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PLAT

PK-17-97

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PLAT WITH THIS DOCUMENT

(Above space for recording information)

 THIS INSTRUMENT PREPARED BY:) David E. Zajicek
) McBride Baker & Coles
) Suite 1000
 AFTER RECORDING, MAIL TO:) One Mid America Plaza
) Oakbrook Terrace, Illinois 60181

DECLARATION OF EASEMENTS AND MAINTENANCE AGREEMENT

THIS DECLARATION OF EASEMENTS AND MAINTENANCE AGREEMENT is made this 1st day of OCTOBER, 1997, by HARRIS BANK PALATINE, N.A. as Successor Trustee to HARRIS BANK ROSELLE, as Trustee under Trust Agreement dated May 11, 1993 and known as Trust Number 13528, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the legal title holder of the real estate described on Exhibit A attached hereto and made a part hereof ("Lot 1"); and

WHEREAS, Declarant is the legal title holder of the real estate described on Exhibit B attached hereto and made a part hereof ("Lot 2"); and

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WHEREAS, Declarant wishes to provide for the creation of certain future easements for the benefit of Lot 1 and Lot 2 upon the severance of the common ownership of Lot 1 and Lot 2; and

WHEREAS, Lot 1 and Lot 2 are served by two private driveways (one on each lot) for the purpose of ingress and egress from Golf Road to both parcels and by a parking lot and traffic aisle fronting on Golf Road which connects the two driveways as described on Exhibit C attached hereto and made a part hereof (the "Access Easement Area"); and

WHEREAS, Lot 2 is served by portions of a parking lot and traffic aisle located on Lot 1 which extend from the Access Easement Area on Lot 1 to Lot 2's western boundary line for the purpose of ingress and egress by emergency vehicles, including fire protection equipment, as described on Exhibit D attached hereto and made a part hereof (the "Emergency Access Easement Area").

AGREEMENT

NOW, THEREFORE, for and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby declared as follows.

1. Additional Definitions.

A. "Owner of Lot 1" shall include successor owners from time to time of Lot 1.

B. "Owner of Lot 2" shall include successor owners from time to time of Lot 2.

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C. "Driveway" shall mean the paved roadway, parking lot and traffic aisles constructed on Lot 1 and Lot 2 in the Access Easement Area or constructed on Lot 1 in the Emergency Access Easement Area and consisting of the paved surface, curbs, gutters, median and driveway entrances, and necessary traffic signs and all related improvements.

D. "Easement Areas" shall refer to both the Access Easement Area and the Emergency Access Easement Area.

2. Grant and Use of Cross Access Easements. In the event that at any time in the future the ownership of Lot 1 and Lot 2 shall be severed, then, in such case, the then Owner of Lot 1 and the then Owner of Lot 2 shall have a perpetual, non-exclusive cross easement in common with the other Owner, over, upon and across the Access Easement Area for ingress and egress to and from Lot 1 and Lot 2, and for no other purpose. Said easement shall be for the benefit of and appurtenant to Lot 1 and Lot 2 and for the benefit of no other real property.

3. Grant and Use of Emergency Access Easement.

In the event that at any time in the future the ownership of Lot 1 and Lot 2 shall be severed, then, in such case, the then Owner of Lot 2 shall have a perpetual, non-exclusive easement in common with the Owner of Lot 1, on, over, across the Emergency Access Easement Area located on Lot 1 for the purpose of a perpetual, non-exclusive easement in common with Owner of Lot 1 for ingress and egress of emergency vehicles,

including fire protection equipment, to Lot 2 and for no other purpose. Said easement shall be for the benefit of and appurtenant to Lot 2.

4. Construction and Maintenance of Easement Areas.

A. Access Easement. The construction, reconstruction, maintenance, repair and replacement of the Driveway within the Access Easement Area shall be the obligation of the Owner of the lot on which the Access Easement Area is located; provided, however, that if any maintenance, repair or replacement to the Driveway is necessitated by damage caused by the Owner of the other Lot or by any tenant, licensee, invitee, representative, agent, associate, affiliate, employee, contractor or subcontractor of such Owner, then such Owner shall be solely responsible for the cost of such maintenance, repair or replacement, which shall be paid in accordance with Section 5 herein.

B. Emergency Access Easement Area. The Owner of Lot 1 shall construct, reconstruct, repair, replace and maintain the Driveway in the Emergency Access Easement Area. The Owners of Lot 1 and Lot 2 shall share proportionately the cost of such construction, reconstruction, repair, replacement and maintenance of the Driveway in the Emergency Access Easement Area, except as provided in Section 4(E) herein. It is agreed that Lot 2 contains 114,062 square feet and that Lot 1 contains 132,432 square feet. Accordingly, the responsibility of the Owner of Lot

1 will be fifty-four per cent (54%) of the total cost, with the balance of such cost being the responsibility of the Owner of Lot 2.

C. Maintenance of Easement Areas. The term "maintenance" shall include all ordinary or periodic maintenance and also any extraordinary repairs or replacements which may be necessary to maintain or restore any Driveway to a condition equal to that normally maintained by first class commercial businesses and in compliance with any applicable requirements of the Village of Hoffman Estates. Maintenance shall also include the obligation to keep the Easement Areas in a clean and sightly condition, including snow removal from the paved area of any Driveway.

D. Accounting for Costs. The Owner of Lot 1 shall give the Owner of Lot 2 copies of invoices or other evidence that reasonably reflects any sum of money due to the Owner of Lot 1 for the construction, reconstruction, repair, replacement and maintenance of the Driveway in the Emergency Access Easement Area. The Owner of Lot 2 shall pay all such amounts due on or before 30 days from receipt of such invoices. The Owner of Lot 2 shall be entitled to an accounting which shows the amount and purpose of each expense and disbursement incurred for the aforesaid obligation.

E. Relocation of the Emergency Access Easement Area. The Owner of Lot 1 shall have the right to change the location of

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the Emergency Access Easement Area only with the approval of the Village of Hoffman Estates and the reasonable approval of the Owner of Lot 2. The relocated Emergency Access Easement Area must provide access to Lot 2 for emergency vehicles equal to the access originally provided and may not be relocated within 50 feet of the northern boundary line of Lot 1 at the point it meets the western property line of Lot 2. In addition, the relocation of the Emergency Access Easement Area may not require the removal or relocation of any driveway, improvement or structure on Lot 2.

The Owner of Lot 1 shall pay for all costs associated with the relocation of the Emergency Access Easement Area, including but not limited to, surveying fees, engineering fees, municipal fees, recording fees and the reasonable attorney fees of the Owner of Lot 2 for the review, negotiation, and comments on issues and attendance at hearings related to such relocation, to a new or revised Declaration of Easements and to the approval by the Village of Hoffman Estates. In addition, if the Driveway in the Emergency Access Easement Area was constructed prior to the relocation of the easement area, the Owner of Lot 1 shall pay the entire cost of the construction, reconstruction or replacement of the Driveway in its new location on Lot 1.

5. Default - Lien for Charges.

Should either the Owner of Lot 1 or the Owner of Lot 2 default in performance of any obligation contained in this Declaration, the other Owner may, in writing, demand performance

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within fifteen (15) days after the date of the receipt of the demand by the defaulting Owner in accordance with the notice provisions of Section 8 hereof. Provided, however, if the default causes or results in an emergency situation, such as a blockage of the Access or Emergency Access Easements, no snow removal or flooding, then the non-defaulting Owner may demand, by telephone, immediate performance. Such telephone demand shall consist of at least one call placed to each of the persons entitled to receive notice pursuant to Section 8 hereof at his or her telephone number shown in Section 8. If such default is not cured within such fifteen (15) day period (or immediately if an emergency), unless the defaulting Owner has commenced and is diligently pursuing corrective action, the non-defaulting Owner may, but need not, expend its own funds in or for curing such default.

The amount so expended or the amount of any sum owed under Section 4 herein, including all costs in connection therewith including reasonable attorneys' and engineers' fees, shall be deemed an assessment and shall be a continuing lien on the parcel owned by the Owner who owes the assessment in favor of the other Owner, which shall bind said parcel until paid and shall have priority over all other liens, except first mortgages of record held by any bank, savings and loan association or insurance company. If any such assessment is not paid within thirty (30) days after receipt of the notice of the amount owed under this

Declaration (hereinafter referred to as the "delinquency date"), the assessment shall bear interest from the delinquency date at the rate of eighteen percent (18%) per annum, and the non-defaulting Owner may bring suit at law to enforce collection or may foreclose the lien in the same manner as a mortgage against real estate pursuant to the statutes of the State of Illinois. If the defaulting Owner pays in full the amount due pursuant to this Declaration, the non-defaulting Owner shall prepare and deliver to the defaulting Owner a deed, certificate or other appropriate document releasing the lien.

6. Estoppel Certificate.

The Owner of Lot 1 or the Owner of Lot 2 shall at any time and from time to time upon not less than ten (10) days' prior written request from the other Owner, execute, acknowledge and deliver to the requesting Owner a written statement certifying that this Declaration of Easements and Maintenance Agreement is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and that the other Owner is not in default hereunder. It is intended that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser of Lot 1 or Lot 2, any mortgagee of Lot 1 and Lot 2 and their respective successors and assigns.

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7. Miscellaneous.

A. All the easements, rights, covenants, agreements, reservations, restrictions and conditions herein contained shall inure to the benefit of and be binding upon the Declarant and Declarant's grantees, heirs, successors, personal representatives and assigns, and any person or entity which at any time shall become the owner of Lot 1 or the owner of Lot 2 or any portion thereof and shall be deemed to be covenants touching, affecting and running with the land. Reference in the deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements, rights, covenants, agreements, reservations, restrictions and conditions herein described shall be sufficient to create and reserve such easements, rights, covenants, agreements, reservations, restrictions and conditions to the respective grantees, mortgagees and trustees of such lots as fully and completely as though said easements, rights, covenants, agreements, reservations, restrictions and conditions were fully recited and set forth in their entirety in such documents.

B. If any provision of this Declaration shall be unenforceable in whole or in part, such provision shall be limited to the extent necessary to render the same valid, or shall be excised from this Declaration and this Declaration shall be construed as if said provision had been incorporated herein as so limited, or as if said provision had not been included herein, as the case may be.

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C. This Declaration may be amended, modified, restated or terminated only by a writing executed by all parties owning Lot 1 and all parties owning Lot 2. Any such instrument which amends, modifies, restates or terminates this Declaration shall be effective upon the filing of same for record in the Office of the Recorder of Deeds of Cook County, Illinois.

D. The rule of strict construction shall not apply to this grant. This grant shall be given a reasonable construction so that the intentions of the Declarant to confer commercially usable rights of enjoyment for the benefit of Lot 1 and Lot 2 are carried out.

E. Enforcement of the covenants contained in this Declaration shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages, or to enforce any claim created hereby, and failure to enforce any covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter.

F. If an action shall be brought to enforce this Declaration, the prevailing party shall be entitled to its reasonable costs and expenses, including reasonable attorneys' fees, incurred in enforcing same.

8. Notices.

Upon the severance of the ownership of Lot 1 and Lot 2, all notices and other communications hereunder shall be in writing

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and shall be delivered personally against receipt or shall be sent by registered or certified United States mail or a nationally-recognized, overnight courier service, postage prepaid, and addressed as follows:

If Marriott International, Inc. or one of its affiliates or subsidiaries takes title to Lot 2, then to Owner of Lot 2:

Marriott International, Inc.
Department 52/923
10400 Fernwood Road
Bethesda, Maryland 20817
Attn: Kevin E. Montano, Esq.
Fax: 301/380-6727
Phone: 301/380-7588

and
Marriott Senior Living Services
Department 831.60
5151 Belt Line Road, Suite 347
Dallas, Texas 75240
Attn: Michael H. Faldmo
Fax: 972/991-8807
Phone: 971/448-5513

and
David E. Zajicek
McBride Baker & Coles
One Mid America Plaza
Suite 1000
Oakbrook Terrace, IL 60181
Fax: 630/954-2112
Phone: 630/954-2105

If to Declarant or
to Owner of Lot 1: c/o Terrestris Development Company
1301 West 22nd Street, Suite 210
Oak Brook, Illinois 60521
Attn: Dennis A. Cortesi, President
Fax: 630/573-0461
Phone: 630/573-0460

and
Bernard I. Citron
Schain, Finsel & Burney, Ltd.
222 N. LaSalle Street, Suite 1910
Chicago, Illinois 60601
Fax: 312/332-4514
Phone: 312/332-0200

Any notice in accordance herewith shall be deemed received when delivery is received or refused, as the case may be. Additionally, notices may be given by telephone facsimile transmission, provided that an original of said transmission shall be delivered to the addressee by a nationally recognized overnight delivery service on the day following such transmission. Telephone facsimiles shall be deemed delivered on the date of such transmission. Either Owner may change its address, fax number or telephone number for notice by giving notice thereof to the other Owner.

9. Trustee Exculpation.

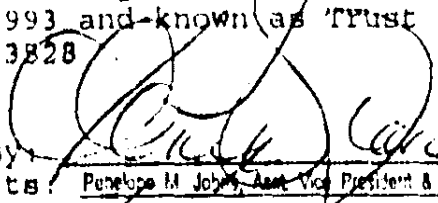
This Declaration of Easements and Maintenance Agreement is executed by Harris Bank Palatine, N.A. as Successor Trustee to Harris Bank Roselle, not personally or individually, but solely as trustee under the terms of the trust agreement dated and numbered as hereinabove described, and is enforceable only against the trust property held thereunder. Each and all of the covenants, undertakings and agreements herein made and contained, are made and intended, not as personal covenants, undertakings and agreements of the undersigned trustee, but this instrument is executed and delivered by the undersigned trustee solely in the exercise of the powers conferred upon it as such trustee and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforced against the undersigned trustee, its agents or employees, on account of any covenants,

undertakings, or agreement herein contained, either express or implied, all such personal liability, if any, being hereby expressly waived and released by everyone now or hereafter claiming any right hereunder.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Easements and Maintenance Agreement on the day and year first above written.

SEE EXCULPATORY RIDER ATTACHED
HERETO AND MADE A PART HEREOF

HARRIS BANK PALATINE, N.A. as
Successor Trustee to HARRIS
BANK ROSELLE, as Trustee under
Trust Agreement dated May 11,
1993 and known as Trust Number
13828

By: 
Its: Penelope M. Jones, Asst. Vice President & LTO

ATTEST:
By: 
Title: Donald W. Keeles, Land Trust Officer

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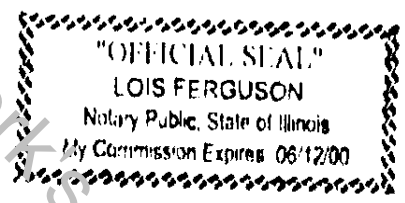
STATE OF ILLINOIS)
COUNTY OF Cook) SS

The undersigned, a Notary Public, in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that Donna M. Kerling, Cash Trust Officer, personally known to me to be the _____ of Harris Bank Palatine, N.A. as Successor Trustee to Harris Bank Roselle, as Trustee Under Trust Agreement dated May 11, 1993 and known as Trust Number 13528, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such he/she signed and delivered the said instrument for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 15th day of October, 1997.

Lois Ferguson
Notary Public

Commission Expiration: 6-12-00



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EXHIBIT "A"

LEGAL DESCRIPTION OF LOT 1

LOT 1 ON THE PLAT OF SUBDIVISION OF PARCEL "I" IN
HOFFMAN ESTATES, COOK COUNTY, ILLINOIS, RECORDED IN
COOK COUNTY, ILLINOIS, ON Nov. 17, 1997, AS
DOCUMENT NO. 97857293, BEING A SUBDIVISION OF
PART OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 41
NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN,
LYING IN COOK COUNTY, ILLINOIS.

Permanent Tax Number of Parcel "I": 07-07-401-005

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EXHIBIT "B"

LEGAL DESCRIPTION OF LOT 2

LOT 2 ON THE PLAT OF SUBDIVISION OF PARCEL "I" IN
HOFFMAN ESTATES, COOK COUNTY, ILLINOIS, RECORDED IN
COOK COUNTY, ILLINOIS, ON Nov. 17, 1997, AS
DOCUMENT NO. 97857293, BEING A SUBDIVISION OF
PART OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 41
NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN,
LYING IN COOK COUNTY, ILLINOIS.

Permanent Tax Number of Parcel "I": 07-07-401-005

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EXHIBIT "C"

LEGAL DESCRIPTION OF ACCESS EASEMENT AREA

Those portions of Lot 1 shown on the Plat of Subdivision, recorded in Cook County, Illinois, on Nov. 17, 1997, as Document No. 97857293, marked as "Access Easement Hereby Granted For the Benefit of Lot 2" and those portions of Lot 2 shown on the Plat of Subdivision, recorded in Cook County, Illinois, on Nov. 17, 1997, as Document No. 97857293, marked as "Access Easement Hereby Granted For the Benefit of Lot 1."

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EXHIBIT "D"

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LEGAL DESCRIPTION OF EMERGENCY ACCESS EASEMENT AREA

Those portions of Lot 1 shown on the Plat of
Subdivision, recorded in Cook County, Illinois, on Nov. 17,
1997, as Document No. 97857294, marked as "Emergency Access
Easement Hereby Granted For the Benefit of Lot 2."

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EXHIBIT "E"

COPY OF THE PLAT OF SUBDIVISION SHOWING THE EASEMENT AREAS

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EXCULPATORY RIDER

This instrument is executed by the Harris Bank Palatine, N.A. as Trustee under the provisions of a Trust Agreement dated 5-11-93, and known as Trust no. 13528, not personally, but solely as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. This instrument is executed and delivered by the Trust solely in the exercise of the powers expressly conferred upon the Trustee under the Trust and upon the written direction of the beneficiaries and/or holders of the power of direction of said Trust and Harris Bank Palatine, N.A. warrants that it possesses full power and authority to execute this instrument. It is expressly understood and agreed by and between the parties hereto, notwithstanding to the contrary notwithstanding, that each and all of the representations, warranties, covenants, undertakings and agreements herein made on the part of the trustee while in form purporting to be the said representations, warranties, covenants, undertakings and agreements of said Trustee are each and every one of them not made with the intention of binding Harris Bank Palatine, N.A. in its individual capacity, but are made and intended solely for the purpose of binding only that portion of the Trust property specifically described herein. No personal liability or personal responsibility is assumed by or nor shall at any time be asserted or enforceable against the Harris Bank Palatine, N.A. on account of any representations, Warranties, (including but not limited to any representations and/or warranties in regards to potential and/or existant Hazardous Waste) covenants, undertakings and agreements contained in the instrument, (including but not limited to any indebtedness accruing plus interest hereunder) either express or implied or arising in any way out of the transaction in connection with which this instrument is executed, all such personal liability or responsibility, if any, being expressly waived and released, and any liability (including any and all liability for any violation under the Federal and/or State Environmental or Hazardous Waste laws) hereunder being specifically limited to the Trust assets, if any, securing this instrument. Any provision of this instrument referring to a right of any person to be indemnified or held harmless, or reimbursed by the Trustee for any costs, claims, losses, fines, penalties, damages, costs of any nature including attorney's fees and expenses, arising in any way out of the execution of this instrument or in connection thereto are expressly waived and released by all parties to and parties claiming, under this instrument. Any person claiming or any provision of this instrument referring to a right to be held harmless, indemnified or reimbursed for any and all costs, losses and expenses of any nature, in connection with the execution of this instrument, shall be construed as only a right of redemption out of the assets of the Trust. Notwithstanding anything in this instrument contained, in the event of any conflict between the body of this exoneration and the body of this instrument, the provisions of this paragraph shall control. Trustee being fully exempted, nothing herein contained shall limit the right of any party to enforce the personal liability of any other party to this instrument.