

Table of Contents

This page is not present in the original document but is provided in order to make navigating this document easier.

ARTICLE I RECITALS, EXHIBITS AND DEFINITIONS 2

ARTICLE II SITE PLAN 4

ARTICLE III MEMBERSHIP AND VOTING RIGHTS..... 5

**ARTICLE IV PROPERTY RIGHTS IN THE COMMON PROPERTIES AND OTHER
EASEMENTS 6**

ARTICLE V MAINTENANCE OBLIGATIONS..... 7

ARTICLE VI COVENANT FOR ASSESSMENTS 10

ARTICLE VII COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY. 13

**ARTICLE VIII SPECIFIC COVENANTS, CONDITIONS AND RESTRICTIONS
RELATING TO THE PROPERTY 15**

ARTICLE IX SPECIAL SERVICE AREA..... 17

ARTICLE X REMEDIES 18

ARTICLE XI ADD-ON PROPERTY..... 19

ARTICLE XII RIGHTS OF DECLARANT 19

ARTICLE XIII GENERAL PROVISIONS 21

1999K117074

FILED FOR RECORD
KANE COUNTY, ILL.

1999 DEC 10 PM 3:15

Lynda M. Reina
RECORDER

470004

**THE CHESTERFIELD HOMEOWNERS ASSOCIATION, INC.,
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

W/E 3/30/8
S/E

THIS CHESTERFIELD HOMEOWNERS ASSOCIATION, INC., DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made as of this 15th day of ~~November~~, 1999, by CENTEX HOMES, a Nevada general partnership, which has a mailing address of 150 West Center Court, Schaumburg, Illinois 60195 ("Declarant").

WHEREAS, Declarant is the owner of that certain real estate situated in the Village of North Aurora, County of Kane, State of Illinois legally described on the attached Exhibit A (the "Property");

WHEREAS, the Declarant has heretofore constructed or is about to construct the Facilities upon the Common Properties;

CHSTFDI-1 (*)
CHSTFD2-1 (*)

WHEREAS, Declarant has subdivided, or intends to subdivide certain Lots, and proposes to have said Lots and the underlying land submitted to the provisions of this Declaration and to offer the Lots and/or Dwellings constructed on the Lots and underlying land therein for sale;

WHEREAS, all of the Facilities are intended to serve the residents of each of the Dwellings and Lots as well as the residents of any additional buildings which may hereafter be constructed on the Property;

CHSTFDI-1 (*)
CHSTFDI-2 (*)

WHEREAS, subject to the provisions of this Declaration, certain of the Facilities are also intended to serve the residents or owners of certain adjoining property not a part of the Property, which adjoining property is legally described on the attached Exhibit B (the "Adjoining Property"); and

WHEREAS, Declarant deems it desirable for the efficient preservation of the value of the Property and of the improvements and amenities constructed thereon to create an agency for the

1999 K 117074

45

 *Chy 5600*
CHICAGO TITLE INSURANCE CO.
Kane County Office
Germansville, Illinois 60134
Phone 232-2750

purpose of maintaining and administering the Facilities, and such additional facilities as may be constructed on the Property and which are classified, pursuant to the terms hereof as Common Properties, and for the purpose of administering and enforcing the covenants, conditions and restrictions and collecting and disbursing the assessments and the charges hereinafter created, and has therefore caused, or will cause, to be incorporated, under the laws of the State of Illinois, a not-for-profit corporation, the corporate title of which is The Chesterfield Homeowners Association, Inc., or similar name, for the purpose of performing those functions hereinabove set forth.

NOW THEREFORE, Declarant does hereby declare that the Property shall be transferred, held, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I RECITALS, EXHIBITS AND DEFINITIONS

Section 1. Incorporation of Recitals. The foregoing recitals are incorporated into this Declaration as if frilly recited herein.

Section 2. Incorporation of Exhibits. The Exhibits attached to this Declaration and listed below are by this reference made a part of this Declaration:

- Exhibit A: Property
- Exhibit B: Adjoining Property
- Exhibit C: By-Laws
- Exhibit D: Add-On Property

Section 3. Definitions. For the purpose of this Declaration, the following definitions shall control:

- (a) Association. The Chesterfield Homeowners Association, Inc. (or similar name), an Illinois not-for-profit corporation, and its successors and assigns.
- (b) Board. The Board of Directors of the Association selected pursuant to the terms of this Declaration, the Articles of Incorporation of the Association and the By-Laws thereof.
- (c) By-Laws. The By-Laws of the Association, a copy of which is attached hereto and made a part hereof as Exhibit C and by reference incorporated herein as if fully set forth.
- (d) Common Properties. All of the Property, including but not limited to the recreational areas, except the Dwellings and such other areas designated in any Supplementary Declaration created pursuant to the provisions of Article XI hereof.

(e) Condominium Owner. The person, persons or entities whose estates or interests individually or collectively aggregate fee simple absolute ownership of a condominium unit in the Condominium Property and all family members, heirs, successors, assigns and/or contract purchasers of such owner, but excluding those who have an interest merely as security for the performance of an obligation.

(f) Condominium Owner. The real estate contiguous to the Property, also owned by Declarant, which is subject to the provisions of the Illinois Condominium Act and is part of the Add-On Property.

(g) Declaration. This instrument, which may sometimes be referred to in other documents as The Chesterfield Homeowners Association, Inc., Declaration of Covenants, Conditions and Restrictions.

(h) Dwelling. A single residential housing unit constructed on the Property consisting of a group of rooms which are designated or intended for the exclusive use as living quarters.

(i) Facilities. (i) The Stormwater Detention Facilities; (ii) All facilities for the preservation and maintenance of wetlands on the Property pursuant to any applicable wetlands permits or wetlands easements affecting the Property; and (iii) All entry monuments, signage, markings or similar installations in, upon, over and under the Common Properties as may appear more fully on the Plat or as is otherwise determined necessary with respect to the foregoing by Declarant or the Association, as the ease may be.

(j) First Mortgagee. The holder of a bona fide first mortgage, first trust deed or equivalent security interest covering a Lot. A person or entity shall not qualify as a Mortgagee hereunder if such person is related to an Owner or such entity, whether a corporation, trust partnership or other entity, has majority ownership or control by an Owner or a party related to an Owner. For purposes of determining who is a party related to an Owner, a related party shall include, without limitation, a member of the Owner's immediate family, including, a spouse, child, parent, brother, sister, half-brother or half-sister or any ancestor or lineal descendant.

(k) Landscape Buffer Easement. That certain fifty (50) foot easement south of Butterfield Road, as more specifically shown on the Plat.

(l) Lot. Each subdivided lot as set forth on the Plat or so designated in any Supplementary Declaration created pursuant to the provisions of Article XI hereof.

(m) Mortgage. A mortgage or trust deed owned and held by a First Mortgagee.

(n) Owner. The person, persons or entities whose estates or interests individually or collectively aggregate fee simple absolute ownership of a Dwelling and/or the underlying Lot and all family members, heirs, successors, assigns and/or contract purchasers of such Owner, but excluding those who have an interest merely as security for the performance of

an obligation. Unless expressly set forth herein to the contrary, the term Owner shall include Declarant to the extent of the number of Lots owned by Declarant.

(o) Plat. Those certain plats of subdivision dated November 8, 1999, prepared by Midwest Technical Consultants, Inc. and recorded in Kane County, Illinois on Neighborhood 1, Unit 1 as Document No. 1999K106506, Neighborhood 1, Unit 2 as Document No. 1999K106507, Neighborhood 1, Unit 4 as Document No. 1999K106508 and Neighborhood 2, Unit 1 as Document No. 1999K1D6509.

(p) Property. The real estate hereinabove described or so designated in any Supplementary Declaration created pursuant to the provisions of Article XI hereof.

(q) Stormwater Detention Facilities. All on-site facilities, improvements, retention and detention areas, drainage swales and all areas necessary for the management of stormwater and the uninterrupted flow of water from the Property in, upon, over and under those portions of the Common Properties, identified on the Plat as Lot 294, established pursuant to final engineering plans as approved by the Village or as is otherwise determined necessary with respect to the foregoing by Declarant or the Association, as the case may be.

(r) Village. The Village of North Aurora, State of Illinois, an Illinois municipal corporation, and its successors or assigns.

(s) Wetlands Easement. That certain wetlands easement to be granted to the U.S. Army Corps of Engineers in, upon, over and under those portions of the Common Properties identified on the Plat as Lot 295.

(t) Wetlands Permit. That certain permit to be issued by the U.S. Army Corps of Engineers dealing with the wetlands as more particularly defined in such permit (the "Wetlands").

ARTICLE II SITE PLAN

Section 1. Site Plan. Declarant in accordance and in compliance with Village requirements, has created a site plan for the development of the Property by the implementation of which modern master planning objectives may be realized for the common good and enhancement of property values within the community. Each Owner shall be deemed to have acknowledged by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, that Declarant has substantial interest to be protected with regard to assuring compliance with and enforcement of, the covenants, conditions, restrictions and reservations contained in this Declaration and any amendments or supplements thereto.

Section 2. Limitations on Subdivision. Nothing in this Declaration shall limit, and no Owner or the Association (including the Board) shall do anything to interfere with the right of Declarant to subdivide or resubdivide any portion of the Property owned by Declarant, to

complete excavation and grading and construction of improvements on the Property or on the Common Properties, to alter the foregoing or Declarant's construction plans and designs, or to construct such additional improvements as Declarant deems advisable in the course of development of the Property so long as any portion of the Property is owned by Declarant. Such right shall include, without limitation, grading of the Property, and erecting, constructing and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of its business, construction of improvements and the sale, lease or other conveyance of Lots and/or Dwellings. Subject to Article XIII, Section 9 hereof this Declaration shall not limit the right of Declarant to establish on the Property additional licenses, easements, reservations and rights-of-way for itself, utility companies or other third parties, as may be reasonably necessary to the proper development and sale or transfer of all or portions of the Property; provided that Declarant's exercise of such rights does not adversely affect existing improvements located on any Lot, or adversely and materially impair the usability of the Lot by the owner of the Lot for its intended use as a single residential Lot. Declarant need not seek or obtain the approval of the Association for any improvement constructed or placed by Declarant on any portion of the Property. All or any of the rights of Declarant in this section and elsewhere in this Declaration may be assigned by Declarant.

Section 3. Right to Landscape. Notwithstanding the provisions of Article V, Section 1 with respect to the obligation of the Association to maintain the Common Properties, Declarant reserves for the entire term of this Declaration the right, at Declarant's cost and expense, to landscape the Common Properties, subject to applicable laws, statutes, ordinances and regulations.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is a part of the Property shall, as a condition to holding fee simple title to any such Lot, be a member of the Association and shall remain as such so long as such individual or entity remains an Owner of a Lot. Upon the termination of the interest of an Owner in a Lot, that individual's or entity's membership shall thereupon automatically terminate as to such Lot and shall transfer and inure to the Owner succeeding to the interest of such individual or entity. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

Section 2. Voting. The Association shall have two (2) classes of voting membership:

(a) Class A. Class A members shall be all Owners (except Declarant) and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. 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.

(b) Class B. The Class B member shall be Declarant and shall be entitled to three (3) votes for each Lot owned; provided, however, Declarant shall be entitled to only (1) vote per Lot upon the earliest to occur of the following events:

- (1) in the event all of the Add-On Property has been subjected to the terms of this Declaration, when seventy-five percent (75%) of the Lots have been sold and conveyed by Declarant to purchasers ("75% Date");
- (2) in the event less than all of the Add-On Property has been subjected to the terms of this Declaration, five (5) years after the 75% Date, unless any portion of the Add-On Property is subjected to the terms of this Declaration after the 75% Date and prior to the expiration of the five (5) year period that, when including such portion of the Add-On Property, causes less than seventy-five percent (75%) of the then existing Lots to be sold and conveyed by Declarant to purchasers;
- (3) ten (10) years after the date the first Lot is conveyed by Declarant to a third party purchaser; or
- (4) upon written notice of election by Declarant sent to the Association as of the date specified in said notice.

ARTICLE IV PROPERTY RIGHTS IN THE COMMON PROPERTIES AND OTHER EASEMENTS

Section 1. Members' Rights of Enjoyment. Subject to (i) the rights and remedies of Declarant and the Association, and (ii) the covenants, conditions and restrictions, contained in this Declaration, each Owner shall have a right and easement in and to the Common Properties and the Facilities in common with all other Owners and such rights and easements shall be appurtenant to and pass with the title to every Lot. Such rights and easements shall inure to the benefit of each Owner and each Owner's family, guests, invitees, and contract purchasers.

Section 2. Title to Common Properties. On or before the conveyance of the first Lot or Dwelling to a third party purchaser, Declarant shall convey the Common Properties and the Facilities to the Association. After such conveyance, the Association shall own, hold, maintain and administer the same, and bear the cost thereof, for the uses and purposes and upon the terms and conditions set forth herein

Section 3. Common Properties and Facilities Easement. Subject to all of the covenants, conditions and restrictions contained herein, except for the obligation for payment of any assessments hereunder or the payment of any other fees for the maintenance of the Common Properties and the Facilities, there is hereby created a non-exclusive perpetual easement upon,

over and in the Common Properties and the Facilities, for the benefit of the Owners, for the use and enjoyment of the Common Properties and the Facilities.

Section 4, Access Easement. Subject to all of the covenants, conditions and restrictions contained herein except for the obligation for payment of any assessments hereunder or the payment of any other fees for the maintenance of the Common Properties and the Facilities, there is hereby created a non-exclusive perpetual easement appurtenant to and for the benefit of the Condominium Property and the Condominium Owners over, in, upon and across the bike path and footbridge located within Lot 295, as well as the surrounding Common Properties and Facilities, for the use and enjoyment of such bike path, footbridge and the surrounding Common Properties and Facilities.

ARTICLE V MAINTENANCE OBLIGATIONS

Section 1. Common Properties and Facilities. It shall be the sole responsibility of the Association to maintain and, after conveyance by Declarant, own, operate and maintain the Common Properties and the Facilities. Each Owner's deed shall state the Owner's liability for maintenance of the Common Properties and the Facilities; provided, however, whether or not such deed shall contain such statement, each Owner shall bear his proportion of responsibility and cost for the continued maintenance, operation and preservation of the Common Properties and the Facilities, both on the surface and underground, and the preservation of the hydraulic characteristics of the Stormwater Detention Facilities. Subject to Article VIII hereof, all Stormwater Detention Facilities shall be maintained in perpetuity and cannot be developed for any other use which would limit or cause to limit their use and function for the management of stormwater.

Section 2. Additional Association Obligations. The Association shall also be solely responsible for the maintenance, repairs and/or replacement of the following on or relating to the Property:

- (a) the following types of insurance:
 - (1) insurance on the Common Properties against loss or damage by fire and against loss or damage by risks now or hereafter embraced by standard extended coverage and vandalism and malicious mischief endorsements and as reasonably required by First Mortgagees in an amount sufficient to prevent the insured from being a co-insurer within the terms of the applicable policies, but in any event in an amount not less than one hundred percent (100%) of the full insurable replacement cost thereof. The "full insurable replacement cost" of the Common Properties shall be determined from time to time by the Board, which determination may be based upon appropriate insurance appraisals. The cost of

any and all such appraisals shall be included in determining the assessments payable by the Owners hereunder;

- (2) comprehensive public liability and property damage insurance against claims for personal injury or death or property damage suffered by the public or by any Owner occurring in, on or about the Common Properties or upon, in or about the streets and passageways and other areas adjoining the Common Properties, such public liability and property damage insurance to afford protection to such limits as the Board shall deem desirable (but in no event for less than One Million Dollars (\$1,000,000.00) with respect to liability for personal injury or property damage arising out of a single accident);
- (3) such workman's compensation insurance as may be necessary to comply with applicable laws;
- (4) employer's liability insurance in such amount as the Board shall deem desirable;
- (5) in the event that the Property is situated in a flood plain or is subject to special flooding hazards, flood insurance in such amounts as the Board shall deem desirable; and
- (6) such other insurance (including insurance with respect to officers' and directors' liability) in such reasonable amounts as the Board shall deem desirable;

(b) all standard vegetation, lawns, landscaping, berms, fencing and pathways or walkways, if any, on the Property (but excluding the Lots except as provided herein) planted or installed by Declarant or the Association, including, but not limited to, the landscaped center median at the Butterfield Road-Pine Creek Drive entranceway;

(c) any property owned or leased solely by the Association;

(d) Lots 291, 292, 294 and 295 as shown on the Flat;

(e) the Landscape Buffer Easements as shown on the Plat (provided, however, that the Owner shall be responsible for maintaining the area south of the fence installed by Declarant within the Landscape Buffer Easements, if such easements affect such Owner's Lot);

(f) the bike path located within Lot 295;

(g) the maintenance, restoration, replacement and repair of the fencing along Butterfield Road;

(h) the maintenance, restoration, replacement and repair of all grass on the Property (excluding the Lots) as well as the grass on the Property or Lots located to the north of the fencing along Butterfield Road;

(i) such other items as the Association may hereinafter deem appropriate, including, without limitation, planting, landscaping or improving any part of the Property adjacent to the Lots.

Section 3. Owner Obligations. Each Owner shall be responsible for the maintenance, repairs and/or replacement of the following on such Owner's respective Lot:

(a) insurance on the Dwelling in the full replacement cost thereof consisting of, or providing all the protections afforded by, the insurance now generally described as fire, extended coverage, with additional extended coverage, vandalism and malicious mischief, as well as insurance on such Owner's personal property and belongings and comprehensive public liability insurance, including liability for injuries to and death of persons, in such limits as Owner deems desirable;

(b) all vegetation, landscaping, trees, shrubs, fencing, if any, on a Lot planted or installed by Owner or Declarant;

(c) all decorating and furnishings within each Owner's Dwelling, including painting, wallpapering or other wall covering, paneling, floor covering, light fixtures and other furnishings and interior decorating, and any window coverings, whether by draperies, shades or other items visible on the exterior of the Dwelling, which shall be subject to the rules and regulations of the Board;

(d) the maintenance, restoration, replacement and repair of the roof of the Dwelling, as well as the maintenance of the interior surfaces of all perimeter walls of the Dwelling and the surfaces of all floors, ceilings and stairways therein;

(e) the interior and exterior surfaces of the Dwelling, and other improvements on a Lot (including patios), including without limitation, periodic painting, caulking and the maintenance, restoration, replacement and repair of masonry, siding, chimneys and trim of the Dwelling;

(f) the driveway and sidewalk located in front of a Lot (including snow removal on such driveway and sidewalk), front yard and back yard located on a Lot provided, however, that Declarant shall be responsible for maintaining the fence and the area north of the fence installed by Declarant within the Landscape Buffer Easements, if such easements affect a Lot); and

(g) such other items as the Association may hereinafter deem appropriate.

Section 4. Additional Owner's Obligations. Notwithstanding anything stated herein to the contrary, in the event any property; building or other item which it is the obligation of the Association to maintain is damaged or destroyed by the negligent or willful acts or omissions of

any Owner, it shall be such Owner's obligation to promptly repair or replace such property, building or other items to the same condition as existed prior to such damage or destruction.

Section 5. Proceeds Used for Restoring. If an entity that is a federal agency or is federally related is insuring, guaranteeing or holding the Mortgage encumbering a Dwelling, then, in the event of damage or destruction of such Dwelling, such entity shall allow the proceeds of any insurance required under Article V, Section 3 hereof to be utilized in restoring the Dwelling to the condition in which it was prior to the damage or destruction.

ARTICLE VI COVENANT FOR ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation for Assessments. Declarant, for itself and its successors and assigns, and each Owner by the acceptance of a conveyance of any portion of the Property, whether or not it shall be so expressed in any deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (a) annual assessments or charges; and (b) special assessments for capital improvements or other purposes, such annual and special assessments being fixed, established and collected, from time to time, as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the Property and shall be a continuing lien upon the Lot or portion of the Property, and improvements against which or with respect to which such assess merit is made. Each such assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal, joint and several, obligation of the person, persons or entities who was or were the Owner of such portion of the Property at the time the assessment was due and payable. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of such Owner's Lot. No sale or transfer shall relieve any Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 2. Purpose of Assessments. The annual assessments and any special assessments levied by the Association shall be used exclusively for those matters stated in Article V hereof, for the purpose of promoting the health, safety and welfare of the residents on the Property, and, in particular, for the administrative and management expenses of the Association and for the improvement and maintenance of properties, services and facilities devoted to the purpose of, and related to, the use and enjoyment of the Common Properties as stated herein, including, without limitation, the payment of taxes, utilities and insurance thereon, the repair, replacement, maintenance, security and operation thereof, construction of additions thereto, the cost of labor, equipment, materials, management and supervision thereof and the establishment of accounts for future needs pursuant to the By-Laws.

Section 3. Basis of Assessments. The Association shall, in accordance with the By-Laws, fix the assessment at such amount as the Association estimates to be necessary to meet the expenses of the Association and shall notify each Owner of such Owner's proportionate share

thereof. Such amounts shall be due from and payable by each Owner at such times as the Board shall reasonably determine,

Section 4. Date of Commencement of Assessments. Each Owner shall commence to pay such Owner's proportionate share of the assessment on the date on which such Owner purchases and takes title to a Lot. The assessment with respect to any Lot shall be adjusted according to the number of months remaining in the period for which the assessment is applicable following such commencement and shall be payable upon the purchase of a Lot or in installments as determined by the Board in its sole discretion,

Section 5. Initial Assessments. Upon the purchase of a Lot, each Owner (other than Declarant) shall pay to the Association an initial assessment equal to six (6) months of the annual assessment established from time to time by the Association as initial working capital to be deposited with the general funds of the Association and to be used by the Association. Said payment shall be deemed to be the property of the Association and shall not be refundable or applied as a credit against any subsequent assessments. No Owner shall have any vested or other rights with respect to any such payments.

Section 6. Subsequent Assessments. If the Board deems it necessary or appropriate, it shall, from time to time, estimate the total amount which will be required during any period designated by the Board for (i) the matters specified in Section 2 of this Article VI, and (ii) monies for Contingencies, replacements, extraordinary expenditures and similar matters (the "Cash Requirement"), and shall notify each Owner in writing of such amount, with reasonable itemization thereof, and Containing each Owner's respective assessment therefor. Said Cash Requirement shall be assessed to the Owners of each Lot by utilizing the following percentage for each such lot: 1/Total Number of Lots on the Property (excluding those specified in Section 10 of this Article VI). On or before the twentieth (20th) day after the delivery of the foregoing notice, each Owner, jointly and severally, shall be personally liable for and obligated to pay the Board the assessments made pursuant to this Section 6. If the Cash Requirement proves inadequate for any reason for the period so designated by the Board, then the Board shall prepare a supplemental budget covering the estimated deficiency, copies of which shall be furnished to each Owner, and thereupon a separate assessment shall be made to each Owner for its proportionate share of such supplemental budget, which shall be due and payable on the date specified in the notice of the adjusted assessment. All Owners shall be personally liable for and obligated to pay their respective adjusted assessment. If the Cash Requirement accumulated in any given year exceeds the amount required for actual expenses and monies for contingencies and replacements for the period covered by the assessment, such excess shall be applied to expenses and/or such monies for the subsequent period. Notwithstanding the foregoing, the approval of at least two-thirds of each class of members at a meeting called for that purpose with at least sixty percent (60%) (or, if sixty percent (60%) do not attend the first meeting, a second meeting called with at least thirty percent (30%)) of the Owners or their proxies present after notice as provided in the By-Laws is required for an increase in the annual maximum assessment or the levying of a special assessment; provided, however, the Board shall have the power to increase the maximum annual assessment without a vote of the members, so long as such increase does not exceed five percent (5%) of the previous year's maximum assessment.

Section 7. Status of Collected Funds. All funds collected hereunder shall be held and expended by the Association for the purposes designated herein.

Section 8. Remedies for Failure to Pay Assessments. Each Owner shall pay its proportionate share of any Cash Requirement and any other expenses required pursuant to the terms hereof. If an Owner fails to pay the assessments, adjusted assessments or any other expenses required to be paid hereunder when due, the amount thereof, together with all costs and expenses incurred by the Association in collecting said amounts (including court costs and attorneys' fees) and all damages, together with interest on the foregoing assessments, costs and expenses at the greater of: (a) the rate of six percent (6%) per year, and (b) the maximum rate permitted by an entity that is a federal agency or is federally related that is insuring, guaranteeing or holding the mortgage encumbering a Dwelling, until paid, shall be charged to and assessed against such defaulting Owner, and the Association shall have a lien, as of the date the assessment, adjusted assessment or other expense is due, for all of the same upon the Lot owned by such defaulting Owner and upon all additions and improvements to said Lot. In addition to the foregoing, the Association shall have such rights and remedies to enforce the collection of the foregoing amounts as shall be provided or permitted by law or equity from time to time, including, without limitation, the right to bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot and any additions or improvements thereon.

Section 9. Subordination of Lien to a Mortgage. Notwithstanding anything to the contrary contained in this Declaration, the lien provided in the preceding Section 8 shall be subordinate only to (i) taxes, special assessments and special taxes levied, either before or after the date of the failure to pay the assessments or expenses provided herein, by any political subdivision or municipal corporation of Illinois and other state or federal taxes which by law are a prior lien on the interest of such Owner, and (ii) the lien of a Mortgage on the interest of the Owner in any such Lot. Notice is hereby given to all mortgagees that paid assessment letters should be obtained from the Association before funding your loan.

Section 10. Exempt and Partially Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein;

(a) All properties not otherwise comprising a Lot which are dedicated to and accepted by a local public authority or public utility company.

(b) Any other provision of this Declaration notwithstanding, all properties not otherwise comprising a Lot which are dedicated to and accepted by the Village shall not be subject to the terms and conditions of this Declaration.

(c) Any other provision of this Declaration notwithstanding, any Lot and/or Dwelling owned by Declarant.

Section 11. Books and Records. The Board shall keep full and correct books of account in chronological order of the costs and expenses incurred by the Association as provided herein, together with all receipts and invoices relevant thereto. Such records, receipts and

invoices, as well as a copy of this Declaration and the Articles of Incorporation of the Association, shall be available for inspection by the Owner or any First Mortgagee at the office of the Association, if any, at such reasonable time(s) during normal business hours as may be requested by the Owner or First Mortgagee.

Section 12. Fees for Services. Pursuant to those powers set forth in the By-Laws, the Association shall have the right to hire or employ a management or other professional organization to manage the day-to-day operations of the Association and other professionals and service providers including, without limitation, accountants and attorneys.

ARTICLE VII COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

Section 1. Covenants, Conditions and Restrictions. The Dwellings and the Property shall be owned, occupied and used subject to the following covenants and restrictions:

(a) Use. No part of the Property shall be used for other than housing and related common purposes for which the Property was designed. The parking spaces and driveways shall be used for parking operable automobiles, motorcycles and other motor vehicles and for no other purposes, subject to such reasonable rules and regulations as may be adopted by the Board. Campers, trailers, vans, pick-up trailers, recreational vehicles, and other types of non-passenger vehicles and accessories (but not including non-business use "mini-vans"), including boats and snowmobiles, shall be stored in garages only. The Board may authorize such vehicles and items parked in violation of this provision to be towed away and any such towing charge shall become a lien on the Owner if he owns the vehicle or item.

(b) Obstruction of the Property and Dwelling Maintenance. There shall be no obstruction of the Property nor shall anything be stored in, on under or above the Property without the prior written consent of the Board except as herein expressly provided. Each Owner shall be obligated to maintain and keep in good order and repair his own Dwelling.

(c) Accessory Structures and Room Additions. Any other term of this Declaration notwithstanding (i) no addition or modification to any Dwelling shall encroach onto established rear yard setbacks shown on the Plat and (ii) no sheds, pools or other accessory structures shall be constructed, erected or maintained on any Landscape Buffer Easement or utility easement shown on the Plat.

(d) Owner's Insurance. All Owners shall be responsible for their own insurance on their personal property in their own Dwellings, their personal property stored elsewhere on the Property and their personal liability insurance to the extent not covered by the liability insurance for all the Owners obtained by the Board as hereinbefore provided.

(e) Pets. No animals, reptiles, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Dwelling or in the Property, except that up to two (2) total dogs, cats, or other usual household pets may be kept in Dwellings, subject to rules and

regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purposes, and provided further that any such pet kept in violation of rules and regulations adopted by the Board or causing or creating a nuisance or unreasonable disturbance (after causing more than one (1) violation) shall be permanently removed from the Property upon three (3) days' written notice from the Board.

(f) Nuisances. No noxious or offensive activity shall be conducted in any Dwelling or in the Property, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners.

(g) Unsignliness. No clothes, sheets, blankets, laundry or any kind or other articles shall be hung out or exposed on any part of the Property. The Property shall be kept free and clear of rubbish, debris and other unsightly materials, which shall be kept in receptacles provided for such purposes.

(h) Commercial Activities. Except as otherwise provided herein no industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted in any Dwelling. This prohibition shall also apply to the Common Properties unless permission from the Board is obtained.

(i) Signs. Except as specifically set forth in this Declaration, no signs, advertising or other displays shall be maintained or permitted on any part of the Property except (i) one (1) "For Sale" sign no larger than twenty-four inches (24") high and thirty inches (30") wide, (ii) one (1) reasonably sized political sign displayed two (2) weeks before and one (1) week after any scheduled public election date or (iii) signs at such location and in such form, as shall be determined by the Board; provided that the right is reserved by the Declarant and its agents, to maintain on the Property until the sale of the last Dwelling, all models, sales offices and advertising signs, banners and lighting in connection therewith, at such locations and in such forms as Declarant shall determine, together with the right of ingress, egress and transient parking therefor throughout the Property.

(j) Property. Nothing shall be altered or constructed in or removed from the Property, without the prior written consent of the Board.

(k) Exceptions. Nothing herein contained shall be construed in such a manner as to prohibit Owners from: (i) maintaining their professional libraries therein; (ii) keeping their personal business or professional records or accounts therein; or (iii) handling their personal business or professional telephone calls, business or correspondence therefrom provided such business activities are in accordance with all applicable laws, regulations and ordinances and do not include personal visits to the Property from business employees, invitees or guests. Such uses are expressly declared customarily incident to the principal residential use and not in violation thereof.

(l) Fences. No fencing shall be installed in the front yard of any Lot. Fencing may be installed in the back yard of a Lot so long as such fencing is in compliance with

applicable laws, statutes, ordinances and regulations, and is made of the same type of material and is the same color as the fence installed by Declarant along Butterfield Road. Neither Owner nor Association shall change or cause to be changed the fence installed by Declarant along Butterfield Road. Following Declarant's last conveyance of any Lot, the Association may replace the fence along Butterfield Road provided any replacement of the fence along Butterfield Road shall require the use of the same type of material and fencing for the full length of the fencing but such type and material may differ from that installed by Declarant.

(m) Leasing of Dwellings. Any lease or rental agreement concerning an individual Dwelling must be in writing and be subject to the requirements of the Association. No Dwelling may be leased or rented for an initial term of less than six (6) months. A copy of each executed lease or rental agreement shall be supplied to the Board within ten (10) days after the lease is executed and prior to occupancy. The Association is hereby expressly deemed to be a third party beneficiary of any such lease; any violation of the Declaration, By-Laws or rules and regulations shall be deemed a default under such lease entitling the Association to exercise any and all remedies under the lease or available at law or equity, regardless of the Owner's action or inaction in response to such default.

(n) Rules and Regulations. The Association by the Board or its various committees shall have the right to establish rules and regulations concerning the use of the Common Properties and the Facilities.

ARTICLE VIII SPECIFIC COVENANTS, CONDITIONS AND RESTRICTIONS RELATING TO THE PROPERTY

Section 1. No part of the Common Properties designated as the Facilities or as open space and nature preserve or natural recreational and wetlands areas on the Plat shall be used for any other purpose. In the event Declarant or the Association authorizes or conducts any other use, such party shall do so at such party's sole cost and expense, and such cost and expense shall not be required to be reimbursed by any Owner and shall not be subject to this Declaration or the lien rights set forth herein. The Association shall only be permitted to make alterations, modifications or changes in the topography and ground elevations of the Stormwater Detention Facilities it and only if:

(a) such modifications, changes or alterations are done in such a manner, to such engineering specifications and with such results that the additional or alternative alterations, modifications, or changes in the topography and ground elevations of the Stormwater Detention Facilities do not:

- (1) reduce the required stormwater detention capacity of the Stormwater Detention Facilities for the benefit of the Property;

- (2) affect or alter the drainage patterns from the Property or the Adjoining Property;
- (3) reduce the compensatory storage volumes of the Stormwater Detention Facilities for the benefit of the entire Property and the Adjoining Property;
- (4) affect or alter the Wetlands or violate the terms and provisions of the Wetlands Permits or the Wetlands Easements; or
- (5) increase the flood heights at the exterior boundaries of the Stormwater Detention Facilities from the respective capacities, patterns and volumes provided for in any permits obtained in connection therewith.

(b) such additional or alternative alterations, modifications or changes in the topography and ground elevation of the Stormwater Detention Facilities meet the rules and requirements, where applicable, of the U.S. Army Corps of Engineers; Illinois Department of Transportation, Division of Water Resources; Kane County; the Village and any other regulatory agency or agencies having or exercising jurisdiction over the development of the Stormwater Detention Facilities or the Property.

Section 2. Subject to all of the covenants, conditions and restrictions contained herein, except for the obligation for payment of any assessments hereunder or the payment of any other fees for the maintenance of the Common Properties, there is hereby created a non-exclusive perpetual easement upon, over and in the Common Properties, for the benefit of the Owners, for the use and enjoyment of those portions of the Common Properties designated on the Plat as open space and nature preserve and natural recreational and wetlands areas.

Section 3. Certain portions of the Property are or may be encumbered by easements or restrictions regarding the use of a portion of the Facilities and Wetlands for the benefit of the Adjoining Property. Upon conveyance of any portion of the Property containing such Facilities or encumbered by such easements, provided the owners of the Adjoining Property pay and continue to pay their respective share of the costs incurred by the Association to maintain, replace, restore and operate such applicable portions of the Facilities and Wetlands in the condition required pursuant to such agreements, such share to be determined in the manner set forth in the documents creating such other easements or restrictions, the Association shall succeed to, and comply with, as the case may be, all of the rights, duties and obligations of the grantor under such applicable easements.

Section 4. In furtherance of the general restrictions set forth in this Declaration, the following additional restrictions shall apply to all of the Property. With respect to the Property, an Owner shall not alter, modify or change in any way the existing topography, ground elevations or hydrology of the Lot or Property unless such alteration, modification or change is specifically approved by the Declarant, in its sole discretion, and any other governmental entity having authority therefor with respect thereto; and in the case of changes to any Facilities or

Wetlands benefiting any portion of the Adjoining Property, the owner or owners of any such affected Adjoining Property; provided, however, that additional or alternative alterations, modifications or changes in the topography and ground elevations of the Property may be made by the Declarant in its sole discretion from time to time.

Section 5. The specific restrictions set forth in this Article VIII shall continue in full force and effect for the full term of this Declaration commencing on the recording of this Declaration and shall not be subject to amendment or modification by the Association unless expressly approved in writing by the Declarant. Any attempt to modify or amend this Section 5 shall be null and void.

ARTICLE IX SPECIAL SERVICE AREA

It at any time prior to or after the recording of this Declaration, the Village or any other governmental or quasi-governmental authority having the requisite powers under applicable law elects to include the Property within a special service area, as that term is defined in 35 ILCS 200/27-5 (1999), and to assess the Lots for purposes of providing for the maintenance of the Common Properties required under this Declaration, then regardless of whether Declarant or the Association has previously conveyed all or any portion of any wetlands or Stormwater Detention Facilities, the obligations of the Association or the not-for-profit corporation to which the Wetlands or Stormwater Detention Facilities have been conveyed, as the case may be, with respect to the maintenance of those portions of the Wetlands Stormwater Detention Facilities, or both, included within the responsibility of such special service area shall be transferred to the Village or other governmental or quasi-governmental authority, automatically and without any act on the part of Declarant or the Association, to the extent provided in the ordinance or ordinances from time to time establishing such special service area, the cost of which maintenance shall be assessed against each Lot in the manner provided in said statutes and ordinances. However, if requested by the Village or such governmental or quasi-governmental authority, Declarant, or if Declarant is no longer a member, the appropriate officers of the Association, shall have the power and authority to execute and record an amendment to this Declaration setting forth such matters with respect to such special service area as may be requested by the Village or such other governmental or quasi-governmental authority, without first obtaining the approval or a vote by the members of the Association. At the option of the Village or such other governmental or quasi-governmental authority, assessments within the special service area may be deferred until such time as and if and to the extent that the Village or such other governmental or quasi-governmental authority, as the case may be, determines that the Association or the not-for-profit corporation or other person or entity charged with responsibility for maintenance has failed to fulfill its obligations with respect thereto. Declarant hereby consents, which consent shall be binding on any portion of the Property from time to time owned by Declarant and any other Owner, to the (i) creation of such a special service area for the purposes described herein; (ii) levy of taxes for such purposes against all Lots (excluding any Common Properties or portions exempt from the levy of taxes by reason of being owned by the Village or any other governmental or quasi-governmental authority); and (iii) issuance of bonds

for such purposes. Further, Declarant hereby waives, for itself and for any subsequent Owners, the right to file a statutory objection to the creation of such a special service area, the levy of taxes or issuance of bonds.

ARTICLE X REMEDIES

In addition to the rights set forth elsewhere in this Declaration, each of the covenants, conditions, restrictions and easements contained in this Declaration shall be enforceable at law and/or in equity by the Association; provided, however, in the event of a breach or violation of any such covenant, condition, restriction or easement, there shall be no forfeiture or reversions of title; provided further, however, failure to enforce any of the foregoing matters shall in no event be deemed a waiver of the right to do so thereafter. Notwithstanding the foregoing, the provisions of this Article X shall not apply to the terms and conditions of Article VI (Covenant For Assessments) of this Declaration, which Article contains separate remedies.

The duly designated officials and employees of the Village are hereby granted an easement to enter upon, on and over the Common Properties for the purpose of inspecting such areas to determine whether the Stormwater Detention Facilities and Common Properties are being properly maintained in conformity with this Declaration and the applicable ordinances and regulations. If it is determined that the Stormwater Detention Facilities or Common Properties are not in conformity with applicable restrictions, ordinances and regulations, the Village shall give the Association written notice of such determination.

Further, the Village shall be empowered to compel correction of a problem concerning maintenance after providing notice to the Association, although notice shall not be required in the event that the Village determines that the failure of maintenance constitutes an immediate threat to public health, safety and welfare. If the Association fails to perform the necessary maintenance within a reasonable time after receiving notice of the determination, and regardless of whether the Village or any other applicable governmental or quasi-governmental authority has designated any portion of the Property as part of a special service area (as permitted under Article IX), the Village shall have the right, but not the obligation, to perform or cause to be performed such maintenance or other operations necessary to preserve the drainage and detention structures and characteristics of the Stormwater Detention Facilities. If the Village is required to perform such service, it shall be entitled to complete reimbursement upon demand by the Association. The Village shall have a lien on the Common Properties and Dwellings, or applicable portion thereof subordinate to any Mortgage on the Common Properties and Lots, for the amount due from the Association.

The easement described in this section is an easement appurtenant, running with the land; it shall at all times be binding upon Declarant, all of its grantees and their respective heirs, successors, personal representatives and assigns, perpetually and in full force.

ARTICLE XI
ADD-ON PROPERTY

Declarant hereby reserves the right, for a period of ten (10) years from the date hereof, to add certain additional property legally described on Exhibit D attached hereto and made a part hereof (the "Add-On Property") to the Property presently designated in this Declaration. In the event Declarant elects, from time to time, to subject all or any portion of the Add-On Property to the provisions of this Declaration, Declarant shall record a supplementary declaration (Supplementary Declaration") setting forth, among other items, the legal description of any such additional property. All such Supplementary Declarations, and the portion of the Add-On Property covered therein, shall be subject to the terms and conditions of this Declaration, and all voting rights and the liability for assessments specified in this Declaration shall be reallocated accordingly. The recording of a Supplementary Declaration shall not alter or affect the amount of any liens for assessments due from Owners of Lots already apart of the Property ("Existing Lots") or the respective amounts theretofore assessed to or due from the Owners of Existing Lots or other fees and charges theretofore assessed.

Declarant further reserves unto itself the right to add portions of the Add-On Property to the Property at different times (and to determine the order thereof), and to fix the boundaries of said portions of the Add-On Property. Any Supplementary Declaration may contain such additions and modifications to the terms hereof, including, without limitation on, the granting of additional easements over Lots and designation of additional Common Properties, as are necessary to reflect the differences in character, if any, of the Add-On Property and the Property. The terms and provisions of this Article XI shall not be construed as imposing upon Declarant an affirmative obligation to exercise the rights and powers herein reserved. The Add-On Property shall not be bound hereby unless and until said property is submitted to the provisions of this Declaration by a Supplementary Declaration.

Notwithstanding anything contained in this Article XI, Declarant shall not have any right to record a Supplementary Declaration with respect to any portion of the Add-On Property, and no portion of the Add-On Property shall be subject to the terms and provisions of this Declaration, unless and until Declarant shall have acquired fee title ownership of the same, and neither this Declaration, nor any attempt to record any such Supplementary Declaration shall encumber or otherwise affect title to any portions of the Add-On Property not so acquired by Declarant.

ARTICLE XII
RIGHTS OF DECLARANT

Section 1. In General. In addition to any rights or powers reserved or granted to Declarant under this Declaration or the By-Laws, Declarant shall have the rights and powers set forth in this Article. In the event of a conflict between the provisions of this Article and any other provisions of this Declaration or the By-Laws, the provisions of this Article shall govern. Except as otherwise provided in this Article, Declarant's rights under this Article shall terminate at such time as Declarant is no longer vested with or controls title to a portion of any Dwelling.

Section 2. Promotion Efforts. At all times and from time to time prior to the sale of the last Dwelling on the Property, Declarant shall have the right, in its discretion, to maintain model Dwellings, sales and leasing offices, displays, signs and other forms of advertising and, to the extent not prohibited by law, to come upon any portion of the Property for the purpose of showing the Property to prospective purchasers or lessees of Dwellings, all without the payment of any fee or charge whatsoever (other than the payment of assessments as set forth in Article). Declarant shall have the right and power to sell or lease a Dwelling to whomever it chooses on whatever terms it, in its sole discretion, shall deem appropriate.

Section 3. Special Amendment. In addition to any other rights of Declarant set forth herein, 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 (a) to comply with the requirements of any entity that is a federal agency or is federally related and is insuring, guaranteeing or holding a mortgage on a Dwelling, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Dwellings, (c) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto or (d) that benefits directly or indirectly the interests of all the Owners. In furtherance of the foregoing, an irrevocable power coupled with an interest is hereby reserved and granted to Declarant to vote in favor of, make, consent to, execute and record 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 and the acceptance thereof shall be deemed to be a grant and acknowledgment of Declarant's authority to execute and record Special Amendments. The right of Declarant to act pursuant to rights reserved or granted under this Section shall terminate upon the latest date on which the initial membership meeting of the Owners must be held, whether or not it has actually been held.

Section 4. Construction. Declarant, its agents and contractors shall have the right to come upon the Property for the purpose of making alterations or improvements to the Property and shall have the right to store equipment and materials used in connection with such work on the Property without payment of any fee or charge whatsoever.

Section 5. Dedication Rights Reserved. Declarant hereby reserves the right at its sole discretion to dedicate or otherwise convey portions of the Property (but not those portions on which a Dwelling is situated) to any public agency or governmental authority or quasi-public utility for purposes of utilities, and right-of-way and easements therefor. The right to make such dedications or conveyances shall not require the consent, approval or signatures of either the Board or any Owner, and such dedication or conveyance shall be considered fully accomplished and conclusively binding upon each of the Owners and upon the Association when set forth in writing or in a plat of dedication executed by Declarant which has been recorded in the Office of the Recorder of Deeds of Kane County, Illinois; provided, however, that nothing in this Section shall be construed to in any manner require or obligate Declarant to make any conveyance or dedication. In furtherance of the foregoing, an irrevocable power coupled with an interest is hereby granted to Declarant, as agent and attorney-in-fact, to make dedications or conveyances. Each deed, mortgage, trust deed or other instrument with respect to a Dwelling and the acceptance thereof shall be deemed a grant and acknowledgment of and consent to such power

and to said attorney-in-fact and shall be deemed to reserve to it the foregoing powers and rights. This right shall expire upon the sale of all the Dwellings.

ARTICLE XIII GENERAL PROVISIONS

Section 1. Severability. Each covenant, condition, restriction and easement contained herein shall be considered to be an independent and separate right or obligation, and in the event one or more of such covenants, conditions, restrictions or easements shall for any reason be held to be invalid or unenforceable, all remaining covenants, conditions, restrictions and easements shall nevertheless remain in full force and effect.

Section 2. Binding Upon the Land. Unless otherwise expressly provided herein, each covenant, condition, restriction and easement set forth in this Declaration shall run with the land and shall be binding upon each and all of the record titleholders of said land and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording or acceptance of a deed conveying any interest in the Property, the individual or entity to whom such interest is conveyed shall, except as otherwise provided in this Declaration, be deemed to accept and agree to be bound by and subject to all of the terms and provisions of this Declaration, whether or not mention thereof is made in said deed, except that with respect to the Add-On Property, the covenants, conditions, restrictions and easements set forth in this Declaration or in any Supplementary Declaration shall run with the land and become binding on the record titleholders thereof (and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees) only upon the recording of a Supplementary Declaration by Declarant after Declarant acquires fee title ownership of such Add-On Property.

Section 3. Notices. Notices provided for in this Declaration and in the Act shall be in writing, and shall be addressed to the Board or Association, or any Owner, as the case may be, at the address of the Dwelling, or at such other address as herein provided. The President of the Association is hereby designated as the person to mail and receive all notices as provided for in this Declaration; provided, however that the Board may designate a different address for notices to the Board or the Association by giving written notice of such change of address to all Owners. Any Owner may also designate a different address for notices by giving written notice of such change of address to the Board. Notices to Owners shall be deemed delivered when mailed by United States mail, or when delivered in person, or, if addressed to a Owner, when deposited at the door of the Owner's Dwelling or in his mailbox. Notices to the Board or to the Association shall be deemed delivered when mailed by United States registered mail to the Board or Association.

Section 4. Notices to Deceased Owner. Notices required to be given any devisee, heir or personal representative of a deceased Owner may be delivered either personally or by mail to such party at the address appearing in the records of the court wherein the state of such deceased Owner is being administered.

Section 5. No Release. Wherever in this Declaration Declarant has reserved unto itself or the Village any easement or easements, and rights thereunder, with respect to any part or all of the Property, the exercise or failure to exercise any or all of such rights shall in no event release the Association or the Owners from the responsibilities otherwise imposed on such parties in any covenant, condition, restriction or provision set forth in this Declaration.

Section 6. No Waiver. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 7. Declarant's Successors and Assigns. All rights granted to Declarant under this Declaration shall inure to and all obligations of Declarant under this Declaration shall be binding upon the successors and assigns of Declarant; provided, however, that the Owners purchasing Dwellings for their own occupancy shall not be deemed to be successors or assigns of Declarant.

Section 8. Land Trust. In the event title to any Lot is conveyed to a land 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 beneficiary or beneficiaries thereunder from time to time shall, jointly and severally, be responsible for the payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings relating to or chargeable against any such Lot, and shall be deemed to be the Owner as that term is used herein. No claim shall be made against any such title-holding trustee personally for payment of any lien or obligation hereunder created, but the amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiary or beneficiaries of any such trust shall remain personally liable for any such amounts, notwithstanding any transfers of the beneficial interest of any such trust or any transfers of such Lot.

Section 9. Headings. The headings contained in this Declaration are for convenience only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 10. Duration. The covenants, conditions and restrictions contained in this Declaration shall continue in full force and effect for a period of ninety-nine (99) years commencing on the date hereof.

Section 11. Rules Against Perpetuities. 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 applicable statutory or common law rules imposing limitations upon the time for which such matters may be valid, then the provision in question shall continue and endure only until twenty-one (21) years after the death of the last to survive of the class of persons consisting of all the now living lawful descendants of George Bush, former President of the United States.

Section 12. Amendment. This Declaration, including, without limitation, the By-Laws, may be amended by the affirmative vote of the members holding 75% or more of the total votes then eligible to be cast by the members of the Association; provided, however, it is hereby understood that neither the Association, nor its Board, officers or members, may adopt, amend, repeal, alter or change this Declaration, the By-Laws of the Association, or any rules or regulations relating to the Association or this Declaration such that any said adoption, amendment, repealer, alteration or change adversely affects Declarant, Declarant's rights under this Declaration or Declarant's proposed development of the Property (as such proposed development currently exists or may hereinafter change). Notwithstanding the foregoing, this Declaration may be amended, modified, altered or repealed by Declarant at any time during the ten (10) year period after the date hereof; provided, however, no such amendment, modification, alteration or repealer shall be effective if it adversely affects the priority of the lien of any Mortgage. All amendments, repealers, alterations and changes to this Declaration and the By-Laws shall be recorded with the County recorder's office where the Property is located. For purposes of this Section 9, a Supplementary Declaration shall not be deemed an amendment, alteration or repealer of this Declaration.

Section 13. Conflict. In the event of any conflict between the terms and provisions of this Declaration, on the one hand, and any plat(s) of subdivision relating to the Property or the By-Laws, on the other hand, the terms and provisions of the plat(s) of subdivision shall control.

Section 14. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land or the interest of any Owner to enforce any lien created by these covenants, and against the Association for failure to discharge its duties and responsibilities hereunder. The failure of the Association, Declarant, the Village or any Owner to enforce any covenant or restriction herein contained, or exercise any rights or easements granted hereby, shall in no event be deemed a waiver of the right to do so thereafter.

Section 15. Waiver of Claims. To the extent permitted by applicable law, each Owner hereby waives and releases any and all claims which such Owner may have against any other Owner, occupant, the Association, its officers, members of the Board, Declarant, the managing agent, if any, and their respective employees and agents, for damage to the Common Properties, the Dwellings, or to any personal property located in the Dwellings or Common Properties, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance. Neither Declarant nor its respective representatives or designees shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authority granted to or delegated to it by or pursuant to this Declaration, or in Declarant's capacity as developer, contractor, owner, manager or seller of the Property, including all claims for, or arising by reason of, the Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Owner, occupant, the Board, the Association and their respective agents, employees, guests and invitees or by reason of any neighboring property or personal property located on or about the Property, or by reason of the failure to function, or disrepair of, any utility services (heat, air conditioning, electricity, gas, water, sewage, etc.).

Section 16. Damages. Each Owner shall be responsible for any damages to the Common Properties or to any Dwelling and also for the maintenance, repairs or replacements caused by or resulting from his negligent act or omission, or the negligent act or omission of a member of his family, his household pet, his guests, visitors or his invitees or of an occupant of his Dwelling, including the household pets, guests, visitors or invitees of an occupant of his Dwelling.

Section 17. Association Rules and Regulations. Subject to Article XIII, Section 12 the Association shall have the authority, as it deems necessary, to adopt general rules and regulations to implement the purposes set forth in this Declaration, interpret the covenants, conditions and restrictions contained herein and in furtherance of the powers and duties set forth in the By-Laws. Such general rules and regulations may be amended in the same manner as provided herein for the amendment of this Declaration.

Section 18. Covenant in Event of Dissolution of the Association. In the event the Association is dissolved, all Owners and titleholders of any portion of the Property agree that all provisions contained herein regarding maintenance, repair and replacement in, on or to the Property shall still apply and that this Declaration shall be in full force and effect.

Section 19. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first class development.

Section 20. Lease. The provisions of this Declaration and By-Laws, and rules and regulations that relate to the use of the Dwellings or the Common Properties shall be applicable to any person leasing a Dwelling and shall be deemed to be incorporated in any lease of any Dwelling.

Section 21. Interpretation. Whenever from the context it is appropriate, each term stated in either the singular or the plural shall include both the singular and the plural, and each term stated in either the masculine or feminine shall include both the masculine and feminine.

* * *

[Signatures to follow on next page.]

IN WITNESS WHEREOF, this Declaration is executed on the day and year first above written.

DECLARANT:

CENTEX HOMES,
a Nevada general partnership

By: CENTEX REAL ESTATE CORPORATION, its
managing general partner

By: *Daniel L. Star*
Name: Daniel L. Star
Its: Illinois Division President

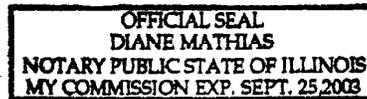
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Daniel L. Star, personally known to me to be the Illinois Division President of Centex Real Estate Corporation, the general partner of Centex Homes, a Nevada general partnership, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Division President of the General Partner, he signed and delivered said instrument as Division President of the General Partner of said partnership, pursuant to authority given by the partners of the partnership as his free and voluntary act, and as the free and voluntary act and deed of said partnership, for the uses and purposes therein set forth.

Given under my hand and official seal, this 3 day of DECEMBER, 1999.

Diane Mathias
Notary Public

My Commission Expires: 9/25/2003



This instrument prepared by
and after recording return to:

Shannon Walsh
McDermott, Will & Emery
227 West Monroe Street, Suite 3100
Chicago, Illinois 60606-5096
(312) 372-2000