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Brian Melzer
MELTZER, PURTILL & STELLE
1515 East Woodfield Road
Suite 250
Schaumburg, Illinois 60173-5431
(630) 530-2400

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DECLARATION FOR BRICKTON PLACE

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DECLARATION FOR BRICKTON PLACE

This Declaration is made by ^{The pp} Northern Trust Company, not individually, but solely as Trustee of Trust No. 6907 created under Trust Agreement dated December 18, 1981 ("Declarant").

RECITALS

Declarant is the record title holder of a portion of the Premises which are legally described in Exhibit A hereto. The Premises shall be the subject of a housing development called "Brickton Place" (the "Development").

The Declarant has formed (or will form) the Association under the Illinois General Not-For-Profit Corporation Act. The Association shall have the responsibility for maintaining the Association Maintained Green Areas, Monument Sign Areas, the Retaining Wall, the Private Drives and the surface of Outlot A and shall set budgets and fix assessments to pay the expenses incurred in connection with such responsibility. Each Owner of a Lot shall be a member of the Association and shall be responsible for paying assessments and other Charges with respect to the Lot owned by such Owner.

During the construction and marketing of the Development, the Declarant shall retain certain rights set forth in this Declaration, which rights shall include, without limitation, the right, prior to the Turnover Date, to appoint all members of the Board, as more fully described in Article Nine, the right to come upon the Premises in connection with Declarant's efforts to sell Lots and other rights reserved in Article Nine.

NOW, THEREFORE, the Declarant hereby declares as follows:

ARTICLE ONE

Definitions

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01 **ASSOCIATION:** The Brickton Place Homeowners Association, an Illinois not-for-profit corporation, its successors and assigns.

1.02 **ASSOCIATION MAINTAINED GREEN AREA:** All landscaped cul de sacs and islands within the dedicated rights of way in the Development and landscaped portions of Outlot A.

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1.03 **BOARD**: The board of directors of the Association, as constituted at any time or from time to time, in accordance with the applicable provisions of Article Five.

1.04 **BRICKTON PLACE SUBDIVISION**: The Brickton Place Subdivision of part of Section 1, Township 40 North, Range 12 East of the Third Principal Meridian in Cook County, Illinois, pursuant to a plat thereof recorded as Document No. 97 379176.

1.05 **BY-LAWS**: The By-Laws of the Association.

1.06 **CHARGES**: The Community Assessment, any special assessment levied by the Association and/or any other charges or payments which an Owner is required to pay or for which an Owner is liable under this Declaration or the By-Laws.

1.07 **COMMUNITY ASSESSMENT**: The amounts which the Association shall assess and collect from the Owners to pay the Community Expenses and accumulate reserves for such expenses, as more fully described in Article Six.

1.08 **COMMUNITY EXPENSES**: The expenses of administration of the Association (including management and professional services); the expenses of the maintenance, repair, replacement and landscaping of the Association Maintained Green Area and Monument Sign Areas; the expenses of maintaining (including snow removal) repairing and replacing the Private Drives and the road, sidewalk and other improvements on the surface of Outlot A; the expenses of maintaining, repairing and replacing the Retaining Wall; the cost of insurance required to be carried by the Association hereunder; and any other expenses designated herein as Community Expenses.

1.09 **COUNTY**: Cook County, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the County as of the Recording of this Declaration.

1.10 **DECLARANT**: ^{The of} Northern Trust Company, not individually, but solely as Trustee of Trust No. 6907 created under Trust Agreement dated December 18, 1981, its successors and assigns.

1.11 **DECLARATION**: This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.12 **HOME**: That portion of a Lot which is improved with a single family home.

1.13 **LOT**: Each of Lots 1 through 58, both inclusive in Brickton Place Subdivision.

1.14 **MONUMENT SIGN AREA**: Those portions of each of Lots 10 and 51 which are improved with a monument sign and related landscaping.

1.15 **MORTGAGEE**: The holder of a bona fide first mortgage, first trust deed or equivalent security interest covering a Lot.

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1.16 **MUNICIPALITY:** The Municipality of Park Ridge, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the Municipality as of the Recording of this Declaration.

1.17 **NON-OWNER:** A person other than an Owner or a Resident.

1.18 **OUTLOT A:** Outlot A in Brickton Place Subdivision.

1.19 **OWNER:** A Record owner, whether one or more persons, of fee simple title to a Lot, including contract seller, but excluding those having such interest merely as security for the performance of an obligation. The Declarant shall be deemed to be an Owner with respect to each Lot owned by the Declarant.

1.20 **PERSON:** A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.21 **PREMISES:** The real estate which is legally described in Exhibit A hereto, as amended or supplemented from time to time, with all improvements thereon and rights appurtenant thereto.

1.22 **PRIVATE DRIVES:** Those portions of the Premises which are delineated and designated on the Plat of Subdivision for Brickton Place Subdivision as "Private Drives"; provided that neither the driveway nor the sidewalk located on Outlot A shall be a Private Drive hereunder.

1.23 **PRIVATE DRIVE LOT:** Each of Lots 1 through 11, both inclusive, 16 through 21, both inclusive, 42 through 44, both inclusive and 50 through 57, both inclusive, in the Brickton Place Subdivision.

1.24 **RECORD:** To record in the office of the Recorder of Deeds for the County.

1.25 **RESIDENT:** An individual who resides in a Home.

1.26 **RETAINING WALL:** The retaining wall and fence constructed by Declarant along the rear of Lots 23 through 38, both inclusive, in Brickton Place Subdivision.

1.27 **TURNOVER DATE:** The date on which the rights of the Declarant to designate the members of the Board are terminated under Section 9.05.

1.28 **VOTING MEMBER:** The individual who shall be entitled to vote in person or by proxy at meetings of the Owners, as more fully set forth in Article Five.

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ARTICLE TWO Scope of Declaration

2.01 **PROPERTY SUBJECT TO DECLARATION:** Declarant, as the owner of fee simple title to the Premises, expressly intends to and by Recording this Declaration, does hereby subject the Premises to the provisions of this Declaration. Declarant reserves the right to add additional real estate to the terms of this Declaration as more fully provided in Article Twelve.

2.02 **CONVEYANCES SUBJECT TO DECLARATION:** All covenants, conditions, restrictions, easements, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding on any Person having at any time any interest or estate in any part of the Premises. Any deed of conveyance, lease, mortgage, trust deed, other evidence of obligation, or other instrument to the provisions of this Declaration shall be sufficient to create and reserve all of the covenants, conditions, restrictions, easements, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved, or declared by this Declaration, as fully and completely as though they were set forth in their entirety in any such document, regardless of whether a specific reference is made in such instrument to this Declaration.

2.03 **DURATION:** Except as otherwise specifically provided herein the covenants, conditions, restrictions, easements, reservations, liens, and charges, which are granted, created, reserved or declared by this Declaration shall be appurtenant to and shall run with and bind the land for a period of forty (40) years from the date of Recording of this Declaration and for successive periods of ten (10) years each unless revoked, changed or amended in whole or in part by a Recorded instrument executed by the Owner of not less than three-fourths (3/4) of the Lots then subject to the Declaration.

2.04 **LOT CONVEYANCE:** Once a Lot has been conveyed by the Declarant to a bona fide purchaser for value, then any subsequent conveyance or transfer of ownership of the Lot shall be of the entire Lot and there shall be no conveyance or transfer of a portion of the Lot without the prior written consent of the Board. Any such conveyance or transfer shall comply with the laws of the Municipality.

2.05 **ASSOCIATION'S ACCESS:** The Association shall have the right and power to come onto any Lot for the purpose of furnishing the services required to be furnished hereunder or enforcing its rights and powers hereunder, including, without limitation, to maintain the Private Drives, the Monument Sign Areas or the Retaining Wall or to make alterations or additions thereto.

2.06 **ACCESS EASEMENT:** Each Owner of a Private Drive Lot shall have a non-exclusive perpetual easement for ingress to and egress from his Lot to public streets and roads over and across the Private Drive which is adjacent to the Private Drive Lot, which easement shall run with the land, be appurtenant to and pass with title to every Private Drive Lot. The Municipality or any other governmental authority which has jurisdiction over the Premises shall

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have a non-exclusive easement of access over the Private Drives for police, fire, ambulance, waste removal, or for the purpose of furnishing municipal or emergency services to the Premises.

2.07 USE OF OUTLOT A: Each Owner of a Lot shall have a non-exclusive perpetual easement of access over, and the right to use and enjoy, Outlot A, including, without limitation, the driveway and sidewalk located thereon.

2.08 OWNERSHIP OF OUTLOT A: Outlot A shall be conveyed to the Association by Declarant free and clear of any mortgage or trust deed whatsoever on or before the Turnover Date.

ARTICLE THREE
Maintenance

3.01 IN GENERAL: The restrictions and limitations contained in this Article shall be subject to the rights of the Declarant set forth in Article Nine.

3.02 MAINTENANCE, REPAIR AND REPLACEMENT BY ASSOCIATION:

(a) Added planting, replanting, care and maintenance of trees, shrubs, flowers, grass and all other landscaping on the Association Maintained Green Areas and Monument Sign Areas shall be furnished by the Association as a Community Expense;

(b) Maintenance, repair and replacement of monument signs and other improvements located on Monument Sign Areas shall be furnished by the Association as a Community Expense.

(c) Maintenance, repair and replacement of the Retaining Wall shall be furnished by the Association as a Community Expense. Without limiting the foregoing, the following shall apply with respect to the Retaining Wall:

(i) The Association shall cause periodic investigations to be made of the Retaining Wall by a structural engineer who shall submit a certified report of such investigation to the Municipality and the Association. The investigation shall occur every three (3) years during the first ten (10) years after the recording of the Declaration and annually from and after the expiration of ten (10) years from the Recording of this Declaration;

(ii) If a report contains recommendations concerning repairs and replacements to the Retaining Wall and the timing of the suggested repairs and replacements, the Association shall perform the recommended repairs and replacements within the time frame set forth in the report;

(iii) Any repairs and replacements made pursuant to the recommendation of the structural engineer shall be inspected by the structural engineer and when the structural engineer is satisfied that the work has been completed, the structural engineer shall so certify to the Association and the Municipality;

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(iv) The cost of any services rendered by the structural engineer in connection with investigations, the preparation of the reports and the inspection and certification of work done shall be a Community Expense hereunder,

(v) The Association and the Municipality shall consult from time to time concerning the condition of the Retaining Wall and the need to make repairs or replacements to portions of the Retaining Wall;

(vi) The Association shall establish a Capital Reserve, as provided for in Section 5.06 hereof, for the repair and replacement of the Retaining Wall and shall consult with the Municipality concerning the amounts to be added to the Capital Reserve from assessments;

(vii) If repairs or replacements are required to be made to the Retaining Wall and if, in the reasonable judgement of the Municipality, the Association has failed to make such repairs in a timely manner, then the Municipality may give notice thereof to the Association and if the Association fails to diligently proceed to perform the repairs and replacements, then the Municipality shall have the right to perform any such repairs or replacements and, in such case, the provisions of Sections 12.02 and 12.03 hereof shall apply; and

(viii) If the Municipality determines, in its reasonable judgement, that an emergency situation exists and immediate repairs must be made to the Retaining Wall, the Municipality shall have the right to make such repairs, in which case the provisions of Section 12.03 shall apply.

(d) Maintenance, repair and replacement of the Private Drives, including street cleaning and snow removal, shall be furnished by the Association as a Community Expense hereunder, and

(e) All improvements on the surface of Outlot A, including the driveway and sidewalk, shall be maintained, repaired and replaced by the Association as Community Expenses; however, the subsurface of Outlot A shall be improved with a structure which shall serve as a stormwater detention basin which will be conveyed or dedicated to, and maintained by, the Municipality.

3.03 ALTERATIONS, ADDITIONS OR IMPROVEMENTS: No alterations, additions or improvements shall be made to the surface of Outlot A, the Association Maintained Green Area, the Monument Sign Areas, the Retaining Wall or the Private Drives and nothing shall be done which shall impair or impede the visibility of a monument sign from Canfield Avenue without the prior approval of the Board. The Association may cause alterations, additions or improvements to be made to the surface of Outlot A, the Association Maintained Green Area, Monument Sign Areas, the Retaining Wall or the Private Drives, and the cost thereof shall be paid from a special assessment, as more fully described in Section 6.05; except, that, any such alteration, addition or improvement which shall cost more than four (4) months assessments then in effect under the then current budget shall be approved in advance at a special meeting of the Owners.

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3.04 **MAINTENANCE BY OWNERS:** Each Owner shall be responsible for the maintenance, repair and replacement of that portion of the sanitary sewer system which connects the Home on the Owner's Lot to the main, including the portion thereof located in the public right of way.

3.05 **FENCING OVER MAINS:** If a fence on a Lot is located above a water or sewer main and the Municipality removes a portion of the fence in the course of maintaining, repairing or replacing the main, the Municipality shall not be obligated to restore the fencing.

ARTICLE FOUR
Insurance/Condemnation

4.01 **LIABILITY INSURANCE:** The Association shall have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its directors and officers, the Declarant, the managing agent, if any, and their respective employees and agents, as their interests may appear, from liability resulting from an occurrence on, or in connection with, Parcel A, the Association Maintained Green Areas, the Monument Sign Areas and the Private Drives. The Board may, in its discretion, obtain any other insurance which it deems advisable including, without limitation, insurance covering the directors and officers from liability for good faith actions beyond the scope of their respective authorities and covering the indemnity set forth in Section 5.06. Such insurance coverage shall include cross liability claims of one or more insured parties.

4.02 **OTHER INSURANCE:** Fidelity bonds indemnifying the Association, the Board and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling funds of the Association may be obtained by the Association in such amounts as the Board may deem desirable.

4.03 **PREMIUMS:** The premiums for any insurance obtained under this Section shall be Community Expenses.

ARTICLE FIVE
The Association

5.01 **IN GENERAL:** Declarant has caused or shall cause the Association to be incorporated as a not-for-profit corporation under Illinois law. The Association shall be responsible for the maintenance, repair and replacement of the Association Maintained Green Areas, the Monument Sign Areas and Private Drives.

5.02 **MEMBERSHIP** Each Owner shall be a member of the Association. There shall be one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. The

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Association shall be given written notice of the change of ownership of a Lot within ten (10) days after such change.

5.03 **VOTING MEMBERS:** Subject to the provisions of Section 9.05, voting rights of the members of the Association shall be vested exclusively in the Voting Members. One individual shall be designated as the "Voting Member" for each Lot. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Record ownership of a Lot shall be in more than one person, or if an Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member for the Lot shall be designated by such Owner or Owners in writing to the Board and if in the case of multiple individual Owners no designation is given, then the Board at its election may recognize an individual Owner of the Lot as the Voting Member for such Lot.

5.04 **BOARD:** Subject to the rights retained by the Declarant under Section 9.05, the Board shall consist of the number of members provided for in the By-Laws, each of whom shall be an Owner or Voting Member.

5.05 **VOTING RIGHTS:** Prior to the Turnover Date, all of the voting rights at each meeting of the Association shall be vested exclusively in the Declarant and the Owners shall have no voting rights. From and after the Turnover Date, all of the voting rights at any meeting of the Association shall be vested in the Voting Members and each Voting Member shall have one vote for each Lot which the Voting Member represents. From and after the Turnover Date any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the By-Laws) upon an affirmative vote of a majority by the Voting Members present at such meeting, except as otherwise provided herein or in the By-Laws.

5.06 **DIRECTOR AND OFFICER LIABILITY:** Neither the directors nor the officers of the Association shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors and officers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless the Declarant, Declarant and each of the directors and officers, his heirs, executors or administrators, 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 such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel 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 director may be involved by virtue of such person 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 been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, 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

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person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer.

5.07 MANAGING AGENT: The Declarant (or an entity controlled by the Declarant) may be engaged by the Association to act as the managing agent for the Association and as managing agent shall be paid a reasonable fee for its services as fixed by a written agreement between the Association and the Declarant (or an entity controlled by the Declarant). Any management agreement entered into by the Association prior to the Turnover Date shall have a term of not more than two years and shall be terminable by the Association without payment of a termination fee on 90 days written notice.

5.08 LITIGATION: No judicial or administrative proceedings shall be commenced or prosecuted by the Association without first holding a special meeting of the members and obtaining the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the Lots to the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration, the By-Laws or rules and regulations adopted by the Board (including, without limitation, an action to recover Charges or to foreclose a lien for unpaid Charges) or (b) counterclaims brought by the Association in proceedings instituted against it.

5.09 ATTENDANCE AT BOARD MEETINGS BY OWNERS: Owners may attend meetings of the Board only if, and to the extent, permitted by the Board in its discretion. It is not the intention that Owners shall have the right to attend meetings of the Board in the same manner as provided for members of condominium associations under the Illinois Condominium Property Act.

ARTICLE SIX Assessments

6.01 PURPOSE OF ASSESSMENTS: The assessments levied by the Association shall be limited to the purpose of paying the Community Expenses and accumulating reserves for any such expenses.

6.02 ASSESSMENT: Each year on or before December 1, the Board shall adopt and furnish each Owner with a budget for the ensuing calendar year, which shall show the following with reasonable explanations and itemizations:

- (a) The estimated Community Expenses;
- (b) The estimated amounts, if any, to be added to the Capital Reserve;
- (c) The estimated excess funds, if any, from the current year's Community Assessment;

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(d) The amount of the "Community Assessment" payable by the Owners, which is hereby defined as the amount determined in (a) above, plus the amount determined in (b) above, minus the amount determined in (c) above;

(e) That portion of the Community Assessment which shall be payable with respect to the ensuing calendar year by the Owner of each Lot which shall be equal to the Community Assessment divided by the number of Lots, so that each Owner shall pay equal Community Assessments for each Lot owned.

Nothing herein to the contrary notwithstanding the following provisions shall apply with respect to the period prior to the Turnover Date. Any budget prepared by the Board prior to the Turnover Date shall be based on the assumptions that (i) the Development has been fully constructed as shown on Declarant's or Declarant's beneficiary then current plan for the Development and (ii) all proposed Homes have been sold and are occupied. The current plan for the Development shall be kept on file with the Association and may be modified from time to time by Declarant or Declarant's beneficiary. Declarant shall not be obligated to pay any Community Assessments to the Association prior to the Turnover Date. However, if with respect to the period commencing on the date of the Recording of this Declaration and ending on the Turnover Date, the amount of Community Assessments payable by Owners (other than Declarant) less the portions thereof which are to be added to Capital Reserves is less than the Community Expenses actually incurred with respect to such period, then the Declarant shall pay the difference to the Association. From time to time prior to the Turnover Date, the Declarant shall deposit with the Association amounts which reasonably approximate Declarant's obligation hereunder as estimated by the Declarant. A final accounting and settlement of the amount, if any, owed by Declarant to the Association shall be made as soon as practicable after the Turnover Date. If the Declarant fails to pay to the Association any amounts due to the Association under this paragraph, the Association shall have a lien against the Lot or Lots then owned by the Declarant for the amount unpaid, provided, however, that any such lien shall be subordinate to the lien of a first mortgage or first trust deed with respect to any such Lots.

6.03 PAYMENT OF ASSESSMENT: Each Owner of a Lot which is subject to assessment shall pay to the Association, or as the Board may direct, that portion of the Community Assessment which is payable by each Owner of a Lot under Section 6.02 at such times as the Board shall determine from time to time.

6.04 REVISED ASSESSMENT: If the Community Assessment proves inadequate for any reason (including nonpayment of any Owner's assessment) or proves to exceed funds reasonably needed, then the Board may increase or decrease the assessment payable under Section 6.02 by giving written notice thereof (together with a revised budget and explanation for the adjustment) to each Owner not less than ten (10) days prior to the effective date of the revised assessment.

6.05 SPECIAL ASSESSMENT: The Board may levy a special assessment as provided in this Section (i) to pay (or build up reserves to pay) expenses incurred (or to be incurred) by the Association from time to time for a specific purpose including, without limitation, to make

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alterations, additions or improvements to Outlot A, the Association Maintained Green Area, Private Drives, Monument Sign Areas, Retaining Wall or any other property owned or maintained by the Association; or (ii) to cover an unanticipated deficit under the prior year's budget. Any special assessment shall be levied against all Lots in equal shares. No special assessment shall be adopted without the affirmative vote of Voting Members representing at least two-thirds (2/3) of the votes cast on the question and only those Owners of Lots against which the proposed special assessment shall be levied may vote on the question. The Board shall serve notice of a special assessment on all Owners by a statement in writing giving the specific purpose and reasons therefor in reasonable detail, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Board. Any assessments collected pursuant to this Section (other than those to cover an unanticipated deficit under the prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

6.06 CAPITAL RESERVE: The Association shall segregate and maintain special reserve accounts to be used solely for making capital expenditures in connection with the Association Maintained Green Area, the Private Drives, Monument Sign Areas, the Retaining Wall, the surface of Outlot A or any other property owned or maintained by the Association (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Association Maintained Green Area, Private Drives, Monument Sign Areas, the Retaining Wall, the surface of Outlot A and other property owned by the Association and periodic projections of the cost of anticipated major repairs or replacements to the Association Maintained Green Area, Private Drives, Monument Sign Areas, the Retaining Wall, the surface of Outlot A or any other property owned or maintained by the Association and the purchase of other property to be used by the Association in connection with its duties hereunder. Each budget shall disclose that percentage of the Community Assessment, as applicable, which shall be added to the Capital Reserve and each Owner shall be deemed to make a capital contribution to the Association equal to such percentages multiplied by each installment of the Community Assessment paid by such Owner.

6.07 INITIAL CAPITAL CONTRIBUTION: Upon the closing of the first sale of a Lot by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to two (2) months' Community Assessment, as applicable, at the rate which shall become effective with respect to the Lot as of the closing. Said amount shall be held and used by the Association for its working capital needs.

6.08 PAYMENT OF ASSESSMENTS: Assessments levied by the Association shall be collected from each Owner by the Association and shall be a lien on the Owner's Lot and also shall be a personal obligation of the Owner in favor of the Association, all as more fully set forth in Article Seven.

ARTICLE SEVEN
Collection of Charges and
Remedies for Breach or Violation

7.01 **CREATION OF LIEN AND PERSONAL OBLIGATION:** The Declarant hereby covenants, and each Owner of a Lot by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance) shall be and is deemed to covenant and hereby agrees to pay to the Association all Charges made with respect to the Owner on the Owner's Lot. Each Charge, together with interest thereon and reasonable costs of collection, if any, as hereinafter provided, shall be a continuing lien upon the Lot against which such Charge is made and also shall be the personal obligation of the Owner of the Lot at the time when the Charge becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

7.02 **COLLECTION OF CHARGES:** The Association shall collect from each Owner all Charges payable by such Owner under this Declaration.

7.03 **NON-PAYMENT OF CHARGES:** Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for thirty (30) days or more shall bear interest at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, from the due date to the date when paid. The Association may (i) bring an action against the Owner personally obligated to pay the Charge to recover the Charge (together with interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of the Charge and included in any judgment rendered in such action), and (ii) enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Board may add a reasonable late fee to any installment of an assessment which is not paid within thirty (30) days of its due date. No Owner may waive or otherwise escape personal liability for the Charges hereunder by nonuse of Driveway A or the Private Drives or by abandonment or transfer of his Lot.

7.04 **LIEN FOR CHARGES SUBORDINATED TO MORTGAGES:** The lien for Charges, provided for in Section 7.01, shall be subordinate to the Mortgagee's mortgage on the Lot which was Recorded prior to the date that any such Charge became due. Except as hereinafter provided, the lien for Charges, provided for in Section 7.01, shall not be affected by any sale or transfer of a Lot. Where title to a Lot is transferred pursuant to a decree of foreclosure of the Mortgagee's mortgage or by deed or assignment in lieu of foreclosure of the Mortgagee's mortgage, such transfer of title shall extinguish the lien for unpaid Charges which became due prior to the date of the transfer of title. However, the transferee of the Lot shall be personally liable for his share of the Charges with respect to which a lien against his Lot has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the Owners pursuant to a subsequently adopted annual or revised Community Assessment or special assessment, and non-payment thereof shall result in a lien against the transferee's Lot, as provided in this Article.

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7.05 **SELF-HELP BY BOARD:** In the event of a violation or breach by an Owner of the provisions, covenants or restrictions of the Declaration, the By-Laws, or rules or regulations of the Board, where such violation or breach may be cured or abated by affirmative action, then the Board, upon not less than ten (10) days' prior written notice to the Owner, shall have the right to enter upon that part of the Premises where the violation or breach exists to remove or rectify the violation or breach; provided, that, if the violation or breach exists within a Home, judicial proceedings must be instituted before any items of construction can be altered or demolished.

7.06 **OTHER REMEDIES OF THE BOARD:** In addition to or in conjunction with the remedies set forth above, to enforce any of the provisions contained in this Declaration or any rules and regulations adopted hereunder the Board may levy a fine or the Board may bring an action at law or in equity by the Association against any person or persons violating or attempting to violate any such provision, either to restrain such violation, require performance thereof, to recover sums due or payable or to recover damages or fines, and against the land to enforce any lien created hereunder, and failure by the Association or any Owner to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter.

7.07 **COSTS AND EXPENSES:** All costs and expenses incurred by the Board in connection with any action, proceedings or self-help in connection with exercise of its rights and remedies under this Article, including without limitation, court costs, attorneys' fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, until paid, shall be charged to and assessed against the defaulting Owner, and the Association shall have a lien for all the same, upon his Lot as provided in Section 7.01.

7.08 **ENFORCEMENT BY OWNERS:** Enforcement of the provisions contained in this Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages, and against a Lot to enforce any lien created hereunder.

ARTICLE EIGHT
Use Restrictions

8.01 **SIGNS:** No "For Sale" or "For Rent" signs or any other advertising be maintained or permitted on any part of Outlot A, any Monument Sign Area or Association Maintained Green Area, except as permitted by the Board or as permitted under Article Nine.

8.02 **UNSIGHTLY USES:** No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on any portion of the Premises. The Premises shall be kept free and clear of all rubbish, debris and other unsightly materials and no waste shall be committed thereon.

8.03 **RESIDENTIAL USE ONLY:** Each Home shall be used only as a residence and in accordance with the laws of the Municipality, provided that no Owner shall be precluded, with respect to his Home, from (i) maintaining a personal professional library, (ii) keeping his personal

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business records or accounts therein or (iii) handling his personal business or professional calls or correspondence therefrom.

8.04 PARKING: Parking on the Private Drives and Outlot A shall only be permitted pursuant to rules and regulations from time to time adopted by the Board or permission granted by the Board from time to time. No commercial vehicle, recreational vehicle, snowmobile, motorcycle, or other motorized vehicle and no boat, trailer, hitch or other similar personal property shall at any time be parked or stored on any portion of a Lot other than the driveway or the garage located on the Lot. Unless otherwise specifically permitted by the Board or pursuant to rules and regulations adopted by the Board, the driveway on a Lot may only be used to park commercial vehicles, recreational vehicles, snowmobiles, boats, trailers, or other similar vehicles for not more than twenty-four (24) hours at a time and to park operable automobiles. Except for emergencies, no repairs or maintenance work shall be performed on any vehicle on the Premises, except that such work may be performed if the vehicle is located wholly within a garage. Notwithstanding the above, any municipal off-street parking regulations which are more restrictive than the foregoing shall control.

8.05 NO NUISANCE: No noxious or offensive activity shall be carried on in the Premises nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Residents.

8.06 SATELLITE DISHES/ANTENNAE: No antennae, radio receiver, satellite dish or similar apparatus shall be installed on a Lot outside of the Home; provided that a satellite dish of less than eighteen (18) inches in diameter may be installed in the rear or a side yard or on the exterior of the Home as long as the satellite dish is not visible from the front of the Lot.

8.07 PETS: The Board may from time to time adopt rules and regulations governing (a) the keeping of pets in the Home, which may include prohibiting certain species of pets from being kept in the Home and (b) the use of Outlot A and the Private Drives by pets.

8.08 IN GROUND SPRINKLER SYSTEMS: No in ground sprinkler system shall be installed or maintained on Lots 23 through 38, both inclusive in the Brickton Place Subdivision.

ARTICLE NINE Declarant's Reserved Rights and Special Provisions Covering Development Period

9.01 IN GENERAL: In addition to any rights or powers reserved to the Declarant under the provisions of this Declaration or the By-Laws, the Declarant shall have the rights and powers set forth in this Article. Anything in this Declaration or the By-Laws to the contrary notwithstanding, the provisions set forth in this Article shall govern. Except as otherwise provided in this Article, the rights of Declarant under this Article shall terminate at such time as the Declarant no longer holds or controls title to any portion of the Premises.

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9.02 PROMOTION OF PROJECT: In connection with the promotion, sale or rental of any improvements upon the Premises, the Declarant shall have the right and power, within its sole discretion, to construct such temporary or permanent improvements, or to do such acts or other things in, on, or to the Premises as the Declarant may, from time to time, determine to be necessary or advisable, including, without limitation, the right to construct and maintain model Homes, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as the Declarant may deem advisable.

9.03 CONSTRUCTION ON PREMISES: In connection with the construction of improvements to any part of the Premises, the Declarant, its agents and contractors, shall have the right, at the Declarant's own expense, (but shall not be obligated) to make such alterations, additions or improvements to any part of the Premises including, without limitation, the construction, reconstruction or alteration of any temporary or permanent improvements to any structure which shall contain Homes which the Declarant deems, in its sole discretion, to be necessary or advisable, and the landscaping, sodding or planting and replanting of any unimproved portions of the Premises. In connection with the rights provided in the preceding sentence, the Declarant, its agents and contractors, shall have the right of ingress, egress and parking on the Premises and the right to store construction equipment and materials on the Premises without the payment of any fee or charge whatsoever.

9.04 GRANT OF EASEMENTS AND DEDICATIONS: Declarant shall have the right to dedicate portions of Outlot A or the Private Drives to the County, the Municipality or any municipality or other governmental authority which has jurisdiction over such portions. Declarant shall also have the right to reserve or grant easements over Outlot A and the Private Drives to any governmental authority, public utility or private utility for the installation and maintenance of cable TV, electrical and telephone conduit and lines, gas, sewer or water lines, or any other utility services serving any Lot.

9.05 DECLARANT CONTROL OF ASSOCIATION: The first and all subsequent Boards shall consist solely of three (3) persons from time to time designated by the Declarant, which persons may, but need not, be members under Section 5.02. Declarant's rights under this Section to designate the members of the Board shall terminate on the first to occur of (i) such time as Declarant no longer holds or controls title to any part of the Premises, (ii) the giving of written notice by Declarant to the Association of Declarant's election to terminate such rights, or (iii) seven (7) years from the date of Recording hereof. The date on which the Declarant's rights under this Section shall terminate shall be referred to as the "Turnover Date". From and after the Turnover Date, the Board shall be constituted and elected as provided in the By-Laws. Prior to the Turnover Date all of the voting rights at each meeting of the Owners shall be vested exclusively in the Declarant and the Owners shall have no voting rights.

9.06 OTHER RIGHTS: The Declarant shall have the right and power to execute all documents and do all other acts and things affecting the Premises which, in Declarant's opinion, are necessary or desirable in connection with the rights of Declarant under this Declaration.

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9.07 **ASSIGNMENT BY DECLARANT:** All rights which are specified in this Declaration to be rights of the Declarant are mortgageable, pledgeable, assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure, or otherwise) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No such successor assignee of the rights of Declarant hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

ARTICLE TEN Amendment

10.01 **SPECIAL AMENDMENTS:** Anything herein to the contrary notwithstanding, Declarant reserves the right and power to Record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Lots, (iii) to correct errors or inconsistencies in the Declaration or any Exhibit, (iv) to bring the Declaration into compliance with applicable laws, ordinances or governmental regulations. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and Record Special Amendments. The right and power to make Special Amendments hereunder shall terminate at such time as Declarant no longer holds or controls title to a portion of the Premises.

10.02 **AMENDMENT:** Subject to Section 10.01 and Article Eleven, the provisions of this Declaration may be amended, abolished, modified, enlarged, or otherwise changed in whole or in part by the affirmative vote of Voting Members representing at least Seventy-Five percent of the total votes or by an instrument executed by Owners of at least Seventy-Five Percent (75%) of the Lots, except, that (i) the provisions of this Section 10.02 may be amended only by an instrument executed by all of the Owners and all Mortgagees, (ii) Article Nine or any other provisions relating to the rights of Declarant may be amended only with the written consent of the Declarant, (iii) no amendment to the Declaration which changes the ratio of assessments against Owners shall become effective without the consent of all Mortgagees and (iv) no amendment which changes any of the rights or responsibilities of the Municipality shall be effective without the consent of the Municipality. No amendment which removes Premises from the provisions of this Declaration shall be effective if as a result of such removal, an Owner of a Lot shall no longer have the legal access to a public way from his Lot. No amendment shall become effective until properly Recorded.

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ARTICLE ELEVEN
Mortgagee Rights

11.01 **NOTICE TO MORTGAGEES:** Upon the specific, written request of Mortgagee or the insurer or guarantor of a Mortgagee's mortgage, such party shall receive some or all of the following:

(a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Lot covered by the Mortgagee's mortgage;

(b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners; provided, that, if an audited statement is not available, then upon the written request of the holder, insurer or guarantor of a Mortgage, the Association shall permit such party to have an audited statement for the preceding fiscal year of the Association prepared at such party's expense;

(c) Copies of notices of meetings of the Owners;

(d) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of Outlot A.

(e) Notice of any default by the Owner of the Lot which is subject to the Mortgagee's mortgage under this Declaration, the By-Laws or the rules and regulations of the Association which is not cured within thirty (30) days of the date of the default;

(f) The right to examine the books and records of the Association at any reasonable times; and

(g) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

The request of any such party shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association.

11.02 **INSURANCE PROCEEDS/CONDEMNATION AWARDS:** In the event of (i) any distribution of any insurance proceeds hereunder as a result of damage to, or destruction of, any part of Outlot A, Monument Sign Areas or Private Drives or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of Outlot A, Monument Sign Areas or Private Drives, any such distribution shall be made to the Owners and their respective Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the Mortgagee of a Lot with respect to any such distribution to or with respect to such Lot; provided, that, nothing in this Section shall be construed to deny to the Association the right (i) to apply insurance proceeds to repair or replace damaged Outlot A, Monument Sign Areas or Private Drives or (ii) to apply pro-

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ceeds of any award or settlement as a result of eminent domain proceedings as provided in Article Four.

ARTICLE TWELVE
Municipality Rights

12.01 IN GENERAL: In addition to any rights, powers, or easements granted to the Municipality elsewhere in this Declaration, the Municipality shall have the rights, powers, and easements set forth in this Article. Notwithstanding any other provision of this Declaration, no part of this Article may be amended without the prior approval of such amendment by the Municipality.

12.02 ENFORCEMENT: The Municipality is hereby granted the right, but not the obligation, to enforce covenants and obligations of the Association or the Owners. If the Association or one or more Owners fail to comply with any such covenants and obligations, the Municipality shall have the right (but shall not be obligated) to give notice to the Association. If such notice is given and the Association or the offending Owner or Owners do not perform to the satisfaction of the Municipality within thirty (30) days after the giving of such notice, then the Municipality may (but shall not be obligated to) enter upon the Premises and perform any and all work which it deems necessary and appropriate, either directly or through contractors engaged by the Municipality. In the event of an emergency involving the health and welfare of the Residents or the Premises, the thirty (30) day notice requirement shall not apply; however, the Municipality shall notify the offending Owner(s) or an officer of the Association of the emergency condition before initiating any necessary and appropriate work.

12.03 REIMBURSEMENT TO MUNICIPALITY: The Association or the offending Owner or Owners shall, upon demand, reimburse the Municipality for the reasonable cost of such work and if payment is not made within thirty (30) days after demand, then the amount due shall become a lien on the Lot of the offending Owner or, in the case of the Association, the property of the Association; provided, however that such lien shall be subordinate to a first mortgage on a Lot which was Recorded prior to the date on which any such cost becomes a lien against the Lot as provided above.

ARTICLE THIRTEEN
Miscellaneous

13.01 NOTICES: Any notice required to be sent to any Owner under the provisions of this Declaration or the By-Laws shall be deemed to have been properly sent when (i) mailed, postage prepaid, to his or its last known address as it appears on the records of the Association at the time of such mailing or (ii) when delivered personally to his Lot.

13.02 CAPTIONS: The Article and Section headings are intended for convenience only and shall not be construed with any substantive effect in this Declaration. In the event of any conflict between statements made in recitals to this Declaration and the provisions contained in the body of this Declaration, the provisions in the body of this Declaration shall govern.

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13.03 SEVERABILITY: Invalidation of all or any portion of any of the easements, restrictions, covenants, conditions, or reservations, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration which shall, and all other provisions, remain in full force and effect.

13.04 PERPETUITIES AND OTHER INVALIDITY: If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of George Bush, former President of the United States at the time this Declaration is Recorded.

13.05 TITLE HOLDING LAND TRUST: In the event title to any Lot is conveyed to a title holding trust, under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all Charges and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Lot.

Dated: May 14, 1997

97378175

Exoneration provision restricting any liability of the Northern Trust Company either stamped on the reverse side hereof or attached hereto is incorporated herein.

DECLARANT:

The **NORTHERN TRUST COMPANY**, as Trustee aforesaid

By: [Signature]
Its: SECOND VICE PRESIDENT

ATTEST:

[Signature]
Assistant Secretary

(SEAL)

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STATE OF ILLINOIS)
) SS
COUNTY OF Lake)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that PEGGY PETERS and JANET ANASTUTZ, ^{Secretary} Vice President and Assistant Secretary, respectively, of Northern Trust Bank (the "Declarant") and, as such Second Vice President and as such Assistant Secretary of the Declarant appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of the Declarant for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 4th day of May, 1997.



Linda L. Nelson
Notary Public

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It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on behalf of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them made and intended not as personal covenants, representations, covenants, undertakings and agreements by the Trustee or for the purpose of with binding said Trustee personally but are made and intended for the purpose of binding only that portion of the Trustee as they are described herein, and this instrument is executed and delivered by said Trustee not in its own right, but in exercise of the powers conferred upon it as Trustee; and that no personal liability or personal responsibility shall in any event at any time be asserted or enforceable against The Northern Trust Company or any of the officers and directors of the Trust Agreement in connection with the execution of this instrument or on account of any warranty, indemnity, representation, covenant or agreement of the said Trustee which or which is contained in this instrument contained, either implied or otherwise, personal liability, it any being expressly waived and released.

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EXHIBIT A TO DECLARATION OF BRICKTON PLACE

The Premises

Lots 1 through 58 and Outlet A
All Lots and Outlets in Brickton Place Subdivision, being a subdivision of part of Section 1,
Township 40 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois,
pursuant to a Plat thereof recorded as Document No. 97278175.

PIN: 12-01-117-008-0000
12-01-800-005-0000
12-01-500-006-0000

ADDRESS: 1800 Oakfield Avenue
Park Ridge, Illinois 60068-5699

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