

**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR
SCARSDALE WOOD HOMEOWNER'S ASSOCIATION**

This Declaration ("Declaration") is made this 18th day of ~~January~~ ^{FEBRUARY}, 1998 by DELAINE L.L.C., an Illinois Limited Liability Company ("Declarant"), Blackthorn Homes Partnership, an Illinois General Partnership ("Blackthorn"), Wohlers Feeding Company ("Wohlers") and Michael J. Elliott ("Elliott").

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PREAMBLES

WHEREAS, Wohlers and Elliott are the owners of Lots 8 and 9 in Scarsdale Woods Subdivision, in Arlington Heights, Illinois and Declarant is the contract purchaser of Lots 1 through 7 and 10 and Outlot A in said Scarsdale Woods Subdivision. Lots 1 through 10 and Outlot A in said Scarsdale Woods Subdivision (sometimes referred to as the "Real Estate" or the "Development") are legally described on Exhibit A attached hereto

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WHEREAS, Declarant intends to develop the Real Estate into a single-family residential development; and

WHEREAS, Blackthorn is the owner of Lots 1 through 7 and 10 and Outlot A in said Scarsdale Woods Subdivision. Blackthorn wishes for its property to be subject to the terms and conditions of this Declaration.

WHEREAS, in order to preserve and enhance the value and quality of the Development, Declarant will cause to be formed an Illinois not-for-profit corporation known as Scarsdale Woods Homeowner's Association (the "Association") which will own and/or have responsibility for the maintenance and repair of certain areas and improvements located within the Development, for the taking of such other actions and the performance of such other matters as are specified in this Declaration and for the administration and enforcement of the covenants, conditions and restrictions contained herein.

NOW, THEREFORE, Declarant, Blackthorn, Elliott and Wohlers hereby declare that the Real Estate shall be held, sold, transferred, occupied and conveyed subject to the following covenants, conditions, easements and restrictions for the purpose of enhancing and maintaining the value and desirability thereof.

**ARTICLE ONE
DEFINITIONS**

The following words, when used in this Declaration or in any supplemental Declaration shall, unless the context shall prohibit, have the following meanings:

1.1 "ASSOCIATION" shall mean and refer to the Scarsdale Woods Homeowner's Association, an Illinois not-for-profit corporation, its successors and assigns.

1.2 "COMMON AREA" shall mean the Community Detention Area, Community Fence Area and the Community Landscape Area.

1.3 "COMMUNITY DETENTION AREA" shall mean and refer Outlot A in Scarsdale Woods Subdivision.

1.4 "COMMUNITY FENCES" shall mean those fences installed by the Declarant or the Association in the Community Fence Area.

1.5 "COMMUNITY FENCE AREA" shall mean and refer the south five (5) feet of Lot 1, the one (1) foot area measured inward from the west and north lot lines of Lot 1 and the one (1) foot area measured inward from each side lot line and rear lot line with regard to Lots 2 through 10 in Scarsdale Woods Subdivision.

1.6 "COMMUNITY LANDSCAPE AREA" shall mean and refer to that area described as follows:

That portion of the dedicated right-of-way for Scarsdale Court which is located North of Central Road and east of the easterly curb line of Scarsdale Court (said right-of-way was dedicated on the Plat of Subdivision).

The south five (5) feet of Lot 1 in Scarsdale Woods Subdivision.

That portion of the right-of-way of Central Road which is located north of the northerly curb line of Central Road, South of Lot 1 in Scarsdale Woods Subdivision, east of the westerly lot line of said Lot 1 (extended south to Central Road) and west of the westerly curb line of Scarsdale Court.

That portion of Lot 1 which is described on the Plat of Subdivision as the "Landscape Easement".

The portion of the land owned by the Southminster Presbyterian Church which has been licensed to the Association in order for it to maintain the Drive Entrance Treatment.

1.7 "DECLARANT" shall mean and refer to DELAINE FARM L.L.C., its successors and assigns.

1.8 "DRIVE ENTRANCE TREATMENT" shall mean and refer to any improvements, including, but not limited to landscaping, entrance signs, walls, monuments, lights or fences installed by the Declarant or the Association in the Community Landscape Area.

1.9 "LOT" or "LOTS" shall mean and refer to, as the case may be, any of Lots 1 through 10 (but specifically excluding Lots 11 and 12) in Searsdale Woods Subdivision, Arlington Heights, Illinois.

1.10 "MEMBER" shall mean and refer to every person or entity who holds a membership in the Association.

1.11 "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Real Estate, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.12 "PLAT OF SUBDIVISION" shall mean the plat of Searsdale Woods Subdivision which is a subdivision of the West 1/2 of the Southeast 1/4 of Section 32, Township 42 North, Range 11 east of the third principal meridian, Cook County, Illinois.

1.13 "Village" shall mean the Village of Arlington Heights, an Illinois municipal corporation, or any successor municipal corporation.

ARTICLE TWO
DECLARANT'S RIGHTS

2.1 Declarant's Rights In General. In addition to any rights or powers reserved or granted to the Declarant under the Illinois General Corporation Non For Profit Act (the "Act"), this Declaration or the by-laws of the Association (the "By-Laws"), the Declarant shall have the rights and powers set forth in this Article 2. In the event of a conflict between the provisions of this Article 2 and any other provisions of this Declaration or the By-Laws, the provisions of this Article 2 shall govern. Except as otherwise provided in this Article 2, the rights of the Declarant under this Article 2 reserved or granted shall terminate when Declarant, Blackthorn, Elliott and Wohlers have sold the last Lot owned by them in the Development.

2.2 Promotional Efforts. The Declarant shall have the right, in its discretion, to maintain within the Development model dwelling units, sales, leasing, management and/or administrative offices (which may be located in a dwelling unit and/or a trailer), displays, signs and other forms of advertising and, to the extent not prohibited by law, to come upon any portion of any Lot for the purpose of showing such lot to prospective purchasers of dwelling units, all without the payment of any fee or charge whatsoever. The Declarant shall have a nonexclusive access easement over and across the roads and walkways located on within the Development for ingress and egress in order to exercise the rights reserved under this Article 2. Declarant's rights herein shall continue until Declarant, Blackthorn, Elliott and Wohlers have sold the last Lot owned by them in the Development.

2.3 Control Of Board. Until the election of the initial Board as provided for in the By-Laws (the "Turnover Date"), the rights, titles, powers, privileges, trusts, duties and obligations

vested in or imposed upon the Board by the Act, this Declaration or the By-Laws shall be held and performed by the Declarant.

2.4 Sales and Construction Activities. Notwithstanding any provision or restriction contained in this Declaration to the contrary, the Declarant and its agents, employees, successors, and assigns shall have the right to maintain such facilities and conduct such activities as may be reasonably required, convenient or incidental to the completion, development, improvement and sale of the Lots in the Development, including, but without limitation, the installation of sales and construction trailers, offices, signs, models, conducting construction activities, stockpiling of excess dirt, storing of construction materials and vehicles on the property, etc. The right to maintain such facilities and conduct such activities shall include specifically the right to use Lots for model residences and to use any Lot as an office for the sale of Lots, homes and for related activities.

ARTICLE THREE

MEMBERSHIP IN THE ASSOCIATION

3.1 Membership. Every person or entity who is a record owner of a fee or an undivided fee interest in any Lot which is subject to this Declaration (including Declarant, Blackthorn, Wohlers and Elliott), shall be a Member of the Association and each purchaser of any Lot by acceptance of a deed therefor covenants and agrees to be a member of the Association whether or not it shall be so expressed in any deed or other conveyance. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. For each Lot owned, the Owner thereof shall be entitled to one (1) membership. Membership shall be appurtenant to and may not be separated from the fee ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership. For the purpose of this Declaration, the word "Member" shall include any beneficiary of a trust holding legal title to one or more Lots.

3.2 Transfer. Membership held by any Owner of a Lot is an appurtenance to such Lot and shall not be transferred, alienated, or pledged in any way, except upon the sale or encumbrance of such Lot, and then only to the purchaser of such Lot. Any attempt to make a transfer except by the sale or encumbrance of a Lot is void. Reference to the transfer of membership need not be made in an instrument of conveyance or encumbrance of such Lot for the transfer to be effective and the same shall automatically pass with title to the Lot.

ARTICLE FOUR

VOTING RIGHTS IN THE ASSOCIATION

The Association shall have two classes of voting membership:

Class A: Class A Members shall be all those Owners as defined in Article Three with the exception of the Declarant, Blackthorn, Wohlers and Elliott. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership in Article

Three. When more than one person holds such interest in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B: The Class B Members shall be Declarant, Blackthorn, Wohlers and Elliott. The Class B Members shall be entitled to seventy-five (75) votes for each Lot in which they hold the interest required for membership in Article Three; provided, however, that the Class B membership shall cease and be converted to Class A membership on the happening of the first to occur of the following events:

- (a) Seven (7) years from the date of this Declaration;
- (b) The point in time when no Class B Member owns a Lot; or

(c) The date on which the last Class B Member voluntarily withdraws as the Class B Member by executing and recording with the Recorder of Deeds of Cook County, Illinois, a written declaration of intent to withdraw, which shall become effective in the manner specified in such declaration of intent.

Anything contained in the Articles of Incorporation or the By Laws of the Association notwithstanding, so long as Declarant, Blackthorn, Wohlers and Elliott are Class B Members, Declarant shall have the absolute right to appoint and remove any member of the Board of Directors and/or officers of the Association.

ARTICLE FIVE PROPERTY RIGHTS

5.1 Access to Lots. The Association and its respective agents, employees and independent contractors shall have the right and license to enter upon any Lot to the extent necessary to exercise any right or responsibility of the Association as set forth in this Declaration as to the Lot or the residence situated thereon and shall not be guilty of trespass.

5.2 Waiver of Use. No Member may exempt himself from personal liability for assessments duly levied by the Association nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or by abandonment of his Lot.

5.3 Easement. The Association and Declarant are hereby granted an easement over (a) the Community Fence Area for the purpose of installing, constructing, maintaining, repairing and replacing Community Fences, and (b) the Community Landscape Area for the purpose of installing, constructing, maintaining, repairing and replacing landscaping and the Community Drive Entrance Treatment. The easement set forth in this Section 5.3 may be terminated by the Association (by two-third's vote) or, in the event the Association has not been formed or has been dissolved, then by the owner's of two-thirds of the Lots.

ARTICLE SIX
COVENANT FOR ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments. Declarant, Blackthorn, Wohlers and Elliott (subject to the provisions set forth in Sections 6.7 and 6.8 below) for each Lot owned within the Real Estate, hereby covenant, and each Owner of any Lot by acceptance of a deed therefor or possession thereof, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to personally and individually covenant and agree to pay to the Association; (1) annual assessments or charges, (2) special assessments, and (3) a capital contribution, such assessments to be fixed, established and collected from time to time as hereinafter provided. The assessments, together with interest thereon, attorney's fees and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment (and deficiency contributions, in the case of Declarant), together with such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment falls due. The personal obligation shall pass to his successors in title accepting a deed to or assignment of beneficial interest in any trust holding title to said Lot.

6.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare and enjoyment of its Members and, in this connection, for the maintenance of the Common Area, for the payment of premiums for the insurance which is the obligation of the Association, and to provide funds for the Association to carry on its duties set forth herein or in its Articles of Incorporation or By-Laws.

6.3 Calculation Of Annual Assessment. The Board of Directors shall fix the annual assessment for each Lot at least thirty (30) days prior to the commencement of each annual assessment period. The annual assessment shall be uniform in amount for all lots which are subject thereto. Written notice of the annual assessment shall be delivered or mailed to each Owner showing the amounts and due dates for such assessment.

6.4 Reserves. The Association shall establish and maintain from annual assessments, reasonable reserves for the costs of the obligations of the Association hereunder.

6.5 Special Assessments. In addition to the annual assessments provided for above, the Board may levy in any year, special assessments for the purpose of defraying in full or part any expense not anticipated or provided for in setting the annual assessments for the year in which the expense occurs or prior years, or for the purpose of providing funds to the Association to carry out any of its duties set forth in this Declaration or in its Articles or By-Laws.

6.6 Uniform Assessments. Both annual and special assessments shall be fixed at a uniform rate for all Lots.

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6.7 Assessment for Lots Owned by Declarant, Blackthorn, Wohlers and Elliott. Notwithstanding the foregoing provisions of this Article 6, and except as provided below in Article 6.8, Declarant, Blackthorn, Wohlers and Elliott shall be exempt from paying the Association annual assessments, special assessments and capital contributions for any Lots owned by them provided such Lots are vacant lots or improved with housing which is not occupied.

6.8 Deficiency Contributions. For every calendar year during which Declarant is a Class "B" Member of the Association, Declarant shall contribute to the Association all funds in excess of the budgeted and collected assessments which shall be necessary to defray the costs properly paid or incurred by it for the purposes for which annual assessments may be collected. Declarant's contribution for the calendar year during which Declarant's Class "B" membership terminates shall be prorated to the date of such termination. For purposes hereof, the establishment of reserves pursuant of Section 6.4 does not constitute the payment or incurring of costs by the Association and Declarant's deficiency contribution shall not be required to be applied to the establishment of reserves.

6.9 Date of Commencement of Annual Assessments, Due Dates : The annual assessments provided for herein shall commence for any Lot within the Development on the day of the conveyance of the first such lot and shall be prorated for the month of said conveyance. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period and, in lieu thereof, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed amount of the annual assessment shall be sent to every Owner subject thereto. The due dates when said annual assessments are due and payable shall be established by the Board of Directors.

6.10 Capital Contributions. At the time of the initial sale of any Lot by Declarant, Blackthorn, Wohlers or Elliott to any Owner other than Declarant, Blackthorn, Wohlers or Elliott, such Owner shall pay to Declarant for the use of the Association a sum established by Declarant as an initial capital contribution for the Association. Such sum shall be delivered by Declarant to the Association. The Capital Contribution for any Lot shall be levied only upon the sale by Declarant to an Owner and shall not be levied on any subsequent sales of the Lot.

6.11. Certificate of Payment. The Association shall, upon demand, furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether the annual assessments on a specified Lot have been paid and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of these certificates. Said certificates shall be conclusive evidence that any assessment therein stated to have been paid has in fact been paid. No charge shall be made for issuing from time to time said certificates to the Declarant on Lot then owned by Declarant.

**ARTICLE SEVEN
EFFECT OF NONPAYMENT OF ASSESSMENTS,
REMEDIES OF ASSOCIATION**

7.1. Delinquency. Any assessment provided for in this Declaration which is not paid when due, shall be delinquent. With respect to each assessment not paid within fifteen (15) days after its due date, the Association may, at its election, require the Owner to pay a "late charge" in a sum to be determined by the Association and applied uniformly. If any such assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the highest rate permitted by Illinois law, and the Association may, at its option, bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien (provided for in Section 6.1 hereof) against the Lot, and there shall be added to the amount of such assessment the late charge, the costs of preparing and filing a Complaint and such action and reasonable attorney's fees, and in the event a judgment is obtained, such judgment shall include interest together with the costs of bringing the action. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosures against such Owner for the collection of such delinquent assessments.

7.2. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust deed. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of a mortgage or trust deed or any proceeding or deed in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**ARTICLE EIGHT
EASEMENT - LOT 11**

The Association, Declarant, Blackthorn, Wohlers and Elliott hereby grant to the owner of Lot 11 in Searsdale Woods Subdivision, Arlington Heights, Illinois an easement for recreational purposes and pedestrian access, ingress and egress over Outlot A. This easement shall run with the land and shall benefit the owner of Lot 11, its successors and assigns.

**ARTICLE NINE
INTENTIONALLY OMITTED**

**ARTICLE TEN
ARCHITECTURAL CONTROL COMMITTEE**

No residence, driveway, fence, patio, wall or other structure, improvement or addition shall be erected, placed, removed or altered on any Lot within the Development (except as are installed or approved by the Declarant in connection with the initial construction of the dwellings and other improvements on the Lot) nor shall any improvement be replaced or substantially modified until the building plans, specifications and plot plan showing the location and proposed erection, placement or alteration of any such structure, patio, deck, post, improvement or addition

has been approved in writing as to conformity of external design and harmony with existing structures in the Development and as to location with respect to topography and finished ground elevation, by an Architectural Control Committee ("ACC") which shall consist of three (3) Members designated and replaced from time to time by the Declarant. The committee shall notify an applicant of such approval or disapproval of its action within thirty (30) days after said building plans and specifications and plot plan or description have been submitted to the committee or in the event no suit to enjoin the erection, placement or alteration of such structure, patio, deck, post or other improvement or addition has been commenced within 180 days following the completion thereof, such approval will not be required, and this covenant shall be deemed to have been fully complied with. No member of such committee, nor its designated representative, shall be entitled to any compensation for such services performed pursuant to this covenant. The powers and duties of Declarant to designate and replace such committee shall cease at the time the last Lot is developed with a residence and is sold by Declarant, Blackthorn, Wohlers or Elliott to a third party purchaser. Thereafter, such powers and duties shall be vested in the Board of Directors of the Association or in a committee duly appointed by such Board of Directors. Nothing contained in this Article Ten is intended to or shall relieve any Owner from obtaining any necessary building permits or approvals from the Village for any construction or alterations on his Lot as required by Village Ordinances.

ARTICLE ELEVEN
DUTIES AND POWERS OF THE ASSOCIATION

11.1 General. The Association shall have the power and duties to pay any real property taxes and other charges assessed against the Common Area; adopt reasonable rules and regulations controlling and limiting the use of the Common Area and further adopt rules and regulations supplementing the General Use Restrictions as provided by Article Twelve hereof; maintain such policy or policies of insurance at all times as the Board of Directors deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its members, officers and directors including, but not limited to those described in Article Eighteen hereof; employ a manager or other persons and contract with independent contractors, managing agents, collection agents and others to perform and effectuate all or any part of the duties and powers of the Association, if deemed necessary by the Directors; and establish such reserves as may be required hereunder or as the Board of Directors shall from time to time deem necessary to fulfill and further the purposes of the Association.

11.2 Maintenance. The Association shall maintain, repair and replace the Common Area and its elements.

ARTICLE TWELVE
USE RESTRICTIONS

12.1 Residential Use. The Lots are hereby restricted to residential dwellings, and ancillary and accessory uses and buildings in connection therewith (except for model homes, sales offices and storage and construction trailers which may be operated by Declarant or its designees during the construction or sales period). All buildings or structures erected on the Real Estate

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shall be of new construction and no buildings or structures shall be moved from other locations to the Real Estate and no subsequent buildings or structures other than single-family residences shall be built on any Lot without the prior approval of the ACC.

12.2 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot except for dogs and cats kept as household pets.

12.3 Commercial Activities, Nuisances. No advertising signs, billboards, objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on any Lot, nor shall any Lot be used in any way or for any purpose which may endanger the health or unreasonably disturb the residents of the Real Estate except that no more than one (1) "for sale" sign or "for rent" sign of not more than five (5) square feet shall be maintained on any Lot and no such signs shall be permitted or the size of such signs shall be limited if the ordinances of general applicability of the Village so provide. No commercial activities of any kind whatever shall be conducted on any building or on any portion of the Real Estate except activities intended primarily to service residents in the Real Estate. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its designees, or the use or operation of sales or construction offices or model units on any Lots by the Declarant or its designees during the construction and sales period or by the Association in furtherance of its powers and purposes set forth herein after and in its Articles of Incorporation, By-Laws and Rules and Regulations, as the same may be amended from time to time. The Declarant and its successors and assigns shall have the right to rent any or all units.

12.4 Screening, Trash Removal. All clotheslines and woodpiles shall be screened by adequate planting so as to conceal them from view of neighboring Lots and streets. All rubbish, trash and garbage shall be regularly removed from the Real Estate, shall not be stored outside (except for days of pickup) and shall not be allowed to accumulate thereon. In the event the Village has, by franchise, license or other contractual arrangement, granted the exclusive rights to provide trash removal services throughout the Village to any entity, such entity shall have the right to remove trash from the properties for such fees, if any, as are uniformly charged by the Village for such services throughout the Village. The foregoing restrictions shall not apply to the activities of Declarant, its designees and those working for or on behalf of Declarant during the construction and sales period.

12.5 Radio, T.V. Antenna. Except as provided below in this Section, no solar panels, radio or television receiving or transmitting antenna or external apparatus (including but not limited to satellite dishes or ham radio towers) shall be installed on any Lot or building thereon. Notwithstanding the foregoing, satellite dishes equal to or less than 2 feet in diameter which are affixed to a residence in an inconspicuous manner and normal radio and television installations wholly within a building are excepted.

12.6 Maintenance of Easement Areas. Easements for installation and maintenance of the utilities, sewer pipelines and facilities and drainage facilities over each of said Lots, and all pipelines and other facilities located and to be located in said easements are reserved as shown on the recorded Plat of Subdivision or as created in accordance with this Declaration of Covenants,

Conditions and Restrictions or any amendments hereof. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction in the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, a private or public utility company or the Association is responsible.

12.7 Water Flow. No Owner shall cause, permit or allow the placement of any obstruction, diversion, bridging or confining of the existing channels through which surface water in time of storm naturally flows across any Lot, in such a manner as to cause damage to other ; or the changing of the grade of any Lot if such change in grade will have the effect of diverting surface water in the time of storm onto neighboring in such a manner as to cause damage to such neighboring .

12.8 Leases of Lots. Any Owner may lease his Lot, but no lease may be for a period of less than thirty (30) days and no more than eight people shall be permitted to reside in any leased residence without the approval of the Association. All leases must be made expressly subject to the terms of this Declaration. In the event any Owner leases his Lot, he shall at all times keep the Association advised in writing of the address of his own current residence and any changes thereto, and of the name(s) of his tenant(s). All tenants shall be subject to the provisions of Articles 10, 11, 12 and 19.

12.9 Prohibition of Boats, Trailers and Recreational Vehicles. Except as provided below in this section 12.9, automobiles may be parked overnight on the driveway of any Lot; however no other type of vehicle (including any truck, work vehicle, boat, trailer, motorcycle or recreational vehicle) shall be parked overnight on the driveway of any Lot or on Scarsdale Court. No vehicle (including any automobile, truck, boat, trailer, motorcycle or recreational vehicle) shall be parked on any Lot in an area other than a driveway or garage and, without limiting the generality of the foregoing, no such vehicle shall be parked on the lawn of any Lot. No vehicle which is under repair or which is inoperative shall be parked on any driveway for a period in excess of 24 hours.

12.10 Construction Materials. All residences constructed within the Real Estate shall be of custom home construction quality with building exteriors of masonry (brick or stone), wood cedar, stucco, dryvit, or similar material approved by the ACC (except for aluminum/vinyl gutters, downspouts, fascia and soffits). Additionally, all building exteriors shall contain a minimum of 30% masonry materials (which shall include stucco or dryvit). In the event of dispute regarding whether any residence complies with the provisions of this section, the question shall be submitted to ACC whose decision shall be final and binding on the parties. In the event no suit to enjoin the erection, placement or alteration of any such residence has been commenced within 180 days following completion thereof, it shall be conclusively presumed that such structure complies with the provisions of this section.

12.11 Common Elements. No Owner shall remove, modify, alter, paint, stain or otherwise disturb any improvement installed by the Declarant in the Common Area (including, but without limitation, any fence, detention facility, roadway, driveway, landscaping, entrance signs, sprinkler systems, walls, monuments or lighting fixtures).

12.12 Front Yard Fences. No Owner shall be permitted to construct a fence in the front yard of his or her Lot. For purposes of this Declaration, the front yard of Lot 1 shall be its east yard which faces the dedicated public road identified on the Subdivision Plat as Scarsdale Court and not the south yard even tho the south yard is considered by the Village to be a front yard.

**ARTICLE THIRTEEN
COVENANT TO MAINTAIN**

Each Owner, his successors and assigns, hereby covenants and agrees at all times to maintain his Lot and the residence constructed thereon in a neat and proper condition and to perform all necessary repairs thereto.

**ARTICLE FOURTEEN
INTENTIONALLY OMITTED**

**ARTICLE FIFTEEN
AVAILABILITY OF RECORDS**

Any Owner or first mortgagee of any Lot shall be entitled, upon reasonable request, to receive for inspection from the Association current copies of the Declaration, Articles of Incorporation, By-Laws, records and financial statements of the Association. Furthermore, any holder of a mortgage given on any Lot within the Real Estate, shall be entitled to receive from the Association, without cost, a copy of the Association's financial statement, if any, and if any mortgagee shall so request in writing prior to the preparation of the annual financial statement of the Association, such financial statement shall be audited.

**ARTICLE SIXTEEN
RIGHTS OF FIRST MORTGAGEES**

Upon written request, any first mortgagee of a Lot shall be entitled to and shall receive from the Association notices of any of the following as shall be requested:

- (a) Any condemnation loss or casualty loss which affects a material portion of the Development or the Lot on which its mortgage is held;
- (b) Delinquency of assessments which remain incurred for a period of sixty (60) days or more; and
- (c) Any lapse, cancellation, or modification of any insurance policy or fidelity bond maintained by the Association.

ARTICLE SEVENTEEN
INTENTIONALLY OMITTED

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ARTICLE EIGHTEEN
INSURANCE

18.1 Casualty Insurance; Common Area. The Association shall obtain and maintain a policy or policies of insurance with respect to the damage or destruction of the Shared Facilities, the Common Area and any of the improvements thereon, and to any other tangible assets of the Association including coverage against damage or destruction by the perils of fire, lightning and those perils contained in an all risk form, and such other perils as the Board of Directors of the Association from time to time may determine should be included in such coverage, in an amount equal to 100% of the insurable replacement cost thereof, without depreciation and with an agreed amount provision. Such insurance shall name as the insured, and the proceeds thereof shall be payable to the Association, as trustee. The proceeds of such insurance shall be made available, as the Board of Directors of the Association shall reasonably determine, for the repair, reconstruction, and restoration of such Common Areas subject to the rights of the first mortgagees. To the extent feasible, all such policies of insurance shall (i) provide that the insurance shall not be invalidated by the act or neglect of the Declarant, the Association, its Board of Directors, its Officers, any owner or occupant, or any agent, employee, guest or invitee of any of them, and (ii) shall contain an endorsement that such policies shall not be canceled without at least thirty (30) days prior notice to the Association, the Owners, and all first Mortgagees of the Lots.

18.2 Liability Insurance; the Association. The Association shall obtain and maintain a policy or policies of comprehensive general liability insurance insuring on an occurrence basis the Association, its Directors, officers, the Members, and their agents and employees against claims for personal injury, including death and damage, arising out of any occurrence in connection with the ownership of the Common Areas or the occupancy, supervision, operation, repair, maintenance or restoration of the Common Areas or in connection with any act or omission of or in behalf of the Association, its Board of Directors, agents or employees within the Real Estate. Such policies shall be in the amount of \$1 Million for bodily injury, including death, and damage arising out of a single occurrence, and shall contain a provision that they may not be canceled without at least a thirty (30) day prior notice to the Association, the Owners, and the first Mortgagees of the Lots.

18.3 Workmen's Compensation and Fidelity Insurance; Other Insurance. The Association shall obtain and maintain a policy or policies of insurance with reputable insurance carriers providing the following coverage:

(a) Workers Compensation and employers liability insurance in such form and in such amounts as may be necessary to comply with applicable laws;

(b) Fidelity insurance or bonds in reasonable amounts for all officers and employees having fiscal responsibilities, naming the Association as obligee; and

(c) Such other insurance in such limits and for such purpose as the Association may, from time to time, deem reasonable and appropriate.

18.4 Waiver of Subrogation. To the extent feasible, all policies of insurance obtained by the Association shall contain provisions that no act or omission of any named insured shall affect or limit the obligation of the insurance company to pay the amounts of any loss sustained. So long as the policies of insurance provided for herein shall provide that a mutual release as provided for in this Section shall not affect the right of recovery thereunder, and further provide coverage for the matters for which the release herein is given, all named insureds and all parties claiming under them shall, and do by these presents mutually release and discharge each other from all claims and liabilities arising from or caused by any hazard or source covered by any insurance procured by the Association, regardless of the cause of damage or loss.

18.5 Insurance Premium Expense. The expense of insurance premiums paid by the Association under this Article shall be an expense of the Association to which the assessments collected by the Association from the Owners shall be applied.

ARTICLE NINETEEN GENERAL PROVISIONS

19.1 Enforcement. In addition to all other rights herein granted to the Association or the Declarant, the Association or the Declarant may enforce the provisions of this Declaration, the Articles of Incorporation, By-Laws and rules and regulations of the Association by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provisions. All rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, and failure of the Association or the Declarant to enforce any such provisions shall in no way be deemed a waiver of the right to do so thereafter. All expenses incurred by the Association or the Declarant in connection with any such proceedings, including court costs and attorneys' fees, together with interest thereon at the highest interest permitted by law, shall be charged to and assessed against any Owner violating any such provisions and shall be added to and deemed a part of his assessment and constitute a lien on his Lot and be enforceable as provided herein. If any Owner, or his guests, violates any provisions of this Declaration, the Articles of Incorporation, the By-Laws, or the rules and regulations of the Association, the Board may, after affording the Owner an opportunity to be heard, levy a reasonable fine against such Owner, and such fine shall be added to and deemed a part of his assessment and constitute a lien on his lot and be enforceable as provided herein.

19.2 Severability. Invalidity of any one or more of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

19.3 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Association, or the Owner of any Lot subject to this Declaration or the Village, and their respective legal representatives, heirs, successors, and assigns for a period of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an

instrument signed by the Lot Owners comprising not less than sixty-seven per cent (67%) of the total votes of all Members. In furtherance of the foregoing, a power coupled with an interest is hereby reserved to Declarant, as attorney-in-fact to so amend the Declaration as provided in this Section 19.3 and each deed, mortgage or other instrument with respect to a Lot and acceptance thereof shall be deemed a grant and acknowledgment of and a consent to such power to said attorney-in-fact. Any amendment must be recorded with the Cook County Recorder.

19.5 Quorum. Unless otherwise specified to the contrary in any provision of this Declaration, the presence of Members or of proxies entitled to cast ten (10%) percent of the votes of all members shall constitute a quorum for any meeting of the Members of the Association. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in the By-Laws of the Association and the required quorum at such subsequent meeting shall be fifty per cent (50%) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal on the date first written above.

DECLARANT

DELAINE FARM L.L.C. by Elliott Homebuilders, Inc., its Manager

By: [Signature]
Title: VP

BLACKTHORN

BLACKTHORN HOMES PARTNERSHIP

By: _____
Title: _____

WOHLERS

WOHLERS FEEDING COMPANY

By: [Signature]
Title: President

ELLIOTT

[Signature]
Michael J. Elliott

Property of Cook County Clerk's Office

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UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal on the date first written above.

DECLARANT

DELAINE FARM L.L.C. by Elliott
Homebuilders, Inc., its Manager

By: _____
Title: _____

BLACKTHORN

BLACKTHORN HOMES PARTNERSHIP

By: Mark Ad...
Title: PARTNER

WOHLERS

WOHLERS FEEDING COMPANY

By: _____
Title: President

ELLIOTT

Michael J. Elliott

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

STATE OF ILLINOIS)
COUNTY OF COOK)

I, Rebecca S. Stearns, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Mark Elliott, personally known to me to be the President of Elliott Homebuilders, Inc., the manager of Delaine Farm L.L.C. and personally known to me to be the same persons whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as manger of Delaine Farm L.L.C. pursuant to authority duly given him, as his free and voluntary act and as the free and voluntary act and deed of said the organization which he represents, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 18th day of February, 1998

Rebecca S. Stearns
Notary Public

My Commission Expires: 1998
REBECCA S. STEARNS
NOTARY PUBLIC, STATE OF ILLINOIS
COMMISSION EXPIRES JULY 22, 1998

STATE OF ILLINOIS)
COUNTY OF COOK)

I, Nicholas S. Pappas, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Mark L. Anderson, personally known to me to be a partner in Blackthorn Homes Partnership and personally known to me to be the same persons whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as a partner of Blackthorn Homes Partnership pursuant to authority duly given him, as his free and voluntary act and as the free and voluntary act and deed of said the organization which he represents, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 18 day of FEBRUARY, 1998

Nicholas S. Pappas
Notary Public

My Commission Expires:
OFFICIAL SEAL
NICHOLAS S. PAPPAS
NOTARY PUBLIC STATE OF ILLINOIS
COMMISSION EXPIRES JULY 22, 1998

UNOFFICIAL COPY

Property of Cook County Clerk's Office

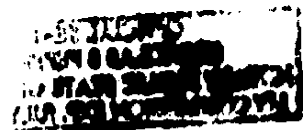


Exhibit A
The Development

Lots 1 through 10 (both inclusive) and Outlot A in Scarsdale Woods Subdivision being a subdivision of part of the West 1/2 of the Southeast 1/4 of Section 32, Township 42 North, Range 11 East of the Third Principal Meridian in Cook County, Illinois.

Permanent Index Number(s):

03-32-424-033 (includes OP)
03-32-424-034 (includes OP)
03-32-409-011
03-32-409-018

Address:

Vacant located on the north side of
Central Avenue, West of Dreyden, in
Arlington Heights, Illinois

This document prepared by:

Michael J. Elliott
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