET FOR A DISTANCE OF 173.75 FEET, ARC MEASURE, TO A POINT OF TANGENT; THENCE NORTHWESTERLY TANGENT WITH THE LAST DESCRIBED CURVED LINE 81.96 FEET TO A POINT OF CURVE; THENCE NORTH AND WEST ALONG A CURVED LINE, CONVEX TO THE WEST AND HAVING A RADIUS OF 390.0 FEET FOR A DISTANCE OF 193.80 FEET TO A POINT OF TANGENT, SAID POINT BEING A POINT ON THE WEST LINE OF THE SAID SOUTHWEST 1/4 OF THE NORTHEAST 1/4, 425.00 FEET NORTH OF THE SOUTHWEST CORNER THEREOF, AND THENCE SOUTH ALONG SAID WEST LINE OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4, 425.00 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN

03-07-200-007

EXHIBIT "B"

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PARCEL 2: THE EAST 80.0 FEET OF THE NORTH 198.0 FEET OF THE SOUTH 200.60 FEET OF THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN

03-07-100-016

(AFFECTS OTHER PROPERTY)

EXHIBIT "C"

36050689

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MAIL TO:

ALAN M. CAPLAN  
60 REVERE DR.  
SUITE 820  
NORTH BROOK, IL  
60062