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This instrument Prepared by:  
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Harwood Hts., IL 60656

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DECLARATION OF COVENANTS  
CONDITIONS AND  
RESTRICTIONS OF  
TUSCANY ON THE POND  
TOWNHOME ASSOCIATION

THIS DECLARATION is made as of August 8, 1996 by Midwest Trust Services, Inc., as Successor Trustee to Midwest Bank and Trust Company, as Trustee under Trust Agreement dated December 23, 1992 and known as Trust No. 92-6419 (Declarant)

WITNESSETH:

WHEREAS, the Declarant is the owner of certain property in the Village of Schaumburg, County of Cook, State of Illinois, which is legally described in Exhibit A attached hereto and incorporated herein by reference (hereinafter referred to as Development Area) and

WHEREAS, the Declarant now proposes to develop the property as a Townhome community.

WHEREAS, the Declarant will convey the said property subject to certain protective covenants, conditions, restrictions, reservations and charges as hereinafter set forth:

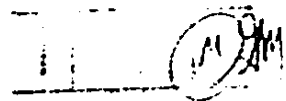
NOW THEREFORE, Declarant hereby declares that all of the property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of each real property. These easements, covenants, restrictions and conditions will run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the property and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Box 250

RECORDING FEE \$ 1,100  
DATE 3/30/98 COPIES 1  
BY JM



Section 1. "Association" shall mean and refer to the Tuscany On The Pond Townhome Association.

Section 2. "Property" shall mean and refer to the tract described on Exhibit A to be developed by the Declarant as a townhome community.

Section 3. "Lot" for the purpose of this Declaration shall mean and refer to a platted Lot upon which individual Units are to be constructed.

Section 4. "Parcel" shall mean a part of the Lot on which a unit is constructed or to be constructed which may be deeded to a unit owner in fee simple and shall have a separate legal description.

Section 5. "Member" shall mean and refer to every person or entity which holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to a parcel which is a part of the Property also including without limitation on the generality thereof, contract sellers but excluding those having an interest in such Lot or part thereof merely as a security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to Midwest Bank and Trust Company, as Trustee under Trust Agreement dated December 23, 1992 and known as Trust No. 92-6419 including its successors and assigns except those successors defined herein as owners.

Section 8. "Unit" shall mean and refer to one individual townhome.

Section 9. "Non Maintenance Area" shall mean an area so noted on the survey as part of the parcel to be in the exclusive control and responsibility of the unit owners for landscaping.

ARTICLE II  
MEMBERSHIP

Every person or entity who or which is a record owner of a fee or undivided fee interest in any one parcel which is subject to assessment by the Association including contract sellers shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No parcel shall

have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of a parcel which is subject to assessment by the Association. Ownership of such parcel shall be the sole qualification for membership.

ARTICLE III  
VOTING RIGHTS

The Association shall have two classes of voting membership:

CLASS A. Class members shall be all the Owners as defined in Article II with the exception of the Declarant. Class A members shall be entitled to one vote for each Unit in which they hold the interest required for membership by Article II. When more than one person holds such interest in any parcel all such persons shall be members. The vote for such parcel shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one parcel.

CLASS B. The Class B member shall be the Declarant. The Class B member shall be entitled to six (6) votes for each parcel or parcel that a unit could be built on in which it holds the interest required for membership by Article II, provided that the Class B membership shall cease and be converted to Class A membership as follows: Six (6) years from the execution of this Declaration of Covenants, Conditions and Restrictions or any earlier time that the Declarant in its sole discretion may decide.

ARTICLE IV  
EASEMENTS

There is hereby granted as a non exclusive easement appurtenant to each parcel a perpetual easement on, over and across adjacent parcels for the purpose of access to the rear of benefitted parcel.

All easements herein described are easements appurtenant, running with the land; they shall at all times inure to the benefit of and be binding on the undersigned, all its grantees and their respective heirs, successors, personal representatives or assigns perpetually in full force and effect.

Reference in the respective deeds of conveyance, or in any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective

grantees, mortgagees or trustees of said parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

ARTICLE V  
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants and each Owner of any parcel thereof by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

(1) Annual assessments or charges payable monthly.  
(2) Special assessments for capital improvement, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the parcel against which each such assessment is made, and the said parcel and the parcel owner thereof shall be responsible to the Association for such assessment together with such interest, costs and attorney's fees as aforesaid in any action by the Association in any court of competent jurisdiction for the amount thereof and the said assessment together with such interest, costs and reasonable attorney's fees shall be a lien against the parcel against which each such assessment is made which lien may be foreclosed in any court of competent jurisdiction. Each such assessment together with such interest, costs and reasonable attorney's fees shall be the personal obligation of the person who was the owner of such parcel at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them, but the lien shall remain until paid. Where the mortgagee of a mortgage of record or other purchaser of a parcel obtains title to the parcel as a result of foreclosure of the mortgage such acquirer of title, his successors and assigns shall not be liable for the share of the common expenses or assessments by the Association chargeable to such parcel which became due prior to the acquisition of title to such parcel by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectable from all the parcels including such parcels acquired by successors and assigns.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used specifically for the purpose of promoting the health, safety and welfare of the residents on the property.

Section 3. The Association shall have an easement over all parcels for uses and purposes for exterior maintenance of the units, and parcels.

Section 4. Areas noted on surveys of parcels as "Non Maintenance Areas" are to be the exclusive responsibility of parcel owners for landscaping.

Section 5. Estimated Annual Budget and Assessments. Each year on or before January 1st, immediately following the conveyance of the first parcel to an owner the Board shall estimate the total amount necessary to pay the cost of all common expenses which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements. The annual budget shall set forth with particularity all anticipated assessments and other income. The budget shall also set forth each Unit Owners proposed common expense assessment. Each Unit Owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board of Directors a copy of the proposed annual budget. The annual assessment shall be fixed at a uniform rate for all parcels regardless of their size except for certain parcels as provided in Section 9 and shall be collected on a monthly basis or such other basis as set forth by the Board of Directors. All meetings of the Board of Directors shall be open to any Unit Owner, and that notice of such meeting shall be mailed at least ten (10) days prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened. Each parcel owner shall deposit with the Association a sum equal to three (3) months dues of the Association as fixed by the Directors of the Association at the time of closing by the owner. Said sum shall be held and be used to apply to any extraordinary expenses of the Association.

Section 6. Quorum for Any Action Authorized Under Section 5. At the first meeting called, as provided in Section 5 hereof the presence at the meeting of members or of proxies eligible to vote twenty-five per cent (25%) of all the votes eligible to vote shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 5 and the required quorum at any such subsequent meeting shall be one half of the required quorum. No such subsequent meeting shall be held more than forty-five (45) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all units within the property on the date of closing of the transaction for each unit. The Board of Directors shall fix the amount of the annual assessment against each parcel at least sixty (60) days in advance of each annual assessment period, pursuant to Section 5 of this Article. Written notice of the



annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand by any interested party at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessment: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien as herein provided therefore against the unit and interest costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. To the extent permitted by any decision or any statute or law now or hereafter effective the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as above provided, shall be and become a lien or charge against the unit ownership of the unit owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Such lien shall take effect and be in force when and as provided herein; provided, however, that encumbrances owned or held by any bank, insurance company, savings and loan association, or other lender shall be subject as to priority after written notice to said encumbrancer of unpaid common expenses only to the lien of all common expenses on the encumbered unit ownership which became due and payable subsequent to the date the encumbrancer either takes possession of the unit, accepts a conveyance of any interest in the unit ownership or has a receiver appointed in a suit to foreclose its lien. In addition to the foregoing, the Board or its agents shall have such other rights and remedies to enforce such collection as shall otherwise be provided or permitted by law from time to time. Without limiting the generality of the foregoing, if any unit owner shall fail to pay the proportionate share of the common expenses or of any other expenses required to be paid hereunder when due, such rights and remedies shall include: (1) the right to enforce the collection of such defaulting unit owner's share of such expenses (whether due by acceleration or otherwise), together with interest thereon, at the maximum rate permitted by law, and all fees and costs (including reasonable attorney's fees) incurred in the collection thereof; (2) the right, by giving such defaulting unit owner five days written notice of the election of the Board so to do, to accelerate the maturity of the unpaid installments of such expenses occurring with respect to the balance to the assessment year; and (3) the right to take possession of such defaulting

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unit owner's interest in the property to maintain for the benefit of all the other unit owners an action for possession in the manner prescribed in "an Act in regard to Forcible Entry and Detainer", approved February 16, 1874, as amended, and to execute leases of such defaulting unit owner's interest in the property and apply the rents derived therefrom against such expenses.

Section 9. Exempt Property. No assessments shall be levied against the declarant until the unit or units affected have had construction completed.

## ARTICLE VI PARTY WALLS

All dividing walls which straddle the boundary line between units shall at all times be considered party walls, the cost of maintenance, repair or replacement of which shall be borne equally by the owners of the units served thereby.

In the event that any party wall or portion thereof now or at any time hereafter, because of shifting, settling, original construction or otherwise, actually encroaches upon any portion of the unit of another owner, there shall be deemed to be an easement therefore in favor of the unit whose party wall so encroaches, but only to the extent and for so long as such encroachment shall exist.

Except as herein expressly provided to the contrary in Article IV Section 3 above or elsewhere, the easements, or cross-easements hereby created shall not terminate in the event that any party wall, or portion thereof, has been destroyed or materially damaged by fire or other cause but shall remain in full force and effect. License is hereby granted to owners of the units for reasonable access onto adjoining units for the purpose of rebuilding destroyed or materially damaged party walls, and any electric wiring or plumbing pipes or fixtures contained therein. Any owner of a unit served by such materially damaged or destroyed party wall who shall have rebuilt same shall be entitled to receive from the owner of the other adjacent dwelling parcel also served by such party wall, an amount equal to one-half (1/2) of the cost of rebuilding same, including the costs of foundations and supports necessarily installed.

Whenever any party wall, or portion thereof, shall be repaired, replaced or rebuilt, it shall be erected as nearly plumb as possible on the same line (provided such line is located exactly on the dividing line of the unit and shall be of the same size and the same or similar materials and of like quality as the present party wall, and it shall conform in all respects to the

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laws and ordinances regulating the construction of buildings in force at that time.

## ARTICLE VII ARCHITECTURAL CONTROL

No fencing of any kind, other than landscaping fencing approved by the Association shall be erected on the property or other than fencing installed by the Declarant. No building, wall or structure other than the housing structure erected by the Declarant shall be commenced, erected or maintained upon the property unless it shall conform in architecture, material and color to the dwelling as originally constructed by the Declarant.

## ARTICLE VIII EXTERIOR MAINTENANCE OF THE UNITS, PARCELS AND COMMON AREAS

Section 1. (a) The Association shall provide normal and customary exterior maintenance of each parcel without special charge to the owner as follows:

1. Care of trees and grass unless surrounded by shrubs in such a manner as to preclude convenient access by large equipment.
2. Repair of shingles, roof and flashing on roofs.
3. Painting and repair of exterior walls.
4. Painting and cosmetic repair of garage doors.
5. Painting of gutters and downspouts.
6. Repair and replacement of chimneys and exterior fireplace parts.
7. Removal of snow from driveways and walks.

(b) The Association may at its discretion provide maintenance for the following items with or without special charge to owners:

1. Replacement of trees, grass and shrubs.
2. Repair and maintenance of front and rear stoops.
3. Repair and maintenance of outside electrical fixtures.



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4. Repair and maintenance of patios, decks or other homeowner installed improvements.
5. Repair and maintenance of sewer and water lines.
6. Repair and maintenance of glass surfaces.
7. Repair and maintenance of walks and driveways.
8. Care of trees, grass and shrubs situated within enclosed areas.
9. Replacement of roofs.

Section 2. The cost of any exterior maintenance which, by the terms of this Declaration, the Association is required to furnish shall be paid for with funds from the annual assessment to which each parcel is subject under the provisions of Article V Section 5.

If the Association furnishes maintenance with respect to a parcel or unit thereon at the request of an owner other than that required by this Declaration, the Association will require such owner to pay the cost thereof.

Section 3. For the purpose solely of performing the exterior maintenance required or authorized by this Article the Association through its duly authorized agents or employees shall have the right after reasonable notice to the owner to enter upon any unit at reasonable hours on any day. Landscaping and snow removal work shall not require prior notice.

Section 4. The foregoing services provided by the Association with respect to exterior surfaces of an Owner's home shall be limited to normal wear, tear and deterioration, and the owner shall be solely responsible for all exterior repair and replacement as well as all interior and structural repair and replacement, occasioned by insurable casualty as hereinafter provided. In the event the owner shall fail to effect promptly the repairs and replacements occasioned by insurable casualty, the Association may (but shall not hereby be required) to effect such repairs and replacements and the Association shall be entitled to reimbursement in full from the Owner for its costs for every kind incurred in this connection, including the right to receive applicable insurance proceeds. Each owner shall keep the unit now or hereafter insured against loss or damage by fire, lightning and windstorm under policies issued by the Company or Companies approved by the Board of Directors and providing for payment of monies sufficient to cover the full cost of replacement or repairing the same under insurance policies payable in case of loss or damage to the Owner or to the Association as their interest may appear and shall deliver to the Association evidence of such insurance and the renewal thereof from time to time upon

request. If, in such circumstances, the Association shall elect to undertake such repairs and replacements, the Association shall have the right through its agents, employees and independent contractors, to enter upon the unit and to both the exterior and interior of the home situated thereon to the extent necessary for the aforesaid purpose and shall not be guilty of any trespass. To the Association for its said costs the same shall become the personal obligation of the owner and a continuing lien on the unit recoverable with interest, costs and reasonable attorneys' fees in the same manner and to the same extent as provided under Article V hereof with respect to delinquent assessments.

ARTICLE IX  
BUILDING AND USE RESTRICTIONS

Section 1. No owner shall make any exterior architectural change or additions to any unit without Board approval.

Section 2. The property is hereby restricted to an attached single family residential community consisting of townhomes. All buildings or structures erected on a lot shall be of new construction and no building or structures shall be removed from other locations to the land and no subsequent buildings or structures other than townhomes shall be built on any lot or part thereof where the Declarant has theretofore constructed a townhome. No building or structure of a temporary character including, without limitation on the generality thereof, trailer, basement, tent, shack, garage, barn or other outbuilding shall be placed or erected in any lot or part thereon adjoining or as an addition to any unit at any time or be used for residential purposes either temporarily or permanently.

Section 3. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any unit or part thereof, or in any unit erected thereon, except dogs, cats, or other customary and usual household pets kept for other than commercial purposes. Said allowed pets shall be subject to the rules and regulations adopted by the Association.

Section 4. No more than one "For Rent" or "For Sale" sign of not more than six square feet in area, and not over 3 feet in height, may be placed on a unit by the owner of the unit. No other advertising signs, nor billboards, objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on any unit nor shall any unit or portion thereof be used in any way for any purpose which may endanger the health or unreasonably disturb the residents of the townhome development. No commercial activities of any kind whatever shall be conducted in any unit or on any portion of the property. The foregoing restrictions shall not apply to the commercial or sales

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activities or the signs and billboards, if any, of the Declarant or its agents during the construction and sales period or of the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, By-Laws and Rules and Regulations, as the same or amendments thereof may be in force from time to time.

Section 5. All clotheslines, equipment, woodpiles and storage piles shall not be kept outside any townhome. All rubbish, trash, and garbage shall be regularly removed from the development and the units thereon and shall not be allowed to accumulate thereon, or become unsightly, or a nuisance. No garbage cans may be placed at any time on the exterior of the home. Nothing shall be affixed to the exterior walls or roof of any townhome without the prior written consent of the Association.

Section 6. All garage doors when not in use must remain closed.

Section 7. Maintenance or repair of vehicles shall not be allowed to take place outside of the units.

## ARTICLE X UTILITIES EASEMENTS

All public utilities serving the property are hereby granted and conveyed right and easement to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other equipment into, under and through the lots and with utility services, provided that no easement extends to any area either now or hereafter improved with a permanent structure so long as such improvement shall have been made prior in time to the location of said conduits, cables, pipes, mains, ducts, wires and other equipment on such improved site.

## ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement. The Association or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restriction, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Conflicts. In the event of a conflict between the provision of the by-laws of the Association and those of the Declaration the provisions of the Declaration shall govern and insure.

Section 4. Notices. Any notices required to be sent any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 5. Personal Liability. This Declaration is executed by the exercise of the power and authority conferred upon and vested in it as such Trustee. All the covenants and conditions to be performed hereunder by the Trustees are undertaken by it solely as Trustee as aforesaid and no personal liability shall be asserted or enforceable against the Trustee by reason of any of the provisions contained in the declaration.

Section 6. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall insure to the benefit of and be enforceable by the Association, or the owner of any unit subject to this Declaration, his or their respective legal representative, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenant shall be automatically extended for successive periods of ten (10) years each. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed and acknowledged by no less than eighty percent (80%) of the unit owners and thereafter by an instrument signed by not less than seventy-five (75%) of the Unit Owners. Any such amendment must be properly recorded.

Section 7. Special Amendment. Declarant, successor, and assign reserve 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 Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, the Village of Schaumburg 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, or guarantee first mortgage covering Unit Ownerships



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(iii) to bring this Declaration into compliance with the Ordinance of the Village of Schaumburg or (iv) to correct clerical or typographical errors in this Declaration of any Exhibit or supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record Special Amendment. The rights reserved under this section shall terminate at such time as the Declarant no longer holds or controls title to a unit. The right of the Declarant to amend the Declaration as provided herein shall not in any way reduce, limit or otherwise impair the interest of any unit owner who acquired title to his unit prior to the effective date of any such amendment.

## ARTICLE XII VILLAGE OF SCHAUMBURG RIGHTS

A. IN GENERAL: In addition to any rights, powers or easements granted to the Village of Schaumburg elsewhere in this Declaration, the Village of Schaumburg shall have the rights, powers and easements set forth in this Article.

B. EASEMENTS: The Village of Schaumburg is hereby granted the right and easement of access over, across and through the Property for any purposes reasonably related to the proper exercise of the rights and powers of the Village of Schaumburg, including, without limitation, the right and easement (i) to come upon the Common Elements for the purpose of reading water meters installed by or on behalf of the Village of Schaumburg and (ii) to come upon the Property and to install, lay, construct, renew, operate, maintain, repair and replace lines, pipes, pumps and other equipment (including housings for such equipment) into, over, under, along, and through the Property for the purpose of providing water, storm sewer and sanitary sewer services.

C. MAINTENANCE: The Association shall maintain the property in compliance with all applicable laws and ordinances of the Village of Schaumburg and all governmental bodies having jurisdiction over the Property, as such laws and ordinances may be amended and enforced from time to time. Without limiting the foregoing, the Association shall:

1. maintain the property free from accumulation of debris and growth of weeds;

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2. maintain all buildings and structures in accordance with applicable building, safety and other codes and ordinances;

3. maintain all parkway areas on dedicated rights of way as a Common Expense; and

4. otherwise maintain the Common Elements in such manner as to not be detrimental to the health, safety and welfare of the residents of the Village of Schaumburg and the residents of the townhomes and members of the Association.

If the Association fails to comply with any of the foregoing requirements, the Village of Schaumburg shall have the right (but shall not be obligated) to give notice to the Association of its failure to perform its obligations under this Section. If such notice is given and the Association does not perform to the satisfaction of the Village of Schaumburg within thirty days after the giving of such notice, then the Village of Schaumburg may (but shall not be obligated to) enter upon the Property and perform any and all work which it deems necessary and appropriate, either directly or through contractors engaged by the Village of Schaumburg. The Association shall, upon demand, reimburse the Village of Schaumburg for the reasonable cost of such work and if payment is not made within thirty days after demand, then, with respect to such Unit, the amount due shall become a lien on the Unit Ownership. Each such lien shall be subordinate to the lien of the First Mortgage on the Unit Ownership, but shall be superior to the Association's assessment lien with respect to the Unit Ownership for assessments which become due after the date on which the Village of Schaumburg's lien attaches to the Unit Ownership. At the request of the Village of Schaumburg, the Association shall levy a special assessment for the payment of any such amounts which become due to the Village of Schaumburg and the Village of Schaumburg shall have the right to seek an injunction causing the Association to make such a special assessment or, in the alternative, to record an appropriate notice of lien against all of the Unit Ownerships and to foreclose any such lien as provided for or permitted under applicable law.

**D. PARKING REGULATIONS:** The Village of Schaumburg shall have the right and power to pass ordinances regulating traffic flow, fire lanes and "no parking" areas with respect to the Common Elements. The Village of Schaumburg shall have the right and power to issue citations to persons violating any such ordinances and/or to cause violating automobiles to be removed from the Property in the event of a parking violation.

**E. LIMITATION OF LIABILITY/INDEMNITY:** If the Village of Schaumburg comes upon the Property pursuant to the rights, powers and easements granted or provided for in this Declaration the following shall apply:

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1. If the Village of Schaumburg deems it necessary or appropriate to excavate in order to repair driveways, sidewalks or utilities for which it is responsible, the Village will only be required to fill the excavated hole to ground level (after settling) and the Association shall be responsible for seeding or sodding the filled area. The Association shall be responsible for repairing any other damage caused to the Condominium Property as a result of or in connection with any repair of streets, sidewalks and utilities by the Village of Schaumburg, and neither the Association nor any Owner shall have any claim against the Village for the cost of any such repair work; and

2. If a leak occurs in a utility line at a point which is at or near the point where Village ownership of the line ends and the line becomes part of the unit, the repair of the line and any related work done will be performed and costs thereof shall be paid in the manner in which such matters are then performed and paid for under ordinances, procedures or policies properly adopted by the Village of Schaumburg with respect to such occurrences and in effect at such time.

The Village of Schaumburg shall not be liable to the Association or any Owner for any claims, damages or other causes of action relating or resulting from action taken by the Village of Schaumburg pursuant to the rights, powers and easements granted to the Village of Schaumburg in this Declaration. The Association shall indemnify and hold the Village of Schaumburg harmless from any claims, damages or causes of action made by an Owner against the Village of Schaumburg relating to any exercise by the Village of Schaumburg of the rights, powers and easements granted to the Village of Schaumburg in this Declaration.

## ARTICLE XIII MISCELLANEOUS PROVISIONS

A. No provision of the Declaration relating to changing of the plans or concept of the development shall be made without the Village of Schaumburg's approval.

B. Within 12 months of the issuance of the initial occupancy permit for units to be constructed by Town & Country Homes, an informal general meeting shall take place. All unit owners will be invited and thereafter these meetings shall take place not less than annually until the first formal meeting of the Association is held. Unit owners will select potential future Board of Directors-candidates who would form an informal board and meet semi-annually with the first board.

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C. All Association meetings shall be held within the limits of the Village of Schaumburg.

D. Individual utility meters shall be provided for the units in lieu of a master meter.

E. Storage of vehicles or R.V. are not allowed in spaces designated for public parking.

F. These Covenants, Conditions and Restrictions and Association By-Laws are subservient to ordinances and regulations of the Village of Schaumburg.

G. The Association shall have an annual audit of its financial records.

H. Each unit owner shall receive a complete listing of all land, building, equipment, facilities and other holdings of the Association, or those proposed, and a complete description of each.

I. Developer shall provide to homebuyer information setting forth a time schedule for the maintenance of major facilities, including streets, street signs, sidewalks, parking areas and buildings. An annual maintenance program shall be established and funds budgeted.

J. The developer shall be assessed for all unsold units on the same basis as sold units.

K. The developer shall supply to prospective buyers the following information regarding the Association, assessments, and fiscal program.

1. Organizational structure of the Association;
2. Membership and voting rights of homeowners and developer;
3. Requirements for dissolution;
4. The formula for the maximum amount of assessments, the assessment lien, and the method of enforcement;
5. Method of changing the maximum assessment;
6. Optional facility of program-user fees, if any;
7. Services provided by the Association;
8. Exterior maintenance of dwellings, if any;
9. Architectural control.



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L. Developer shall provide to the homebuyer a review and administrative program which details the procedures to be used in organizing and administrating the community association's affairs. The program will include:

1. Selection of the board of directors;
  2. Topics of initial board meetings;
  3. Submission of policies adopted at initial board meeting;
  4. Management technique utilized in running a community association;
  5. How services are to be provided while (developer) is in control;
  6. How service levels can be maintained during the control transition period.
  7. Establishment of operating and sinking fund accounts.
  8. How formal control will be transferred, including the transmission of an audited set of books to the new homeowners' association officers.
  9. How education of the homeowners on association's operations is to be accomplished.
  10. Management procedures, contracts, etc. to be in place at turnover.
  11. Training to be made available to Homeowners Association officers as a prelude to turnover (CAI courses, auditor training, etc.).
  12. List and status of documents and records to be turned over.
  13. Requirement that organization is running under the Covenants, Conditions and Restrictions prior to turnover.
  14. Participation of Homeowners Association in functioning prior to turnover.
- M. Developer shall in the transitional turnover designate a member of his staff to become liaison between himself and homeowners and furnish information outlining the following:
1. Schedule educational meetings to be held explaining to new owners the operation and budget of the Association.

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2. The proposed schedule for phasing control of community association operation.
3. A program for establishing community associations' functions, including provisions of services, budgetary management, and building or reserve funds.
4. A program describing how these functions can be made continuous through the transition period.
5. A program for covenant enforcement that can be continued after homeowner control.
6. A program establishing when homeowners will be authorized to have a walk-through inspection tour of all common elements and have a description of warranty on same.
7. The Association of owners must be established before the first unit closing.
8. Mandatory membership of all owners within the development is required in the association and the owners have an obligation to share the responsibility for the expenses incurred by the Association in meeting its responsibilities.
9. Responsibilities of the Association are to include obtaining appropriate property, casualty and liability insurance covering the common areas and Association activities, as well as responsibility for meeting the obligation of payment of local taxes, where applicable.

IN WITNESS WHEREOF, <sup>Midwest Trust Services, Inc.,  
Successor Trustee</sup> The Midwest Bank and Trust Company, as Trustee under a Trust Agreement dated December 23, 1992 and known as Trust No. 92-6419 has authorized these presents to be signed by its Vice President and its corporate seal to be hereto affixed and attested by its Trust Officer this 8<sup>th</sup> day of AUGUST, 1996.

By: Emily S. Mentore  
LAND TRUST ADMINISTRATOR

ATTEST

Margaret M. Suck  
LAND TRUST ADMINISTRATOR

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THIS RIDER IS ATTACHED TO AND MADE PART OF CERTAIN DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS DATED AUGUST 8, 1996  
AND EXECUTED BY MIDWEST TRUST SERVICES, INC., SUCCESSOR TRUSTEE  
TO MIDWEST BANK AND TRUST COMPANY, UNDER TRUST AGREEMENT #92-6419:

It is expressly understood and agreed by and between the parties hereto that each and all of the warranties, indemnities, representations, covenants, and undertakings and agreements herein made on the part of the trustee are made and intended, not as personal warranties, indemnities, representations, covenants, undertakings and agreements of Midwest Trust Services, Inc. as Successor Trustee to Midwest Bank & Trust Company, but are made and intended for the sole purpose of binding the trust property, and this document is executed and delivered by said Midwest Trust Services, Inc., as Successor Trustee to Midwest Bank and Trust Company, not in its' own right, but as trustee solely in the exercise of the power that conferred upon it as such trustee and no personal liability or personal responsibility is assumed by, nor shall at any time be asserted or be enforceable against Midwest Trust Services, Inc., as Successor Trustee to Midwest Bank and Trust Company on account of any warranties, indemnities, representations, covenants, undertaking or agreement therein contained, whether expressed or implied, all such personal liability, if any, being expressly waived and released by the parties hereto and by all persons claiming by, through and under them.

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Aug 17 1996



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STATE OF ILLINOIS )  
 )  
COUNTY OF COOK )

I, CINDY SYDOR a Notary Public in and for  
said County and State, do hereby certify that EMILY S. MENTONE

LAND TRUST ADMINISTRATOR and MARGARET M. TRUSCHKE,  
LAND TRUST ADMINISTRATOR,

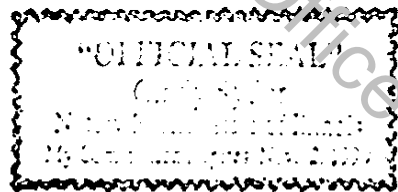
respectively of WINDVEST TRUST SERVICES, INC.  
personally known to me to be the same persons who has are subscribed to  
the foregoing instrument as such L.T.A.

and L.T.A., appeared before me this day in  
person and acknowledged that they signed, sealed, delivered said instrument  
as their free and voluntary act, and as the free and voluntary act of said  
corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8TH  
day of AUGUST, A.D., 1996

Cindy Sydor  
Notary

My Commission expires:  
11-2-99



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LOTS 1, 2, 3, 4, AND 5 IN BLOCK 1, LOTS 6, 7, 8, 9, 10 AND 11 IN BLOCK 2, LOTS 12, 13, 14, 15, 16 AND 17 IN BLOCK 3, LOTS 18, 19, 20, 21, AND 22 IN BLOCK 4, OUTLOT 23, OUTLOT 24, OUTLOT 25, OUTLOT 26 AND OUTLOT 27 IN TUSCANY ON THE POND, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 16, 1997 AS DOCUMENT NO. 97768943, IN THE VILLAGE OF SCHAUMBURG, IN COOK COUNTY, ILLINOIS.

UNDERLYING PIN 07-14-403-013-0000

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