

RECORDER  
DU PAGE COUNTY

DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR  
KLEIN CREEK

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THIS DECLARATION (the "Declaration") is made this 26th day of March, 1993, by GARY-WHEATON BANK, not personally but solely as Trustee under Trust Agreement dated July 10, 1987 and known as Trust Number 7697 (hereinafter referred to as "Declarant").

P R E A M B L E S:

A. Declarant owns fee simple title to a certain parcel of real estate situated in the County of DuPage, State of Illinois, legally described in Exhibit A, attached hereto (the "Property"); and

B. Declarant and Developer (hereinafter defined in Article I) desire to develop a single-family residential development on the Property to be known as **KLEIN CREEK** and to establish the Klein Creek Homeowners' Association; and

C. Declarant is desirous of submitting the Property to the provisions of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the Property is, and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, conditions, restrictions and easements hereinafter set forth.

ARTICLE I

DEFINITIONS

When used in this Declaration, the following words and terms shall have the following meanings:

- 1.1 "Additional Property" shall have the meaning set forth in Section 9.13.
- 1.2 "Annexed Property" shall have the meaning set forth in Section 9.13.
- 1.3 "Architectural Review Committee" shall have the meaning set forth in Section 4.2.
- 1.4 "Association" shall mean and refer to **Klein Creek Homeowners' Association**, an Illinois not-for-profit corporation, its successors and assigns.
- 1.5 "Board" shall mean and refer to the Board of Directors of the Association.
- 1.6 "Building" shall mean any structure located on a Lot and having a roof, supported by columns or by walls.
- 1.7 "Building Accessory" shall mean any subordinate building or portion of a Building, the use of which is incidental to that of the Building and customary in connection with that use.
- 1.8 "Basement" shall mean that portion of a Building located underground, in part or in

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whole, and having eighty percent (80%) or more of its clearfloor-to-ceiling height below finish grade of the adjoining ground. Such floor-to-ceiling height shall be no less than eighty (80") inches.

- 1.9        **"Building Height"** shall mean the vertical distance of a Building measured from the established curb level to the highest point of the underside of the ceiling beams in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of rafters between eaves and the ridge of a gable, hip or gambrel roof.
- 1.10       **"By-Laws"** shall mean those by-laws duly enacted by the Association which govern the Association in the form attached hereto as Exhibit B.
- 1.11       **"Common Area"** shall mean all real property to be owned and/or maintained by the Association for the common use and enjoyment of the Owners, including, but not limited to, monuments, landscaping cul-de-sac islands, landscaping and/or walk easements, together with all Improvements located thereon.
- 1.12       **"Contingency and Replacement Reserve"** shall have the meaning set forth in Section 6.4.
- 1.13       **"Declarant"** shall mean and refer to Gary-Wheaton Bank, not personally but solely as Trustee under a Trust Agreement dated July 10, 1987, and known as Trust Number 7697, and its successors and assigns. Any such successor or assign shall be deemed a Declarant and entitled to exercise all or any rights of Declarant provided herein if designated as such by Declarant in any instrument recorded for such purposes as provided in Section 9.12.
- 1.14       **"Developer"** shall mean and refer to the owner or owners, from time to time, of one hundred (100%) percent of the beneficial interest in, to and under the Declarant and the shareholders of **Klein Creek Corporation**, severally.
- 1.15       **"Development"** shall mean and refer to the single-family residential subdivision commonly known as **KLEIN CREEK**, as the same has been or shall be created by the recording of the Subdivision Plat. The Development includes the Property and the Additional Property.
- 1.16       **"Dwelling"** shall mean any Building intended for the shelter and housing of a Single Family.
- 1.17       **"Estimated Cash Requirement"** shall have the meaning set forth in Section 6.3.
- 1.18       **"Golf Course Facilities"** shall mean those facilities from time to time located upon the Golf Course Parcel, including, without limitation, fairways, tees, greens, sand traps, water obstacles, golf carts, cart paths, bridges, restroom facilities, driving range, swimming pools, tennis courts, storage sheds, maintenance equipment and buildings, club house, restaurants, banquet facilities, parking areas, signs, lights, landscaping and other improvements, equipment and amenities pertaining to or associated therewith.
- 1.19       **"Golf Course Property"** shall mean the parcel of land located adjacent to the Property which shall be developed and used as a golf course.
- 1.20       **"Improvement" or "Improvements"** shall mean and include Dwellings, any and all

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- Buildings, Building Accessories, driveways, pedestrian walkways, fences, mailboxes, lighting, decks, patios, hedges, lawns, sidewalks, planted trees, shrubs, and all other structures or landscaping improvements of every kind and description.
- 1.21 **"Landscaping Plan"** shall mean the Landscaping Plan prepared by Balsamo-Olson Group, Inc. dated December 6, 1991 and attached hereto as Exhibit G.
- 1.22 **"Lot"** shall mean each part of the Property, the size and dimension of which shall be established by the legal description in the Lot Deed conveying such Lot. A Lot may also be established pursuant to the Subdivision Plat or by an instrument in writing executed, acknowledged, and recorded by Declarant which designates a part of the Property as a Lot for the purposes of the Declaration. Whenever a particular Lot is specified herein, the same shall be deemed to refer to that Lot identified as such on the Subdivision Plat. All lots which are designated as "A" lots shall be treated for purposes of this Declaration, including membership and assessments, as a single consolidated lot, i.e. lots 209, 210, 211, 212 and 213 with their respective "A" lots, shall each be treated as a single lot.
- 1.23 **"Lot Deed"** shall mean the deed of Declarant conveying a Lot to an Owner.
- 1.24 **"Member"** shall mean and refer to every Person who holds membership in the Association and **"Members"** shall mean and refer to all Persons who hold membership in the Association.
- 1.25 **"Mortgage"** shall mean either a mortgage or deed of trust creating a lien against a portion of the Property given to secure an obligation of the Owner of such portion of the Property.
- 1.26 **"Municipality"** shall mean the Village of Winfield, State of Illinois.
- 1.27 **"Owner"** shall mean and refer to the record owner, whether one or more Persons, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term **"Owner"** shall include the Developer to the extent Declarant owns Lots and also includes the interest of Developer or of Declarant as contract seller of any Lot.
- 1.28 **"Person or Persons"** shall mean all natural individuals, corporations, partnerships, trustees, or other legal entities capable of holding title to real property.
- 1.29 **"Plan Review Fee"** shall have the meaning set forth in Section 4.5.
- 1.30 **"Plans and Specifications"** shall have the meaning set forth in Section 4.5.
- 1.31 **"Property"** shall mean and refer to the real estate legally described in Exhibit "A" attached hereto and made a part hereof.
- 1.32 **"Sale Contract"** shall have the meaning set forth in Section 3.25.
- 1.33 **"Single Family"** shall mean one or more persons, each related to the other by blood, marriage, or adoption, or a group of not more than three persons not all so related, maintaining a common household in a Dwelling.

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- 1.34<sup>f</sup> "Special Amendment" shall have the meaning set forth in Section 9.7.
- 1.35 "Standards" shall have the meaning set forth in Section 4.3.
- 1.36 "Story" shall mean that portion of a Building included between the surface of any floor and the surface of the floor next above; or if there is no floor above, the space between the floor and the ceiling next above. A Basement shall not be considered a Story.
- 1.37 "Structure" shall mean anything constructed or erected upon the Property, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. A sign or other advertising device, detached or projecting, shall be considered a separate Structure.
- 1.38 "Subdivision Plat" shall mean the final plats of subdivision for the Development as recorded in the Office of the Recorder of Deeds of DuPage County, State of Illinois, for the various units of the Development, as the same may be amended or modified from time to time.
- 1.39 "Trails" shall also be called "Pedestrian Pathways" and shall have the meaning set forth in Section 7.2.
- 1.40 "Turnover Date" shall have the meaning set forth in Section 5.3.

## ARTICLE II

### DECLARATION PURPOSES AND PROPERTY SUBJECTED TO DECLARATION

2.1 The Declarant desires to create on the Property a single-family development for future owners of Lots for the following general purposes:

- a. The Declarant desires to provide upon the Property, through its planning and layout, the harmonious development of a single-family community by the imposition of the covenants, conditions, restrictions and easements as hereinafter set forth, for the benefit of the Property and the Owners.
- b. By the imposition of covenants, conditions and restrictions set forth herein and the reservation of certain powers as herein contained, Declarant intends to provide a plan for development of the Property which is intended to enhance and protect the values of Declarant's single-family residential community.
- c. The Declarant desires to (i) prevent improper use of Lots which may depreciate the value of the Owners' property; (ii) prevent the construction of Buildings containing improper or unsuitable materials; (iii) ensure adequate and reasonable development of the Property; (iv) encourage the construction of attractive improvements on the Property; (v) prevent haphazard and inharmonious development; and (vi) in general, provide for the highest quality environment for the Property.
- d. The Declarant desires to provide for the maintenance of the Common Area, if any, and such

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other property as is provided herein to be maintained by the Association.

2.2 To further the general purposes herein expressed, the Declarant, for itself, its successors and assigns, hereby declares that the Property at all times is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, and easements set forth in this Declaration.

### ARTICLE III

#### GENERAL RESTRICTIONS

3.1 All Lots shall be used only for Dwellings by a Single Family. No Buildings other than Dwellings or Building Accessories shall be constructed or maintained on a Lot. All Dwellings shall have an attached garage containing not less than two parking spaces, which shall be for the sole use of the Owner of the Lot. Each Owner shall (i) maintain his Lot, including but not limited to mowing, trimming, removal and replacement of any dead vegetation, and all Improvements located thereon in a clean, sightly, and safe condition, (ii) cause the prompt removal of all papers, debris and refuse therefrom and the removal of snow and ice from all sidewalks, driveways and similar area serving said Lot, (ii) comply with all applicable governmental codes, laws, ordinances, orders, decrees, rules and regulations.

3.2 All Improvements shall be constructed in accordance with the Plans and Specifications approved in accordance with the terms and conditions in Article IV and in accordance with all applicable governmental building and zoning codes, laws, ordinances, orders, decrees, rules and regulations. If, and to the extent any conflict exists between the terms and conditions of this Declaration and the provisions of any such codes, laws, ordinances, orders, decrees, rules and regulations, then such conflict shall be resolved by the application of the more stringent provision providing the higher or better quality result.

3.3 The floor area of a Dwelling, in square feet of living area, calculated by using the exterior dimensions of each Dwelling (taken above the foundation level of the Dwelling at its highest point), exclusive of porches, utility or storage rooms, breezeways or garages, or living areas of Basements, shall be:

- a. For any one-story Dwelling, not less than twenty-one hundred (2,100) square feet; and
- b. For any multi-story Dwelling, not less than twenty-five hundred (2,500) square feet.

3.4 No aluminum, vinyl or masonite siding shall be used in the construction of any Dwelling. All exteriors of Dwellings shall consist of brick, stone, cedar, redwood, stucco, or a combination thereof. No other exterior materials shall be used without the prior written consent of the Architectural Review Committee.

3.5 No Dwellings shall be constructed within 500 feet of any other Dwelling with the same front exterior elevation where one front elevation is fully visible by line-of-sight from the center of the front lot line to the other line line.

3.6 No "split-level" or "raised-ranch" design for a Dwelling shall be constructed without the prior written consent of the Architectural Review Committee.

3.7 No Dwelling shall occupy more than fifty (50%) percent of the surface area of the Lot upon which it is situated. The maximum Building Height of a Dwelling shall be two (2) Stories or 35 feet,

whichever is less. The number of stories or heights of the Dwelling shall be measured from the highest elevation of the concrete foundation.

3.8 The roofing materials used on Dwellings shall be 240 pound or greater multi-ply asphalt or comparable shingle, fire-retardant cedar shake, clay, tile, or decorative concrete roof tile. The use of other materials shall be subject to the consent of the Architectural Review Committee. No exposed tin or metal chimney pipe shall be allowed. All chimneys shall be covered with masonry unless they are located totally in the interior of the Dwelling, in which event an "0" clearance chimney will be allowed.

3.9 All Building Accessories, visible garbage receptacles, fuel tanks, and wood piles (unless otherwise required by applicable authority), shall be located from the middle of the house, back to the rear yards of a Lot and screened from view from the front yard by an approved fence or plantings. Air conditioning equipment, wherever located, shall be screened from view from the front yard by an appropriate fence or plantings. Plantings must be of sufficient size to block view at time of planting.

3.10 Access drives and other paved areas for vehicular use on a Lot shall have a base of compacted gravel or crushed stone and shall have a wearing surface of concrete, brick or asphalt unless another material is approved in writing by the Architectural Review Committee.

3.11 No swimming pool shall be built more than two (2) feet above the engineered final grading of the Lot upon which it is situated. No above-ground pools, excluding children's wading pools, shall be allowed. All pools must be of a permanent nature built of concrete or a similar material if approved by the Architectural Committee. The design of the pool and any Building Accessory shall be subject to the prior written consent of the Architectural Review Committee.

3.12 Solar collectors placed on a Building roof must be constructed at the same pitch as the roof of the Building. Solar collectors shall be aesthetically integrated with the Building design when visible and shall be hidden from view where possible. Any visible solar collectors shall be subject to the prior written consent of the Architectural Review Committee.

3.13 Each Owner shall be responsible, at its sole expense, for the repair, maintenance, and replacement, as necessary, of any perimeter fencing located upon its Lot. Any repairs or replacements shall be performed in a manner so as to cause such fencing to remain in appearance similar to the original appearance thereof.

3.14 No wall or fence shall be erected or maintained on any Lot with the exception of fences required for the swimming pools or as required by Village Ordinances. Fences required by applicable ordinances of the City, or other governmental authority with jurisdiction thereover, to enclose an inground swimming pool shall be permitted within the rear yard of any lot within the Subject Property, so long as such legal requirement exists, provided that all such swimming pool enclosure fences shall be of a height not exceeding the minimum height permitted for such purpose by applicable law and shall be constructed of the materials and have the appearance as set forth in Exhibit "E" attached hereto. In the event the Architectural Review Committee determines in their sole discretion that a privacy fence is desirable, the owner of such lot may elect to utilize the privacy type fence described in Exhibit "E" attached hereto in lieu of the fence identified in Exhibit "F" attached hereto. Any wall or fence shall be subject to the prior written consent of the Architectural Review Committee. Notwithstanding anything above to the contrary, the Declarant shall have the right to consent to fences on properties when in its sole discretion it determines that fences would be necessary or desirable. No chain link fence shall be constructed or maintained on any Lot except as may be constructed by Declarant in connection with the safety and security of the Golf Course Property.

3.15 No flood lights or bright lights which illuminate adjoining Lots shall be permitted. No flagpoles shall be permitted to be permanently installed. Basketball standards or backboards shall be permitted so long as they are free standing, not attached to a Dwelling, garage or other Building.

3.16 A uniform curbside mailbox design and size ("**Uniform Mailbox**") shall be installed and utilized by each lot owner within the Subject Property. The Uniform Mailbox shall comply with the appearance and specifications set forth in Exhibit "G" attached hereto. In the event the Uniform Mailbox as identified in Exhibit "H", or any Uniform Mailbox design subsequently adopted by Declarant, becomes unavailable or impracticable for use within the Subject Property, Declarant may, in its sole and absolute discretion, select an alternative Uniform Mailbox design and the specifications therefor ("**Alternative Mailbox**"), and substitute the Alternative Mailbox specifications for those of the previously approved Uniform Mailbox by recording an amendment to this Declaration incorporating the specifications for the Alternative Mailbox. Notwithstanding anything contained in this Declaration to the contrary, an amendment to this Declaration for the purpose of incorporating the design and specifications for an Alternative Mailbox need only be executed by Declarant and no other owners of lots within the Subject Property need execute such amendment for the same to be binding upon and enforceable against all lots within the Subject Property.

3.17 No above-ground communication, electric or television lines or cables shall be placed by any Owner anywhere on the Property other than within Dwellings. No television or radio antenna, earth station dish, pole, wire, rods or other device used in connection with the reception or transmission of any television, radio or any other electrical signal shall be erected or maintained on the exterior of any Dwelling or on any part of a Lot.

3.18 No noxious or offensive activity shall be carried on, in or upon the Property, nor shall anything be done thereon which may constitute or become an annoyance or nuisance to other Owners. Without limiting the foregoing, the following activities are specifically prohibited:

- a. Permitting rubbish or debris of any kind to accumulate on any Lot.
- b. Permitting unsightly plants or underbrush or plants breeding infectious plant diseases or noxious insects to grow.
- c. The burning of refuse outside a Dwelling.
- d. Foil or reflective materials used on windows as sun screens.
- e. Heating/air conditioning units installed in any windows.
- f. Exposed PVC pipe in any visible exterior location unless painted to match the Dwelling.
- g. Allowing overhead garage doors to remain open when not in use.
- h. The accumulation of derelict vehicles, garbage, rubbish, or other unsightly materials within the Development, or, except in areas expressly designated therefor, in the vicinity of the Development.
- i. The hanging of laundry, clothing, rugs or any other articles on any railing, fence, hedge, or wall, or the erection of laundry drying equipment, including clotheslines, outside a Dwelling, except within screened patios or porches.

3.19 Except as expressly provided herein, no temporary building, trailer, mobile home, recreational vehicle, tent, shack, or other similar Improvement shall be located upon the Lots.

3.20 Dead trees or shrubbery shall be removed from an improved Lot by the Owner thereof. No unimproved Lots shall be planted with anything other than grass or other vegetation as permitted by the rules and regulations adopted by the Association. The front yard and side yards of each Lot, other than such portion as underlies the Improvements, shall be sodded and landscaping, including foundation plantings, shall be installed which shall have a value (exclusive of sod) of not less than \$1,500.00 within sixty (60) days after occupancy unless weather prohibits completion. In such an event, the landscaping shall be completed within thirty (30) days of when weather permits.

3.21 Trucks, boats, recreational vehicles, campers, snowmobiles, motorized golf carts, trailers, commercial vehicles or other vehicles (other than automobiles) shall at all times be parked in the garage of the Dwelling or (except for said motorized golf carts) on the driveway serving said Dwelling and their repair or maintenance shall not be permitted except within the confines of the garage. The term "commercial vehicle" shall include all automobiles, station wagons, trucks or vehicular equipment which bear signs referring or having printed on their exterior, references to any commercial undertaking. Bicycles, wagons, and other play items, which are not permanently installed, shall not remain outside overnight. The doors to the garage of any Dwelling shall remain closed at all times other than when necessary for the bringing in or out of vehicles.

3.22 No animals (other than inoffensive common domestic household pets such as dogs and cats) shall be kept on any Lot or within the confines of any Improvement thereon. Not more than three (3) dogs or cats, or any combination thereof, shall be kept on any Lot or within the confines of any Improvements thereon. The breeding or keeping of dogs or cats for sale or profit is expressly prohibited. Dogs shall not be leashed or tethered to stationary objects in the front yard. There shall be no exterior dog runs. All domestic pets must be kept on a leash and not permitted to run loose.

3.23 No motorized vehicles or motorized devices of any shall be permitted upon the Trails.

3.24 The Owner shall observe such rules and regulations regarding the parking of motor vehicles within the Development as may be prescribed by the Association from time to time, including rules restricting parking to one or the other side of streets. Other than temporary vehicles necessary for ongoing construction, no vehicles shall be parked on any street within the Development between the hours of 2:00 A.M. and 6:00 A.M. No storage trailers will be permitted in an area where there are paved streets.

3.25 From and after the acquisition of a Lot, the Owner thereof shall diligently undertake all actions in connection with the construction of a Dwelling thereon, including without limitation, the application for building permit. Such construction shall be performed in a manner so as not to impair or interfere with the enjoyment by other Owners of their right, title and interest at the Property, and each Owner shall refrain from any activities which shall be injurious to person or property. Construction of the Dwelling upon such Lot shall be required to be commenced and completed within twelve (12) months from the date of purchase. This applies to any Owner other than the Developers. In the event that Owner has not commenced and/or completed the construction of such Dwelling within the twelve (12) month period of time from the date of purchase, or if Owner has commenced such construction but is not diligently undertaking the completion thereof, or if the Owner, which is the Purchaser under the Sale Contract, attempts to or does sell any Lot, other than in connection with the construction by said Owner of a dwelling thereon, Declarant, without limitation of any other rights or remedies to which it is entitled hereunder, at law or in equity, shall have the right, but not the obligation, to repurchase such Lot from



the Owner in the manner and at the price specified, if applicable, in the Sale Contract. For purposes hereof, the terms and conditions set forth in the Sale Contract pertaining to the Declarant's right to repurchase the Lot are hereby incorporated by reference, and the Owner shall be expressly bound thereby.

3.26 Owner shall grade any Lot or Lots owned by it in conformity with municipal requirements and the provisions, if any, set forth in the grading plans and submitted and approved by the Village of Winfield (which are hereby incorporated by reference). Each Owner shall keep all areas of the Lots designed or intended for the proper drainage or detention of water, including swale lines and ditches, unobstructed and mowed regularly. No trees, plantings, shrubbery, fencing, patios, structures, landscaping treatment or other obstructions shall be planted placed or (except for existing trees or plantings) allowed to remain in any such areas which shall impair the natural flow of water, and no Owner shall alter the rate or direction of flow of water from any Lot by impounding water, changing grade, blocking or redirecting swales, ditches, or drainage areas or otherwise. Each Owner acknowledges, by acceptance of a deed to a Lot, that any and all such drainage or detention areas are for the benefit of the entire Property.

## ARTICLE IV

### ARCHITECTURAL CONTROLS

4.1 Except for Improvements constructed by Developer, no Improvement, whether original or replacement, temporary or permanent, shall be constructed, placed or permitted on any Lot without the prior written approval of the committee established in accordance with Section 4.2 (the "**Architectural Review Committee**"), which approval shall be obtained in the manner hereinafter set forth. Without limitation of the criteria which the Architectural Review Committee may apply, the following criteria shall be applied:

- a. Dwelling designs shall be well balanced, although symmetry is not required. Windows, skylights, overhangs, projected areas or portions of houses are usually a desirable attribute in many styles. Roof pitches, dormers, and roof windows should correlate with the style of architecture. Patterns, rhythms, and articulation of architectural elements are encouraged.
- b. Owners are encouraged to vary and mix tiles, brick and paint color of houses. The same exterior style house shall not be permitted to be built in violation of Section 3.5 of this Declaration.
- c. Gutters and downspouts on a Dwelling shall match or complement the exterior color scheme and be as unobtrusive as possible.
- d. All storm windows and screens and storm doors shall be matching or compatible to the exterior color scheme.
- e. Porches, patios, verandas, porticos, decks and gazebos are encouraged. Such Improvements shall be compatible with the design of the Dwelling.

4.2 The Board shall establish the Architectural Review Committee which shall consist of up to five (5) (but not less than three (3) members, all of whom shall be Owners and who may or may not be members of the Board, provided that prior to the Turnover Date, such members do not have to be Owners. The regular term of office for each member shall be two years, coinciding with the fiscal year of the Association. Any member appointed by the Board may be removed with or without cause by the

Board at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. The Architectural Review Committee shall elect a chairman and he, or in his absence, the vice chairman, shall be the presiding officer at its meetings. The Architectural Review committee shall meet as needed, as well as upon call of the chairman, and all meetings shall be held at such places as may be designated by the chairman. Three (3) members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or a proxy at a meeting of the Architectural Review Committee shall constitute the action of the Architectural Review Committee on any matter before it. The Architectural Review Committee is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Architectural Review Committee in performing its functions set forth herein. Each member of the Architectural Review Committee may be paid a stipend or honorarium as from time to time determined by the Board.

4.3 The Architectural Review Committee is hereby authorized to promulgate from time to time written architectural standards, policies, and guidelines (the "**Standards**") governing the construction, location, landscaping, and design of Improvements, the contents of submissions of Plans and Specifications, and other information required to evidence compliance with and obtain approval pursuant to the provisions hereof. Any such Standards shall be binding and enforceable on all Owners with respect to all Improvements requiring the approval of the Architectural Review Committee. No Improvements shall be commenced, constructed, altered, added to or maintained upon any part of the Property (except for Dwellings and other Improvements which are constructed by Declarant and Developer and for Improvements which pursuant to this Article IV do not require the consent of the Architectural Review Committee) unless and until the Architectural Review Committee has approved in writing the proposed architect and builder of any such Improvements.

4.4 No construction of Improvements shall be undertaken or conducted on Sundays, except for (a) construction activities of Declarant and Developer, (b) emergency situations involving the potential loss, injury, or damage to persons or property, and (c) as otherwise permitted by the Architectural Review Committee.

4.5 To preserve the architectural and aesthetic appearance of the Development, no construction of Improvements of any nature whatsoever shall be commenced or maintained by any Owner, other than Declarant and Developer, with respect to the construction or affecting the exterior appearance of any Dwelling or with respect to any other portion of the Property, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the "Plans and Specifications" shall have been submitted to and approved in writing by the Architectural Review Committee as to the compliance of such Plans and Specifications with such Standards as may be published by the Architectural Review Committee from time to time including the harmony of external design, location, and appearance in relation to surrounding structures and topography. For purposes hereof, "Plans and Specifications" shall be deemed to mean:

- a. The Lot site plan, as prepared by the Owner's architect, showing among other things, the location and dimensions of all intended Improvements;
- b. Drawings, plans and specifications, as prepared by the Owner's architect, of all exterior surfaces, showing elevations and grade, and including the color, quality and type of exterior construction materials; and
- c. All such other information as may be reasonably required which will enable the Architectural Review Committee to determine the location, scale, design, character, style and exterior

'appearance of Owner's intended Improvements.

One (1) copy of such Plans and Specifications, so submitted shall be retained in the records of the Architectural Review Committee, and the other copy shall be returned to the Owner marked "approved," "approved as noted," or "disapproved." Photographs of the adjacent houses or vacant lot on all sides of the subject Lot shall be submitted at the same time as the foregoing plans and specifications and such photographs shall become the property of the Architectural Review Committee. The Architectural Review Committee shall establish a fee sufficient to cover the expense of reviewing Plans and Specifications and to compensate any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained in accordance with the terms hereof (the "Plan Review Fee"). The Plan Review Fee initially established for such review shall be \$300.00 for each submissions, and the Architectural Review Committee shall have the right to increase this amount from time to time. The Architectural Review Committee shall have the sole discretion to determine whether Plans and Specifications submitted for approval are acceptable to the Association. Following approval of any Plans and Specifications by the Architectural Review Committee, representatives of the Architectural Review Committee shall have the right during reasonable hours to enter upon and inspect any Lot, Dwelling, or other Improvements with respect to which construction is underway to determine whether or not the Plans and Specifications therefor have been approved and are being complied with. In the event the Architectural Review Committee shall determine that such Plans and Specifications have not been approved or are not being complied with, the Architectural Review Committee shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved Plans and Specifications. In the event the Architectural Review Committee fails to approve or disapprove in writing any proposed Plans and Specifications within thirty (30) days after such Plans and Specifications shall have been submitted, such Plans and Specification shall be deemed to have been expressly approved, provided the proposed Improvements are generally in harmony with the scheme of the Development as set forth in this Declaration. Upon approval of Plans and Specifications, no further approval under this Article IV shall be required with respect thereto, unless such construction has not been substantially commenced within six (6) months of the approval of such Plans and Specifications (e.g. clearing and grading, pouring of footings, etc.) or unless such Plans and Specifications are materially altered or changed. Refusal of approval of Plans and Specifications may be based by the Architectural Review Committee upon any ground which is consistent with the objects and purposes of this Declaration, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

4.6 No approval of Plans and Specifications and no publication of Standards shall be construed as representing or implying that such Plans and Specifications or Standards shall, if followed, result in properly designed Improvements. Such approvals and Standards shall in no event be construed as representing or guaranteeing that any Dwelling or other Improvement built in accordance therewith shall be built in a good and workmanlike manner. Neither Declarant, the Association, nor the Architectural Review Committee shall be responsible or liable for any defects in any Plans or Specifications submitted, revised or approved pursuant to the terms of this Article IV, any loss or damages to any person arising out of the approval or disapproval of any Plans or Specifications, any loss or damage arising from the noncompliance of such Plans and Specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such Plans and Specifications.

**ARTICLE V****HOMEOWNERS' ASSOCIATION**

5.1 The Developers shall form an Illinois not-for-profit corporation to be known as the Klein Creek Homeowners' Association which shall provide for maintenance and operation of the Common Area, monuments, landscape and/or walk easements, and in general to maintain and promote the desired character of the Development, or so much thereof as is subject to the provisions hereof from time to time.

5.2

- a. The Association shall have a Board of up to five (5) but not less than three (3) directors who shall be elected by the Members of the Association at such intervals as the Articles of Incorporation and By-laws of the Association shall provide, except (i) that vacancies in the Board occurring between regularly scheduled meetings of the Members may be filled by the Board if so provided by the Articles of Incorporation or By-laws, and (ii) that the first Board and subsequent Boards (until the Turnover Date) shall be appointed by the Developers. Except for directors of the Board appointed by the Developers, all directors shall be Members of the Association. The Developers may, from time to time, by written notice to the Association, elect to relinquish its right to appoint any one or more directors and continue to exercise its right to appoint the remaining directors of the Board until the Turnover Date.
- b. The Association shall have such officers as shall be appropriate from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly provided otherwise by the corporate charter or By-Laws, all power and authority to act on behalf of the Association, both pursuant to this Declaration and otherwise, shall be vested in the Board from time to time and its officers under the direction of the Board, and shall not be subject to the approval of the Members. The directors and officers of the Association shall not be liable to the Owners or any others for any mistake of judgment or any acts or omissions made in good faith as such directors or officers.

5.3 The Developers shall, through the Board appointed by it in accordance with Section 5.2, exercise control over all Association matters, until the first to occur of the following: (a) the date which is twenty (20) years from the date of this Declaration, (b) the date of the sale and conveyance of legal title to all of the Lots to Owners other than Declarant or an assignee of Declarant as provided in Section 9.12, or (c) the date the Developers elect voluntarily to turn over to the Members the authority to appoint the Board, which election shall be made by directing the Declarant to execute and record in the Office of the Recorder of Deeds of DuPage County, Illinois, an instrument setting forth its intention to so turn over its authority hereunder. The date upon which the authority to appoint the Board passes to the Members is hereinafter referred to as the "Turnover Date." On or prior to the Turnover Date, the Developer shall cause Declarant to convey to the Association, and the Association shall accept, the Common Area to be owned by the Association hereunder and the Association shall maintain the Common Area as required hereunder.

5.4

- a. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or any of its successors in interest owns one or more Lots.

- b. From and after the Turnover Date, each Member shall be entitled to one (1) vote for each Lot owned by him on each matter submitted to a vote of Members; provided, however, that where there is more than one Owner of a Lot, such co-owners of a Lot shall only be entitled to one vote.

5.5 The Association, through the Board, shall have the power and duty to:

- a. Own, maintain, and otherwise manage the Common Area and all Improvements thereon and all other property acquired by the Association or which the Association, pursuant to easement or license agreement, is permitted or required to maintain, or which the Association agrees to maintain, including any obligation or agreement (including any which may be entered into with the County of DuPage, the Municipality, or other governmental agency) to maintain the Trails, the entrance monuments and any landscaping located in cul-de-sac islands in the dedicated roads or streets which are within the Property to maintain landscaping and/or walk easements, and to maintain any signage and lighting located thereon. This section 5.5a shall not be amended or revoked without the prior written approval of the Board of the Village of Winfield. In the event that the Association or Declarant fails to maintain the monuments, landscaping of the cul-de-sacs, landscaping easements or walk easements, the Village of Winfield upon 10 days prior written notice to the Declarant or Association, as appropriate, may perform the maintenance required and shall bill the Declarant or Association, as appropriate, for the Village's costs. In the event that the Village's invoice is not paid within 15 days of the date thereof, the Village may bring suit for collection of the invoiced amount and the responsible party, whether the Declarant or the Association, shall also pay all costs and expenses, including reasonable attorneys' fees, incurred by the Village in bringing such suit. The Village shall further have the right to bring suit for equitable or injunctive relief in the event that the responsible party fails to maintain the aforesaid areas and the responsible party, whether Declarant or Association, shall pay all costs and expenses, including reasonable attorneys' fees, incurred by the Village in bringing such suit.
- b. Contract with independent contractors to perform all or any part of the duties and responsibilities of the Association;
- c. Establish and maintain a Contingency and Replacement Reserve in an amount to be determined by the Board;
- d. Maintain, at the expense of the defaulting Owner, all drainage areas and facilities located on the Property in accordance with the reasonable and acceptable engineering requirements of the Village of Winfield in the event that one or more Owners fails to do so;
- e. Provide for the maintenance of landscaping, signs, monuments, fencing, retaining walls, water systems, lighting and other improvements located on the Common Area or on other property acquired by the Association or which the Association, pursuant to easement or license agreement, is permitted or required to maintain, or which the Association agrees to maintain;
- f. At its option, complete the construction of any Dwelling or other Improvement, the construction of which is not being performed in a diligent, timely, or workmanlike manner;
- g. At its option, mow, care for, maintain, and remove rubbish from any vacant or unimproved portions of the Property and to do any other things necessary or desirable in the judgment of the Board to keep any vacant or unimproved portions of the Property neat in appearance and in good order. The foregoing rights shall not apply to any Lot or other portion of the Property owned by Declarant;

- h. Make such improvements to the Common Area and provide such other facilities and services as may be authorized from time to time by the affirmative vote of two-thirds (2/3) of the Members of the Association acting in accordance with its Articles of Incorporation and By-Laws, provided, however, that any such action so authorized shall always be for the express purpose of keeping the Development a highly desirable residential community; and
- i. Exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Members by this Declaration, the Articles of Incorporation or the By-Laws.

Notwithstanding anything herein to the contrary, paragraphs 5.5a, 5.5c, 5.5d, and 5.5e, shall not be amended or revoked without the prior written approval of the Board of Trustees of the Village of Winfield.

5.6 The Board shall also have the authority and responsibility to obtain and maintain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workers' compensation insurance, and other liability insurance as it may deem desirable, insuring each Owner, each member, the Association, its officers, the Board, the Declarant, and their respective employees and agents from liability and insuring the officers of the Association and the Board from liability for any good faith actions taken beyond the scope of their respective authority. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties by having a severability of interests endorsement. The premiums for such insurance shall be common expenses payable out of the proceeds of the assessments required by and collected in accordance with Article VI. The Association shall also have the authority and responsibility to obtain and maintain insurance policies covering the Common Area against loss or damage by fire and such other hazards contained in customary fire and extended coverage, vandalism and malicious mischief endorsements as the Association may deem desirable. The Association shall also have the authority to obtain such other kinds of insurance as the Association shall from time to time deem prudent.

5.7 The Board, officers of the Association, members of any committee thereof (including the Architectural Review Committee) and the employees and agents of any of them shall not be liable to the Owners or any other person for any mistake of judgment or for any acts or omissions of any nature whatsoever in the their respective positions except for such acts or omissions found by a court of competent jurisdiction to constitute willful misfeasance, gross negligence or fraud. The Owners shall indemnify, hold harmless, protect and defend the foregoing parties against all claims, suits, losses, damages, costs and expenses, including without limitation, reasonable attorney's fees and amounts paid in reasonable settlement or compromise incurred in connection therewith. the burden of the foregoing indemnity shall be borne by the Owners at the time such loss, damage, cost or expense is incurred in the same proportion as assessments are borne by the Owners as provided in Article VI hereof. To the extent possible, the Board's and Association's liability hereunder and the Owner's indemnification obligation shall be insured by means of appropriate contractual endorsements to the comprehensive general liability insurance policies held from time to time by the Association.

5.8

- a. Until the Turnover Date, the Developer shall have all the rights and powers herein granted to the Association and shall be authorized and empowered to exercise all power and authority of the Board.
- b. Until the Turnover Date, Developer shall have the right, but not the obligation, to maintain the

Common Area and all fencing, signs and monuments located thereon and, in its sole discretion, pay all expenses and costs arising in connection with the Common Area, including, without limitation, the costs of improving and maintaining the Common Area (and any fencing, signs and monuments located thereon) and general real estate taxes payable in connection with the Common Area. To the extent that any real property taxes payable after the Turnover Date in connection with the Common Area are attributable to the period prior to the Turnover Date, Developer shall reimburse the Association, on a pro rata basis, for such real property taxes. Declarant shall convey the Common Area to the Association on or before the Turnover Date.

- c. Developer shall be entitled at all times to conduct sales of Lots from the Property and shall have right, for itself and its agents, employees, guests and invitees, to utilize roads, streets. Common Area and all other portions of the Property, excluding sold Lots, for such purposes until all Lots are sold. Developer may at all times utilize signage, lighting and establish sales offices and model homes as required to conduct its sales and marketing of the Property. The Developer shall have the right to maintain a sales office and/or model home for no more than six (6) months after the sale of their last improved Lot.

## ARTICLE VI

### ASSESSMENTS

6.1 Each Owner, by taking title to a Lot, shall be deemed to have covenanted and agreed to pay to the Association annual assessments or charges and special assessments for capital improvements and unforeseen expenses, to be collected from time to time as hereinafter provided. The Declarant shall be deemed to have covenanted and agreed to pay to the Association such annual or special assessments as pertain to Lots which it still owns. For purpose of calculating the amount payable by the Owners of Lots, any Lot which in its entirety shall constitute a part of the Common Area shall be disregarded. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a lien on the Lot against which each such assessment is made. Furthermore, each such assessment, together with such interest, costs and reasonable attorneys' fees also shall be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

6.2 The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents of the Property and in particular for the improvement and maintenance of the Property, services and facilities devoted to these purposes and related to the use and enjoyment of the Common Area. Such uses shall include, without limitation, the cost of all general real estate taxes, insurance, repair, replacement and maintenance and other charges required or permitted by this Declaration and the cost of those items that the Board shall determine to be necessary or desirable to meet the purposes of the Association, including without limitation, the establishment and maintenance of a Contingency and Replacement Reserve.

6.3 Each year on or before November 1, the Board will estimate the total amount of expenses necessary to pay the cost of wages, materials, taxes, insurance, services, supplies and any other necessary or desirable items which will be required during the ensuing calendar year (January 1-December 31) for services authorized by the Board, together with a reasonable amount necessary to fund the Contingency and Replacement Reserve, and shall, on or before December 1, notify each Owner in writing of the amount of such estimate ("**Estimated Cash Requirement**"). Such Estimated Cash Requirement shall be assessed equally among all of the Owners, including the Declarant, on the basis of the number of Lots owned by them and the total number of Lots. On or before January 1 of the ensuing fiscal year, each

Owner shall be obligated to pay to the Board, or as it may direct, the annual assessment made pursuant to this Section 6.3; provided, however, that prior to the Turnover Date the annual assessment to be imposed shall not exceed the sum of \$300 per Lot per annum. On or before the date of the annual meeting of each calendar year, the Board shall furnish to all Owners an itemized accounting of the sum of \$300 per Lot per annum. On or before the date of the annual meeting of each calendar year, the Board shall furnish to all Owners an itemized accounting of the expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected from the Owners an itemized accounting of the expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected from the Owners pursuant to assessments made during such year and showing the net amount over or short of the actual expenditures, plus reserves. The Board shall upon demand at any time furnish a certificate in writing signed by an officer or agent of the Association, setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment or nonpayment of any assessment thereon.

#### 6.4

- a. The Board shall build up and maintain a reserve for the replacement of capital improvements, other authorized capital expenditures and for unforeseen expenditures (the "**Contingency and Replacement Reserve**"). Capital improvements and expenditures which may become necessary during the year shall be charged first against the Contingency and Replacement Reserve. Any expenditure from the Contingency and Replacement Reserve having a cost in excess of Five Thousand (\$5,000.00) Dollars shall require the prior approval of the Members holding two-thirds (2/3) of the votes of the Association. Votes may be by written proxy.
- b. If the Contingency and Replacement Reserve proves inadequate for any reason, including nonpayment of any Owner's assessment, the Board may, at any time, levy a special assessment, which shall be assessed equably among the Owners, including Declarant, on the basis of the number of Lots owned by them and the total number of Lots. The Board shall serve notice of any such special assessment on all such Owners by a statement in writing giving the amount and reasons therefor, and such special assessment shall become effective and fully payable ten (10) days after the delivery or mailing of any such notice of assessment.
- c. Developer shall collect, from each initial purchaser of a Lot at the closing of the sale of any such Lot, the sum of One Hundred (\$100.00) Dollars which amount shall be deposited in the Contingency and Replacement Reserve. On the Turnover Date, the Developer shall transfer all funds remaining in the Contingency and Replacement Reserve account to the Association and the Association shall hold and apply such funds for the purpose set forth in this Section 6.4

6.5 When the first Board takes office, it shall determine the Estimated Cash Requirement for the period ending on December 31 of the calendar year in which it takes office. The initial Estimated Cash Requirement shall be assessed equally among all Owners, including the Declarant, on the basis of the number of Lots owned by them and the total number of Lots.

6.6 The failure or delay of the Board to prepare or serve the Estimated Cash Requirement on any Owner shall not constitute a waiver or release in any manner of any Owner's obligation to pay his share of such Estimated Cash Requirement as herein provided, as and when the Estimated Cash Requirement shall be determined, and, in the absence of the preparation of the Estimated Cash Requirement at the then existing annual rate established for the previous calendar year, subject to adjustment at such time as the Estimated Cash Requirement has been prepared and the Owners have been notified thereof.



6.7 The Board shall keep full and correct books of account in chronological order of the receipts and expenditures pertaining to the Common Area and any other property with respect to which it may have rights hereunder, specifying and itemizing the maintenance and repair expenses of such property and any other expenses so incurred. Such records and the vouchers authorizing the payments described therein shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, or any holder of a Mortgage at such reasonable time or times during normal business hours when requested by an Owner or by the holder of a Mortgage. Upon five (5) days' prior written notice to the Board, any Owner shall be furnished a statement of his account, which statement shall set forth the amount of any unpaid assessments or other charges due and owing from such Owner.

6.8 All funds collected hereunder shall be held and expended for the purposes designated herein, and are hereby held in trust for the benefit, use and account of all Owners. All funds not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may select.

6.9 Any assessments or other charges which are not paid when due shall be delinquent. If the assessment or charge is not paid within thirty (30) days after the due date, the assessment shall bear interest from and after the due date at the lesser of the rate of twelve (12%) percent per annum or the highest rate allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot, and interest, costs and reasonable attorneys' fees incurred in any such action shall be added to the amount of any such overdue 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 Lot of any such Owner when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of mortgage liens against real estate. The directors of the Board and their successors in office, acting on behalf of the other Owners, shall have the power to bid in the interest so foreclosed at foreclosure sale, and to acquire and hold, lease, mortgage and convey any interest so acquired. To the fullest extent permitted by law, any court shall be authorized to restrain the defaulting Owner from reacquiring his interest at such foreclosure sale.

6.10 The lien of assessments provided for herein shall be subordinate to the lien of any Mortgage now or hereafter placed on the Lots. In the event of the issuance of a deed pursuant to the foreclosure of such prior Mortgage or in lieu of such foreclosure, the grantee of such deed shall take title free and clear of any lien for assessment authorized by this Declaration so long as any such lien shall have arisen prior to the date of recording of any such deed.

## ARTICLE VII

### EASEMENTS

7.1 Declarant hereby declares the following non-exclusive easements are hereby created with respect to the Common Area:

- a. Each Owner and its respective guests, invitees and employees shall have a non-exclusive easement for use and enjoyment in and to the Common Area subject to the following: (i) the right of the Association to pass reasonable rules and regulations relating to such use and enjoyment, (ii) the right of the Association to suspend an owner's right to use or enjoy such easement for any period during which such Owner may be in violation of this Declaration, (iii) the right of the Association to levy assessments as herein provided, and (iv) any and all rights reserved to Declarant,

Developer and the Association as herein provided.

- b. A non-exclusive easement for the installation and maintenance of drainage facilities and utility easements is hereby granted to the Association and reserved by the Declarant over, under, across and through the Common Area. If any such drainage or utility facilities are not installed or if any easements for such purposes are not created with respect to a Lot or any portion thereof prior to delivery of a Lot Deed to an Owner, said Owner hereby grants to the Declarant and the Association a power of attorney to execute and record any such easements with respect to any Lots owned by said Owner for the benefit of the Property. The foregoing power of attorney is hereby coupled with an interest and is therefore irrevocable.

7.2 Declarant hereby reserves, for itself and the Association, the right, but not the obligation, to construct and maintain trails, paths or sidewalks within the Common Area and/or within the portions of the Lots which are subject to an easement therefor as established pursuant to the Subdivision Plats and as recorded ("**Trails**" or "**Pedestrian Pathways**") (Exhibit C). In addition, the Trails or Pedestrian Pathways may be situated, in part, upon real property which adjoins the Development and which is owned by DuPage County, the Village of Carol Stream or the Village of Winfield Park or School Districts or the Municipality, or the agency of any of them. Such Trails or Pedestrian Pathways would be available to each Owner and its respective guests and invitees and others for pedestrian use and enjoyment thereof. In order to effectuate its rights herein, the Declarant or the Association may at any time execute and record an instrument declaring an easement over, under, through and upon the portions of the Property where the Trails or Pedestrian Pathways would be situated in favor of each Owner and its respective guests and invitees and others for the use thereof as aforesaid. The Association shall be entitled to pass reasonable rules and regulations relating to use of the Trails or Pedestrian Pathways.

7.3 Declarant hereby declares a non-exclusive easement in its favor over unsold Lots within the Development and over the Common Area for the maintenance of signs, sales offices and business offices, together with such other facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the sale of Lots or Dwellings, for so long as Declarant owns any Lot.

7.4 The Declarant, Developer, Association and any of their respective agents, employees and independent contractors shall have the right to enter upon the Common Area and any Lot to the extent necessary for the purpose of maintaining, repairing and replacing the Common Area and any Improvements in, on, under, or upon the Common Area as herein provided or any portion of the Property which they, or any of them, pursuant to easement or license agreement, are permitted or required to maintain or for performing any of their respective rights or obligations herein provided, including without limitation, the rights and obligations granted pursuant to Section 5.5 hereinabove and Section 9.5 hereunder. In any such case, the Declarant, Developer, Association, or any of their agents, employees or independent contractors shall not be guilty of any trespass.

7.5 The Declarant, Developer and the Association hereby reserve the right to grant easements for ingress, egress, installation, construction, reconstruction, maintenance, repair, operation and inspection of utility services over, under, across and through the Common Area as they deem necessary or desirable in order to effectuate the intent of this Declaration and for such purpose, the right to dedicate or transfer fee simple ownership to all or any part of the Common Area to an appropriate governmental authority or public or private utility company is hereby reserved.

**ARTICLE VIII****GOLF COURSE LOT RESTRICTIONS, EXCULPATION AND EASEMENT**

The following restrictions shall apply to all Golf Course Lots contained within the Subject Property, unless otherwise expressly provided:

8.1 The Golf Course Property and Golf Course Facilities shall be owned and operated as determined by the Owner. Membership in and use of the Golf Course Facilities shall be determined by the Owner thereof. Ownership of a Lot within the Subject Property does not grant membership in or the right to the use of the Golf Course Facilities or any portion of the Golf Course Property. Nothing contained in this Declaration shall be construed to establish or grant the right of access upon or use of any portion of the Golf Course Property to any Lot Owner or occupant, or any of their guests or invitees.

8.2 The rear yards of all Golf Course Lots shall be sodded as soon as weather permits following the issuance of the occupancy permit for the Dwelling Unit on such Golf Course Lots. Prior to the installation of such sod, the Owners and/or occupants of each Golf Course Lot shall not remove, alter, or otherwise interfere with any erosion and sedimentation control system placed upon such Golf Course Lot by or pursuant to the authority of Declarant for purposes of protecting the Golf Course Property and/or any lot within the Subject Property.

8.3 To the extent permitted by law, each Owner and occupant of a Golf Course Lot, on behalf of himself, his guests, mortgagees, heirs, personal representatives, successors and assigns (hereinafter collectively referred to as the "Releasing Parties"), hereby irrevocably waives, discharges and releases (i) the owner of the Golf Course Property, (ii) all occupants, guests, members, invitees, employees and agents of the Golf Course Property and/or any of the Golf Course Facilities, and (iii) all other persons rightfully upon and utilizing any of the Golf Course Facilities (hereinafter collectively referred to as the "Parties Released"), from any and all claims, demands, actions and causes of action any of the Releasing Parties may have against any of the Parties Released arising from personal injuries, death, property damage and/or nuisance incurred by any of the Releasing Parties as a result of the customary and ordinary use of any of the Golf Course Facilities. Such customary and ordinary use shall include, but not be limited to, the playing of golf and the hitting of golf balls incident thereto, including errant golf balls caused by slices, hooks, shanks, misjudged distance, and poor aim. The Releasing Parties, by taking title to, occupying, entering upon, or otherwise having any interest in a Golf Course Lot, each acknowledge the inherent risk associated with the close proximity of the Golf Course Facilities to each Golf Course Lot, and agree to assume that risk. Nothing contained in this Section 8.3 shall be construed to release any claim for damages or injuries caused by the willful misconduct of any of the Parties Released. In any event, and regardless of whether or not the foregoing release applies to the factual circumstances complained of, each of the Releasing Parties hereby irrevocably waives any and all right to petition any unit of federal, state or local government or bring an action in any court for, or otherwise seek, the denial, redesign, fencing, screening, limitation or restriction of use, or closure of any of the Golf Course Facilities, as the same may from time to time be proposed, constructed, and/or operated on the Golf Course Parcel.

8.4 A perpetual, non-exclusive, easement for ingress and egress (hereinafter referred to as the "Ball Retrieval Easement") is hereby granted over, across, and upon the rear yard and side yards of all Golf Course Lots in favor of all persons (herein referred to as "Grantees") rightfully playing or practicing golf upon the Golf Course Parcel for the limited purpose of retrieving golf balls hit by the persons seeking to retrieve the same which have come to rest, and such entry shall be carried out in as prompt and unobtrusive manner as reasonably practicable, In no event other than the retrieval of golf balls under

the conditions as provided herein, and any violation of the strict limitations of the provisions hereof shall constitute a trespass.

## ARTICLE IX

### GENERAL PROVISIONS

9.1 The covenants and restrictions of this Declaration shall run with the land, and shall inure to the benefit of and be enforceable by the board, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded in the Office of the Recorder of Deeds of DuPage County, Illinois, after which time said covenants shall be automatically extended for successive periods of ten (10) years, subject to amendment as hereinabove provided.

9.2 If and to the extent that any of the covenants would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time during which such covenants may be valid, then said covenant shall continue and endure only until the expiration of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of President George Bush, living at the date of this Declaration.

9.3 If at any time or times the Board shall deem it necessary or advisable to rerecord this Declaration or any part hereof in the Office of the Recorder of Deeds of DuPage County, Illinois, in order to avoid the expiration hereof or of any of the covenants or other provisions herein contained under any of the provisions of Chapter 83 of the Illinois Revised Statutes, presently in force and commonly known as the Marketable Title Act, or any other law or statute of similar purport, it shall submit the matter to a meeting of the Members of the Association called upon not less than ten (10) days notice, and unless at such meeting at least two-thirds (2/3) of said Members shall vote against such rerecording, the Board shall have, and is hereby granted, power to so rerecord this Declaration or such part thereof, and such rerecording shall be binding upon all Owners of any part of the Property in every way and with all the full force and effect as though such action were taken by each of said Owners and the rerecorded document executed and acknowledged by each of them.

9.4 Each grantee of Declarant by taking title to a Lot, and each purchaser under any contract for a deed of conveyance pursuant to which said grantee will take title, accepts said title subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, or in any mortgage or trust deed or other evidence of obligation, and the rights described in this Section 9.4 or described in any other part of this Declaration shall be sufficient to create and reserve such rights to the respective grantees, mortgagees and trustees of such Lot as fully and completely as though such rights were recited fully and set forth in their entirety in any such documents.

9.5 Developer and each Owner from time to time shall have the right jointly and separately to sue for and obtain a prohibitive or mandatory injunction to prevent the breach of, or to enforce the observance of, the covenants and obligations above set forth, or any of them, in addition to the right to bring a legal action for damages. Whenever there shall have been built (or whenever there is being built) on any Lot any improvement which is and remains in violation of the covenants above set forth, or any

of them, for a period of thirty (30) days after delivery of written notice thereof (in the manner provided in Section 9.14 hereof) from Developer or the Association to the Owner of any such Lot, then Developer or the Association shall have, in addition to the foregoing rights, the right to enter upon the property where such violation exists and summarily to abate or remove it at the expense of the Owner, and such entry and abatement or removal shall not be deemed a trespass, and any amounts expended by Developer or the Association on account of such abatement or removal, and interest, costs and fees as provided in Section 6.9 hereinabove, to the extent permitted by any decision or statute or law now or hereafter in effect, shall be and become a lien or charge against such Lot and may be foreclosed in the same manner as the lien provided in Section 6.9 hereinabove. In no event shall the failure of Developer and the Owners to enforce any of the covenants or obligations herein provided due to a particular violation to be deemed to be a waiver of the right to do so respecting any such violation or any subsequent violation.

9.6 Subject to the provisions of Section 5.5 and 9.7, the Owners may revoke, modify, amend or supplement in whole or in part any or all of the covenants, obligations and conditions contained in this Declaration and may release all or any part of the Property from all or any part of this Declaration. Any such revocation, modification, amendment, or supplement may be made effective at any time if the Owners of at least two-thirds (2/3) of the Lots and the Developer consent thereto, the consent of the Developer being required so long as the Declarant owns any Lots. Any such revocations, modifications, amendments, or supplements shall be effective only if expressed in a written instrument or instruments executed and acknowledged by each of the consenting Owners, certified by the Secretary of the Association and recorded in the Office of the Recorder of Deeds of DuPage County, Illinois.

9.7 Declarant hereby reserves the right and power to record a special amendment (hereinafter the "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, 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 the first mortgages encumbering any Lot, or (iii) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In addition, a Special Amendment shall also be deemed to include, until the Turnover Date, such amendment to this Declaration as Declarant elects to record at any time and from time to time for any other purpose, so long as such amendment will not materially impair the rights of the Owners hereunder or materially increase the expenses to be borne by them hereunder. 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. Said power shall be irrevocable. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant to vote in favor of, make, execute and record Special Amendments. Subject to the provisions of Section 9.12 hereof, the right of the Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as the Declarant holds title to no Lot.

9.8 The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for development for the Property.

9.9 In the event title to any Lot is conveyed to a titleholding trust, under the terms of which all powers of management, operation, and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all

obligations, liens, or indebtedness and for the performance of all agreements, covenants, obligations and undertakings chargeable or created under this Declaration against any such Lot. No claim shall be made against any such titleholding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply, in whole or in part, against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon said Lot and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to any such Lot.

9.10 All headings set forth herein are intended for convenience only and shall not be given or construed to have any substantive effect on the provisions of this Declaration. The singular shall include the plural wherever the Declaration so requires, and the masculine the feminine and neuter and vice versa.

9.11 If a court of competent jurisdiction shall hold invalid or unenforceable any part of this Declaration, such holding shall not impair, invalidate or otherwise affect the remainder of this Declaration which shall remain in full force and effect.

9.12 Notwithstanding anything herein to the contrary, either or both of Declarant and Developer, as Declarant and Developer in their sole discretion may determine, hereby reserve the right to transfer, assign, mortgage or pledge any and all of either's respective privileges, rights, title and interests hereunder, or in the Property, by means of recording an assignment of such with the Office of the Recorder of Deeds of DuPage County, Illinois. Upon such assignment, either or both of Declarant and Developer, as the case may be, shall be relieved from any liability arising from the performance or non-performance of such rights and obligations accruing from and after the recording of such assignment. No such successor assignee of the rights of either or both of Declarant and Developer, as the case may be, shall have or incur any liability for the obligations or acts of any predecessor in interest.

9.13 Developer may, at its sole discretion, from time to time, elect to bring within the scheme of this Declaration certain portions or all of the property legally described on Exhibit D attached hereto and by this reference made a part hereof (hereinafter referred to as the "**Additional Property**") or any other property contiguous to the Property or Additional Property hereafter acquired by the Declarant. The submission of all or any portion of the Additional Property or any other contiguous property to this Declaration shall be in the sole and absolute discretion of Declarant, and shall not require the consent or approval in any form or manner of any lot owner taking title by, through or under the Declarant, or any of Declarant's grantees or assigns. Developer is not obligated in any manner by this Declaration to annex the Additional Property to the Property or to annex any particular tract, or to annex tracts in any particular sequence, or to annex contiguous tracts, it being the intention hereof that Developer may decline to exercise the rights granted in this Section 9.13 or may elect to exercise such rights only to a limited extent. The additions authorized by the following and succeeding provisions of this Section 9.13 shall be made by recording in the Office of the Recorder of Deeds for DuPage County, Illinois, a Supplementary Declaration with respect to the Additional property, or portion thereof, which shall extend the scheme of this Declaration to the property to be annexed (hereinafter referred to as the "**Annexed Property**"). Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as are not inconsistent with the scheme of this Declaration. At such time as the Declarant causes the recording of such Supplementary Declaration or Declarations, then in such event: (a) the provisions of this Declaration applicable to the Common Area located on such Annexed Property, and the rights of Declarant and Developer with respect thereto, and all other rights, easements, covenants, restrictions, burdens, uses and privileges appurtenant to the Common Area shall include and apply to the Common Area as extended by such annexation; (b) every person or entity who shall become an Owner of any Dwelling located in such

Annexed Property shall be and become a Member of the Association on the same terms and conditions and subject to the same qualifications and limitations, a those Members who are then Owners of Dwellings located on the Property; (c) Developer and Declarant shall have and enjoy in such Annexed Property all easements and exercise all rights, privileges and immunities reserved to them or either of them in this Declaration in the same manner and with the same force and effect as though the term Property as used in this Declaration included such Annexed Property; and (d) in all other respects, all the provisions of this Declaration shall include and apply to such Annexed Property in the same manner and with the same force and effect as though such Annexed Property had been subject to the provisions of this Declaration.

9.14 Each Owner of a Lot shall file the correct mailing address of such Owner with the Association and shall notify the Association promptly in writing of any subsequent change of address; provided, however, that if any Owner shall fail to so notify the Association, the mailing address for such Owner shall be the street address of the Lot owned by such Owner. The Association shall maintain a file of such addresses. A written or printed notice, deposited in the United States mail, postage prepaid, and addressed to any Owner at the last address filed by such Owner with Declarant shall be sufficient and proper notice to such Owner and shall be deemed delivered on the third (3rd) day after deposit in the United States mail.

**THIS DECLARATION** is executed by Gary-Wheaton Bank, not personally but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and such Trustee hereby warrants that it possesses full power and authority to execute this instrument), and solely for the purpose of subjecting the Property to the terms of this Declaration. It is expressly understood and agreed by every person, firm, corporation, trust or other entity hereafter claiming any interest under this Declaration that any and all obligations, duties, covenants and agreements of every nature herein set forth by Gary-Wheaton Bank, as Trustee as aforesaid, to be kept and performed, if any, are intended to be kept, performed and discharged by the beneficiaries under said Trust Number 7697 of their successors, and not by Gary-Wheaton Bank personally, and no personal liability hereunder whatsoever is assumed by nor shall be asserted or enforced against said Trustee, all such liability, if any, being expressly waived; and further, that no duty shall rest upon Gary-Wheaton Bank, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration. In the event of a conflict between the provisions of this paragraph and any other provision of this Declaration with respect to any question of apparent liability or obligation resting upon said Trustee, the exculpatory provisions hereof shall be controlling.

**IN WITNESS WHEREOF**, Gary-Wheaton Bank, as Trustee as aforesaid, and not individually, has caused its corporate seal to be affixed hereunto and has caused its name to be signed to this Declaration by its (Assistant) Vice-President and attested by its (Assistant) Secretary, as of the day and year first above written.

*THIS INSTRUMENT is executed by the Gary-Wheaton Bank, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in: it as such Trustee (and said Gary-Wheaton Bank, hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on the said Gary-Wheaton Bank.*  
carole\kleindec\032693\cp

**GARY-WHEATON BANK**, as Trustee  
as aforesaid

By: [Signature]  
(Assistant) Vice President  
Attest: [Signature]  
(Assistant) Secretary

STATE OF ILLINOIS )  
 ) SS.  
 COUNTY OF DU PAGE )

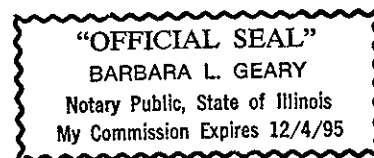
I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY**, that Barbara Kachle, personally known to me to be the Trust Officer of **GARY-WHEATON BANK**, as Trustee under Trust Agreement dated July 10, 1987 and known as Trust Number 7697, an Illinois Banking Corporation, and Joseph Morris, personally known to me to be the Asst. V.P. of said Corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such D.O. and Asst. V.P., respectively, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth; and said D.O. then and there acknowledged that he, as custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth.

**GIVEN** under my hand and notarial seal this 6<sup>th</sup> day of April, 1993.

Barbara L. Geary  
 Notary Public

This Document Prepared By:

Richard M. Guerard, Esq.  
 GUERARD, KALINA & MUSIAL  
 100 West Roosevelt Road, Suite A-1  
 Wheaton, Illinois 60187  
 (708) 665-9033





CONSENT OF MORTGAGEE

GARY-WHEATON BANK, National Association, holder of a Mortgage dated OCTOBER 2, 1992, and recorded in the Recorder's Office of DuPage County as Document No. 92-192728, as amended or modified from time to time, hereby consents to the execution and recording of the within Declaration of Covenants, Conditions, Restrictions and Easements for **KLEIN CREEK**, and agrees that said Mortgage is subordinate and subject to the provisions hereof.

IN WITNESS WHEREOF, DEBORAH E. PATRICK has signed this instrument on the 29<sup>th</sup> day of MARCH, 1993.

Deborah E. Patrick, v.p.

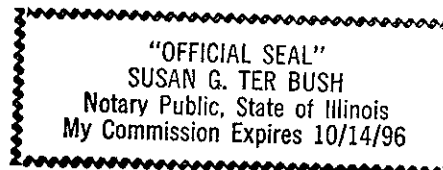
STATE OF ILLINOIS           )  
  ) SS.  
COUNTY OF DU PAGE       )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that Deborah E. Patrick, 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 he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 29<sup>th</sup> day of March, 1993.

Susan G. Ter Bush  
Notary Public

carole\kleindec\032693\cp



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

LOTS 39 THROUGH 47 AND 197 THROUGH 208 IN KLEIN CREEK SUBDIVISION UNIT 1A, BEING A SUBDIVISION OF PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS, CONTAINING 9.277 ACRES, MORE OR LESS.

P.I.N.'s: 05-06-206-001, 05-06-206-002, 05-06-206-003, 05-06-206-004, 05-06-206-005,  
05-06-206-006, 05-06-206-007, 05-06-206-008, 05-06-206-009, 05-06-207-001,  
05-06-207-002, 05-06-207-003, 05-06-207-004, 05-06-207-005, 05-06-207-006,  
05-06-207-007, 05-06-207-008, 05-06-207-009, 05-06-207-010, 05-06-207-011,  
05-06-207-012.

AND

LOTS 1 THROUGH 38 IN KLEIN CREEK SUBDIVISION UNIT 1B, BEING A SUBDIVISION OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN LYING EAST OF PLEASANT HILL ROAD, IN DUPAGE COUNTY, ILLINOIS, CONTAINING 14.119 ACRES, MORE OR LESS.

P.I.N.'s: 05-06-204-001, 05-06-204-002, 05-06-204-003, 05-06-204-004, 05-06-204-005,  
05-06-204-006, 05-06-204-007, 05-06-204-008, 05-06-204-009, 05-06-204-010,  
05-06-204-011, 05-06-204-012, 05-06-204-013, 05-06-204-014, 05-06-204-015,  
05-06-204-016, 05-06-204-017, 05-06-204-018, 05-06-204-019, 05-06-204-020,  
05-06-204-021, 05-06-204-022, 05-06-204-023, 05-06-204-024, 05-06-204-025,  
05-06-204-026, 05-06-204-027, 05-06-204-028, 05-06-204-029, 05-06-204-030,  
05-06-205-001, 05-06-205-002, 05-06-205-003, 05-06-205-004, 05-06-205-005,  
05-06-205-006, 05-06-205-007, 05-06-205-008.

AND

LOTS 209 THROUGH 239 IN KLEIN CREEK SUBDIVISION UNIT 1C, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

P.I.N.'s: 05-06-414-001, 05-06-414-002, 05-06-414-003, 05-06-414-004, 05-06-414-005,  
05-06-414-006, 05-06-414-007, 05-06-414-008, 05-06-414-009, 05-06-414-010,  
05-06-414-011, 05-06-414-012, 05-06-414-013, 05-06-414-014, 05-06-414-015,  
05-06-414-016, 05-06-414-017, 05-06-414-018, 05-06-414-019, 05-06-414-020,  
05-06-414-021, 05-06-414-022, 05-06-414-023, 05-06-414-024, 05-06-414-025,  
05-06-414-026, 05-06-414-027, 05-06-414-028, 05-06-414-029, 05-06-414-030,  
05-06-414-030, 05-06-414-031

**EXHIBIT B**  
**BY-LAWS OF**  
**KLEIN CREEK HOMEOWNERS' ASSOCIATION**

**ARTICLE I**

**PURPOSES AND POWERS**

The Association shall be responsible for the general management and supervision of the Property and the ownership of the Common Area thereof and shall have all of the powers to perform, and shall be responsible to perform, all of the obligations provided in the Declaration. Further, the Association shall have all powers now or hereafter granted by the General Not For Profit Corporation Act of the State of Illinois which shall be consistent with the purposes specified herein and in the Declaration. Any defined terms used in these By-Laws shall have the same meaning as set forth in the Declaration, except as otherwise provided herein.

**ARTICLE II**

**OFFICES**

Section 2.1           The Association shall have and continuously maintain in the State of Illinois a registered office and a registered agent whose office shall be identical with such registered office. The Association may have other offices within or without the State of Illinois as the board of Directors may from time to time determine.

Section 2.2           The principal office of the Association shall be maintained in DuPage County, Illinois.

**ARTICLE III**

**MEMBERSHIP**

Section 3.1

- a. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or any of its successors in interest owns one or more Lots.
- b. From and after the Turnover Date, each Member shall be entitled to one (1) vote for each Lot owned by him on each matter submitted to a vote of Members; provided, however, that where there is more than one Owner of a Lot, such co-owners of a Lot shall only be entitled to one vote.

- c. Meetings of the Members shall be held at the principal office of the Association or at such other place in DuPage County, Illinois as may be designated in any notice of a meeting. The presence at any meeting, in person or by proxy, of a majority of the total votes determined pursuant to Section 3.1 above shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of the Members having a majority of the total votes present at such meeting. Any Member in writing may waive notice of a meeting, or consent to any action of the Association without a meeting.
- d. The initial meeting of the Members shall be held at such time as may be designated upon not less than ten (10) days' written notice given by the Declarant or Developer, provided that such initial meeting shall be held no later than sixty (60) days after the Turnover Date. Thereafter, there shall be an annual meeting of the Members on the third Tuesday of November of each succeeding year, at 7:30 p.m. If the date for the annual meeting of Members is a legal holiday, the meeting will be held at the same hour on the first day next succeeding such date which is not a legal holiday.
- e. Special meetings of the Members may be called at any time for the purpose of considering matters which, by the terms of the Declaration or these By-Laws, require the approval of all or some of the Members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board or by the Members having one-fourth (1/4) of the total votes, and delivered not less than five (5) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

Section 4.1        The direction and administration of the Property in accordance with the provisions of the Declaration shall be vested in the Board consisting of up to five (5) but not less than three (3) persons who shall be elected in the manner hereinafter provided, except that until the Turnover Date the first and each subsequent Board shall be appointed by the Developer. From and after the Turnover Date, the Members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease the number of the office of the Board members at any annual meeting, provided that such number shall not be less than three (3). The terms of the person on the Board shall expire annually. Each member of the Board, with the exception of the Board members initially appointed by the Developer shall be an Owner; provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director or officer of such corporation, partner of such partnership, individual trustee or beneficiary of such trust or agent or employee of a beneficiary of such trust, or manager of such legal entity, shall be eligible to serve as a member of the Board.

Section 4.2        All matters of dispute or disagreement between Owners or with respect to interpretation or application of the provisions of the Declaration or these By-Laws shall be determined by the Board as hereinafter provided, which determination shall be final and binding on the Association and on all Owners.

Section 4.3        At the initial meeting of the Members as provided in Section 3.1(b)

hereof, and at all subsequent annual meetings of the Members there shall be elected members of the Board. In all elections for members of the Board, each Member shall be entitled to vote on a cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. A number of Board members equal to the number then appointed by the Developer pursuant to Section 4.1 shall be elected at the initial meeting and shall serve until the first annual meeting. Notwithstanding the aforesaid election procedure the Developer may appoint a Board which shall have the same powers and authority as given to the Board generally, as provided hereinafter, and such appointed Board shall function until such time as the initial meeting of the Members is held.

Section 4.4        Members of the Board shall receive no compensation for their services, unless expressly allowed by the Board at the direction of the Members having two-thirds (2/3) of the total votes. However, any director may be reimbursed for reasonable expenses incurred in the performance of his duties.

Section 4.5        Vacancies in the Board, other than as a result of removal pursuant to Paragraph 4.7, including vacancies due to any increase in the number of persons on the Board, shall be filled by majority vote of the remaining members of the Board or of the Members present at the next annual meeting or at a special meeting of the Members called for such purpose.

Section 4.6        The Board shall elect from among its members: (i) a President who shall preside over both its meetings and those of the Members, and who shall be the chief executive officer of the Board and Association, (ii) a Secretary who will keep the minutes of all meetings of the Members and of the Board and who shall, in general, perform all the duties incident to the office of Secretary, and (iii) a Treasurer to keep the financial records and books of account, and such additional officers as the Board shall see fit to elect. All officers shall be elected at each annual meeting of the Board and shall hold office at the pleasure of the Board.

Section 4.7        Any Board member may be removed from office by affirmative vote of the Members having at least two-thirds (2/3) of the total votes, at any special meeting called for the purpose in the manner aforesaid. A successor to fill the unexpired term of a Board member removed may be elected by the Members at the same meeting or any subsequent meeting called for that purpose.

Section 4.8        The initial meeting of the Board shall be held immediately following the initial meeting of the Members and at the same place. At such meeting the Board shall elect its officers to serve until the first annual meeting which shall be held immediately following the first annual meeting of the Members, and at the same place. All subsequent annual meetings of the Board shall be held immediately after, and at the same place as, the annual meeting of Members. Special meetings of the Board shall be held upon call by the President or by a majority of the Board on not less than forty-eight (48) hours notice in writing to each member of the Board, delivered personally or by mail or telegram. Any member of the Board may in writing waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action of the Board without a meeting. A majority of the number of Board members shall constitute a quorum for the transaction of business. Unless otherwise expressly provided herein, any action may be taken by the Board upon the affirmative vote of those present at its meetings

when a quorum is present.

Section 4.9 All agreements, contracts, deeds, leases, vouchers for payment of expenditures, and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President and countersigned by the Secretary.

## ARTICLE V

### POWERS OF THE BOARD

Section 5.1 Without limiting the general powers which may be provided by law, the Declaration or these By-Laws, the Board shall have the power and duty to:

- a. Own, maintain and otherwise manage the Common Area and all Improvements thereon and all other property acquired by the Association or which the Association pursuant to the easement or license agreement, is permitted or required (including any which may be entered into with the County of DuPage, the Municipality, or other governmental agency) to maintain or which the Association agrees to maintain, including any obligation or agreement to maintain the Trails, the entrance monuments and any landscaping located in cul-de-sac islands in the dedicated roads or streets which are within the Property and to maintain any entry monument signage and lighting located thereon;
- b. Contract with independent contractors to perform all or any part of the duties and responsibilities of the Association;
- c. Establish and maintain a Contingency and Replacement Reserve in an amount to be determined by the Board;
- d. Maintain, at the expense of the defaulting Owner, all drainage areas and facilities located on the Property in accordance with the reasonable and acceptable engineering requirements of the Village in the event that one or more Owners fail to do so;
- e. Provide for the maintenance of landscaping, signs, monuments, fencing, retaining walls, water systems, lighting and other improvements located on the Common Area or on other property acquired by the Association or which the Association, pursuant to easement or license agreement, is permitted or required to maintain, or which the Association agrees to maintain;
- f. At its option, complete the construction of any Dwelling or other Improvements, the construction of which is not being performed in a diligent, timely or workmanlike manner.
- g. At its option, mow, care for, maintain and remove rubbish from any vacant or unimproved portions of the Property and to do any other things necessary or desirable in the judgment of the Board to keep any vacant or unimproved portions of the Property neat in appearance and in good order. The foregoing rights shall not apply to any Lot or other

portion of the Property owned by Declarant;

- h. Make such improvements to the Common Area and provide such other facilities and services as may be authorized from time to time by the affirmative vote of two-thirds (2/3) of the Members of the Association acting in accordance with its articles of incorporation and these By-Laws, provided, however, that any such action so authorized shall always be for the express purpose of keeping the Development a highly desirable residential community; and
- i. Exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the members by the Declaration, the articles of incorporation or these By-Laws.

Section 5.2 The Board shall have the power to seek relief from or in connection with the assessment or levy of any general real estate taxes, special assessments and any other special taxes or charges of the State of Illinois or any political subdivision thereof, or any other lawful assessing body, which are authorized by law to be assessed and levied on the Common Area and to charge all expenses incurred in connection therewith to the fund established pursuant to Section 6.1 hereinbelow.

#### Section 5.3

- a. The Board may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, conform, safety and general welfare of the Owners and occupants of the Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Owners and occupants, and the entire Property shall at all times be maintained subject to such rules and regulations.
- b. Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners or any of them.

Section 5.4 The members of the Board and the officers of the Association shall not be personally liable to the Owners or others for any mistake of judgment or for any acts or omissions made in good faith by such officers or Board members.

### ARTICLE VI

#### ASSESSMENTS

Section 6.1 Each year on or before November 1, the Board will estimate the total amount of expenses necessary to pay the cost of wages, materials, taxes, insurance, services, supplies and any other necessary or desirable items which will be required during the ensuing calendar year (January 1 - December 31) for services authorized by the Board, together with a reasonable amount necessary to fund the Contingency and Replacement Reserve, and shall, on or before December 1, notify each Owner in writing of the amount of such estimate ("Estimated

Cash Requirement"). Such Estimated Cash Requirement shall be prepared on a line-item basis. The Estimated Cash Requirement shall be assessed equally among all of the Owners, including the Declarant, on the basis of the number of Lots owned by them and the total number of Lots (disregarding, however, any Lots which in their entirety constitute a part of the Common Area). On or before January 1 of the ensuing fiscal year, each Owner shall be obligated to pay to the Board, or as it may direct, the annual assessment made pursuant to this Section 6.1. On or before the date of the annual meeting of each calendar year, the Board shall furnish to all Owners an itemized accounting of the expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected from the Owners pursuant to assessments made during such year and showing the net amount over or short of the actual expenditures, plus reserves. The Board shall, upon demand at any time furnish a certificate in writing signed by an officer or agent of the Association, setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment or nonpayment of any assessment thereon.

#### Section 6.2

- a. The Board shall build up and maintain a reserve for the replacement of capital improvements, other authorized capital expenditures and for unforeseen expenditures (the "Contingency and Replacement Reserve"). Capital improvements and expenditures which may become necessary during the year shall be charged first against the Contingency and Replacement Reserve. Any expenditure from the Contingency and Replacement Reserve having a cost in excess of Five Thousand Dollars (\$5,000.00) shall require the prior approval of the Members holding two-thirds (2/3) of the votes of the Association.
- b. If the Contingency and Replacement Reserve proves inadequate for any reason, including nonpayment of any Owner's assessment, the Board may, at any time, levy a special assessment, which shall be assessed equally among the Owners, including Declarant, on the basis of the number of Lots owned by them and the total number of Lots (disregarding, however, any Lots which in their entirety constitute a part of the Common Area). The Board shall serve notice of any such special assessment on all such Owners by a statement in writing giving the amount and reasons therefor, and such special assessment shall become effective and fully payable ten (10) days after the delivery or mailing of any such notice of assessment.

Section 6.3 When the first Board takes office, it shall determine the Estimated Cash Requirement for the period ending on December 31 of the calendar year in which it takes office. The initial Estimated Cash Requirement shall be assessed equally among all Owners, including the Declarant, on the basis of the number of Lots owned by them and the total number of Lots (disregarding, however, any Lots which in their entirety constitute a part of the Common Area).

Section 6.4 The failure or delay of the Board to prepare or serve the Estimated Cash Requirement on any Owner shall not constitute a waiver or release in any manner of any Owner's obligation to pay his share of such Estimated Cash Requirement as herein provided, as and when the Estimated Cash Requirement shall be determined, and, in the absence of the preparation of the Estimated Cash Requirement, the Owner shall continue to pay his share of such Estimated Cash Requirement at the then existing annual rate established for the previous



calendar year, subject to adjustment at such time as the Estimated Cash Requirement has been prepared and the Owners have been notified thereof.

Section 6.5 The Board shall keep full and correct books of account in chronological order of the receipts and expenditures pertaining to the Common Area, specifying and itemizing the maintenance and repair expenses of the Common Area and any other expenses so incurred. Such records and the vouchers authorizing the payments described therein shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, or any holder of a Mortgage at such reasonable time or times during normal business hours when requested by an Owner or by the holder of a Mortgage. The Estimated Cash Requirement may include a charge for the keeping of the books of account. Upon five (5) days' prior written notice to the Board, any Owner shall be furnished a statement of his account, which statement shall set forth the amount of any unpaid assessments or other charges due and owing from such Owner.

Section 6.6 All funds collected hereunder shall be held and expended for the purposes designated herein, and are hereby held in trust for the benefit, use and account of all Owners. All funds not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may select.

Section 6.7 Any assessments or other charges which are not paid when due shall be delinquent. If the assessment or charge is not paid within thirty (30) days after the due date, the assessment shall bear interest from and after the due date at the lesser of the rate of twelve percent (12%) per annum or the highest rate allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot, and interest, costs and reasonable attorneys' fees incurred in any such action shall be added to the amount of any such overdue 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 Lot of any such Owner when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of mortgage liens against real estate. The directors of the Board and their successors in office acting on behalf of the other Owners, shall have the power to bid in the interest so foreclosed at foreclosure sale, and to acquire and hold, lease, mortgage and convey any interest so acquired. To the fullest extent permitted by law, any court shall be authorized to restrain the defaulting Owner from reacquiring his interest at such foreclosure sale.

## ARTICLE VII

### COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

All Owners shall maintain, occupy and use their Dwelling and the Common Area only in accordance with the terms of the Declaration and any additional rules and regulations adopted by the Board or by the Members. The Board shall have full authority to enforce all such rules and regulations by taking all action as may be necessary.

**ARTICLE VIII****COMMITTEES**

Section 8.1 The Board shall appoint the members of the Architectural Review Committee in accordance with the provisions of the Declaration. The Board, by resolution, adopted by a majority of the Board, may designate one (1) or more other committees, each of which shall consist of one (1) or more members of the Board; said committees, to the extent consistent with law and as provided in said resolution, shall have and exercise the authority of the Board in the management of the Association; but the designation of such committees and the delegation thereof of authority shall not operate to relieve the Board, or any individual member of the Board, of any responsibility imposed upon it or him by law.

Section 8.2 Other committees not having and exercising the authority of the Board in the management of the Association may be designated by a resolution adopted by a majority of the members of the Board present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be Members of the Association, and the President of the Association shall appoint the members thereof. Any member thereof may be removed whenever in the judgment of the Board the best interests of the Association shall be served by such removal.

Section 8.3 Each member of a committee shall continue as such until the next annual meeting of the Board and until his successor is appointed and shall have qualified, unless the committee shall be sooner terminated, or unless such member shall cease to qualify as a member thereof.

Section 8.4 One (1) member of each committee shall be appointed chairman.

Section 8.5 Vacancies in the membership of any committee may be filled by appointment made in the same manner as provided in the case of the original appointment.

Section 8.6 Unless otherwise provided in the resolution of the Board designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 8.7 Each committee may adopt rules for its own governance not inconsistent with these By-Laws or with rules adopted by the Board.

**ARTICLE IX****INTERIM PROCEDURE**

Until the initial meeting of the Members as provided in Section 3.2(b) hereof, the Declarant or Developer may appoint the Board which shall have the same powers and authority as given to the Board generally.

**ARTICLE X****AMENDMENTS**

These By-Laws may be amended or modified from time to time by action or approval of the Members entitled to cast two-thirds (2/3) of the total votes computed as provided in Section 3.2 and the Developer so long as Declarant owns any Lots. Such amendments shall be recorded in the Office of the Recorder of Deeds of DuPage County, Illinois.

**ARTICLE XI****INTERPRETATION**

In the case of any conflict between the articles of incorporation of the Association and these By-Laws, the articles of incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

**EXHIBIT "C"**

**PERMITTED LOCATION OF PEDESTRIAN PATHWAYS**

The Pedestrian Pathways, if any, when constructed as provided in Section 7.2, shall be constructed over all or some of Lots 214, 215, 230 and 231 via a Pedestrian Pathway Easement, as more specifically delineated on the Subdivision Plat. The Trails may also be constructed over portions of the Additional Property.

carole\kleinbyl\010593\cp

carole\kleinbyl\1393\cp

**EXHIBIT "D"**

**PARCEL I:** THAT PART OF THE EAST 1/2 OF GOVERNMENT LOT 2 IN THE NORTH EAST 1/4 OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTHERLY OF THE SOUTHERLY RIGHT OF WAY LINE OF THE CHICAGO GREAT WESTERN RAILROAD (NOW KNOWN AS CHICAGO NORTHWESTERN RAILROAD) AND LYING NORTH OF THE NORTH LINE OF LOT 2 IN HESSLING'S SECOND ASSESSMENT PLAT, RECORDED SEPTEMBER 24, 1958 AS DOCUMENT 896025 (EXCEPT THAT PART CONVEYED TO THE COMMONWEALTH EDISON COMPANY BY DEED RECORDED MAY 14, 1964 AS DOCUMENT R64-16434), IN DU PAGE COUNTY, ILLINOIS.

PERMANENT INDEX NUMBERS 05-06-202-003 AND 05-06-202-009

**PARCEL II:**

**TRACT ONE:** THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DU PAGE COUNTY, ILLINOIS.

EXCEPT FOR THE SOUTH 165 FEET (AS MEASURED ON THE EAST AND WEST LINES THEREOF) OF THE EAST 591.99 FEET (AS MEASURED ON THE NORTH AND SOUTH LINES THEREOF) OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE WEST 341.84 FEET, AS MEASURED ON THE NORTH LINE, OF THE NORTH 15 FEET, AS MEASURED ON THE WEST LINE, AND ALSO EXCEPT THE EAST 150.15 FEET, AS MEASURED ON NORTH LINE, OF THE NORTH 15 FEET, AS MEASURED ON THE EAST LINE THEREOF) ALL IN DU PAGE COUNTY, ILLINOIS.

**TRACT TWO:** THAT PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY BEGINNING AT THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER AND RUNNING THENCE NORTH OF THE EAST LINE OF SAID NORTHWEST QUARTER, 68.87 FEET TO THE LINE OF AN OLD FENCE RUNNING WESTERLY; THENCE WESTERLY ON SAID OLD FENCE LINE, 1332.50 FEET TO A POINT IN THE WEST LINE OF SAID NORTHWEST QUARTER THAT IS 13.2 FEET NORTH OF THE SOUTHWEST QUARTER OF SAID NORTHWEST QUARTER; THENCE SOUTH ON SAID WEST LINE, 13.2 FEET TO SAID SOUTHWEST CORNER; THENCE EASTERLY ON THE SOUTH LINE OF SAID NORTHWEST QUARTER, 1326.9 FEET TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

PERMANENT INDEX NUMBERS: 05-06-201-101 AND 05-06-201-003  
COMMONLY KNOWN AS 1 N 550 PLEASANT HILL ROAD, WHEATON, ILLINOIS 60187

THE LEGAL DESCRIPTION OF THE EXISTING AREA PREVIOUSLY ANNEXED TO THE VILLAGE OF WINFIELD AS THE KLEIN CREEK PLANNED-UNIT DEVELOPMENT IS AS FOLLOWS:

**PARCEL III:**

**TRACT ONE:**

LOTS 1 AND 2 OF THE NORTHWEST FRACTIONAL QUARTER OF FRACTIONAL SECTION 6, AND THE WEST HALF OF LOT 2 OF THE NORTHEAST QUARTER OF SAID FRACTIONAL SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH THAT PART OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTH 00 DEGREES 18 MINUTES 55 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, 234.67 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD; THENCE SOUTH 83 DEGREES 45 MINUTES 13 SECONDS EAST ALONG SAID SOUTH RIGHT OF WAY LINE, 798.87 FEET TO A POINT 788.57 FEET, AS MEASURED ALONG SAID SOUTH RIGHT OF WAY LINE, WESTERLY OF THE INTERSECTION OF SAID SOUTH RIGHT OF WAY LINE WITH THE SOUTH LINE OF SAID SECTION 31, SAID INTERSECTION POINT BEING HEREINAFTER REFERRED TO AS POINT "A" THENCE SOUTH 77 DEGREES 53 MINUTES 26 SECONDS EAST, 469.70 FEET (RECORD = 469.67 FEET) TO A POINT ON THE SOUTH LINE OF SAID SECTION 31, SAID POINT BEING HEREINAFTER REFERRED TO AS POINT "B", AND BEING 324.89 FEET, AS MEASURED ALONG SAID SOUTH SECTION LINE, WEST OF THE AFOREDESCRIBED POINT "A"; THENCE SOUTH 87 DEGREES 45 MINUTES 14 SECONDS WEST ALONG SAID SOUTH SECTION LINE, 1255.63 FEET TO THE PLACE OF BEGINNING; EXCEPTING FROM THE ABOVE DESCRIBED PROPERTY ALL THAT PART THEREOF LYING NORTH AND ADJACENT TO THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE AFOREDESCRIBED POINT "B"; THENCE SOUTH 78 DEGREES 19 MINUTES 10 SECONDS EAST, 20.70 FEET (RECORD = 20.33 FEET) TO A POINT ON A LINE 50.00 FEET AS MEASURED AT RIGHT ANGLES, SOUTH OF AND PARALLEL WITH THE SOUTH RIGHT OF WAY LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD, SAID POINT BEING 5.04 FEET, MEASURED AT RIGHT ANGLES, SOUTH OF THE NORTH LINE OF SAID FRACTIONAL SECTION 6; THENCE SOUTH 83 DEGREES 45 MINUTES 13 SECONDS EAST ALONG SAID LAST DESCRIBED PARALLEL LINE, 1353.08 (RECORD = 1350.00 FEET) TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID FRACTIONAL SECTION 6, BEING THE TERMINUS POINT OF THE HEREIN DESCRIBED LINE, TOGETHER WITH ALL THAT PORTION OF PLEASANT HILL ROAD LYING EASTERLY OF AND ADJACENT TO THE PREVIOUSLY DESCRIBED PROPERTY, ALL IN DU PAGE COUNTY, ILLINOIS.

**TRACT TWO:**

LOTS 9, 10, 11 AND 12 IN BLOCK 9 AND THAT PORTION OF ETHEL STREET LYING WEST OF, ADJACENT TO AND ABUTTING SAID LOTS IN DU PAGE HIGHLANDS, IN THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 9,

EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 7, 1924 AS DOCUMENT 177384, ALL IN DU PAGE COUNTY, ILLINOIS.

**TRACT THREE:**

THE SOUTH HALF OF THE NORTH HALF OF THE NORTH HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DU PAGE COUNTY, ILLINOIS.

**TRACT FOUR:**

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DU PAGE COUNTY, ILLINOIS

ALSO

PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER OF SAID SECTION 6 AND RUNNING THENCE SOUTH ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, 42.2 FEET; THENCE WEST AT RIGHT ANGLES WITH THE LAST DESCRIBED COURSE 372.29 FEET TO THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 83 DEGREES 32 MINUTES EAST ON SAID LINE, 374.67 FEET TO THE PLACE OF BEGINNING, TOGETHER WITH ALL THAT PORTION OF PLEASANT HILL ROAD, LYING EASTERLY OF, ADJACENT TO AND ABUTTING THE PREVIOUSLY DESCRIBED PROPERTY, ALL IN DU PAGE COUNTY, ILLINOIS.

ALSO

THAT PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY BEGINNING AT THE CENTER OF SAID SECTION 6 AND RUNNING THENCE EASTERLY ALONG THE QUARTER SECTION LINE, 956.63 FEET; THENCE EAST AT RIGHT ANGLES WITH THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER 372.29 FEET TO SAID EAST LINE; THENCE SOUTH ALONG THE SAID EAST LINE, 398.8 FEET TO THE CENTER LINE OF THE DRAINAGE DITCH; THENCE NORTH 85 DEGREES 38 MINUTES WEST ALONG SAID CENTER LINE, 569.55 FEET TO AN ANGLE IN SAID CENTER LINE; THENCE NORTH 47 DEGREES 09 MINUTES WEST ALONG SAID CENTER LINE, 125 FEET TO AN ANGLE IN SAID CENTER LINE; THENCE NORTH 89 DEGREES 22 MINUTES WEST ALONG SAID CENTER LINE AND SAID LINE EXTENDED, 663.24 FEET TO THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 02 MINUTES WEST ALONG SAID LINE, 154.55 FEET TO THE PLACE OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

**TRACT FIVE:**

LOT 3 IN HESSLING'S SECOND ASSESSMENT PLAT IN SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 24, 1958 AS DOCUMENT NO. 896025, IN DU PAGE COUNTY, ILLINOIS.

**TRACT SIX:**

THE SOUTH 200 FEET OF LOT 2 OF HESSLING'S SECOND ASSESSMENT PLAT IN SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 24, 1958 AS DOCUMENT 896025, IN DU PAGE COUNTY, ILLINOIS

ALSO

THE EAST 1136.97 FEET OF LOT 1 (AS MEASURED ON THE SOUTH LINE) OF HESSLING'S ASSESSMENT PLAT IN SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 22, 1956 AS DOCUMENT NO. 813048, IN DU PAGE COUNTY, ILLINOIS.

**TRACT SEVEN:**

THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF PLEASANT HILL ROAD, IN DU PAGE COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 6; THENCE NORTH 00 DEGREES 12 MINUTES 10 SECONDS EAST ALONG THE EAST LINE OF THE NORTHEAST QUARTER, OF SAID SECTION 6, 366.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES 12 MINUTES 10 SECONDS EAST, 828.00 FEET TO THE NORTHEAST CORNER OF LOT 2 OF HESSLING'S SECONDS ASSESSMENT PLAT ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 24, 1958 AS DOCUMENT NO. 896025; THENCE SOUTH 89 DEGREES 59 MINUTES 14 SECONDS WEST ALONG THE NORTH LINE OF SAID LOT 2, 1,320.01 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 2, 829.06 FEET; THENCE NORTH 89 DEGREES 57 MINUTES 08 SECONDS EAST ALONG A LINE 200 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID LOT 2, 1,317.08 FEET TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

**TRACT 8:**

LOT 1 OF EVANGELINE'S PLAT OF SURVEY OF PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED ON MAY 18, 1948 AS DOCUMENT NO. 545276, IN DU PAGE COUNTY, ILLINOIS

ALSO

THAT PART OF LOT 1 LYING NORTH OF THE NORTH LINE OF LOT 2 AND SAID NORTH

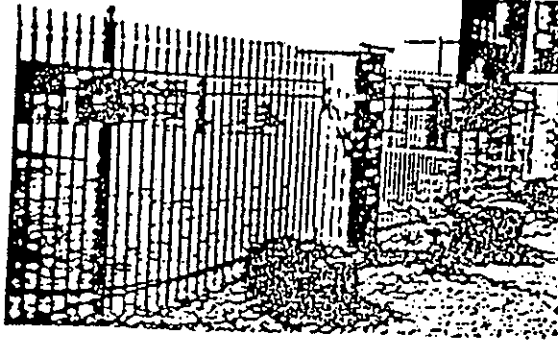


LINE OF LOT 2 EXTENDED WESTERLY TO THE WEST LINE OF SAID LOT 1, IN KARBEINIG'S ASSESSMENT PLAT OF THE SOUTH 20 ACRES OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 29, 1949 AS DOCUMENT NO. 566917, IN DU PAGE COUNTY, ILLINOIS.

CAROLE\KCEXDVMH032693

SWIMMING POOL ENCLOSURE FENCE SPECIFICATIONS

EXHIBIT "E"



Brick Pillars & Wrought Iron

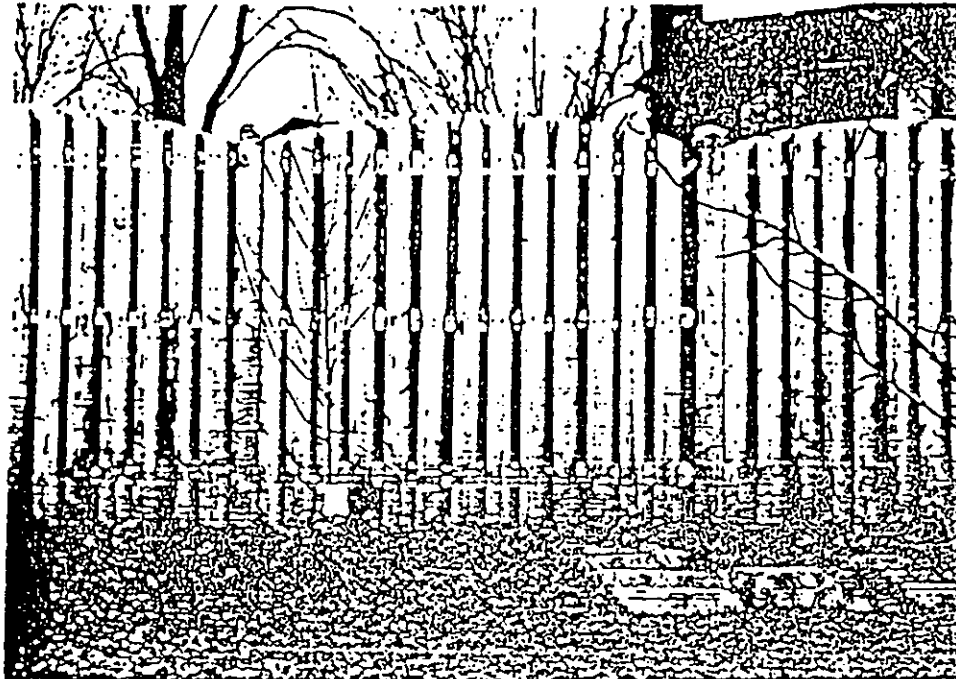
FOR FURTHER INFORMATION: BUDGET FENCE CO.- 17101 S. Wolf Road  
Orland Park, Illinois 60462  
1-708-479-2777

SWIMMING POOL ENCLOSURE FENCE SPECIFICATIONS

EXHIBIT "E"

REAR YARD PRIVACY FENCE SPECIFICATIONS

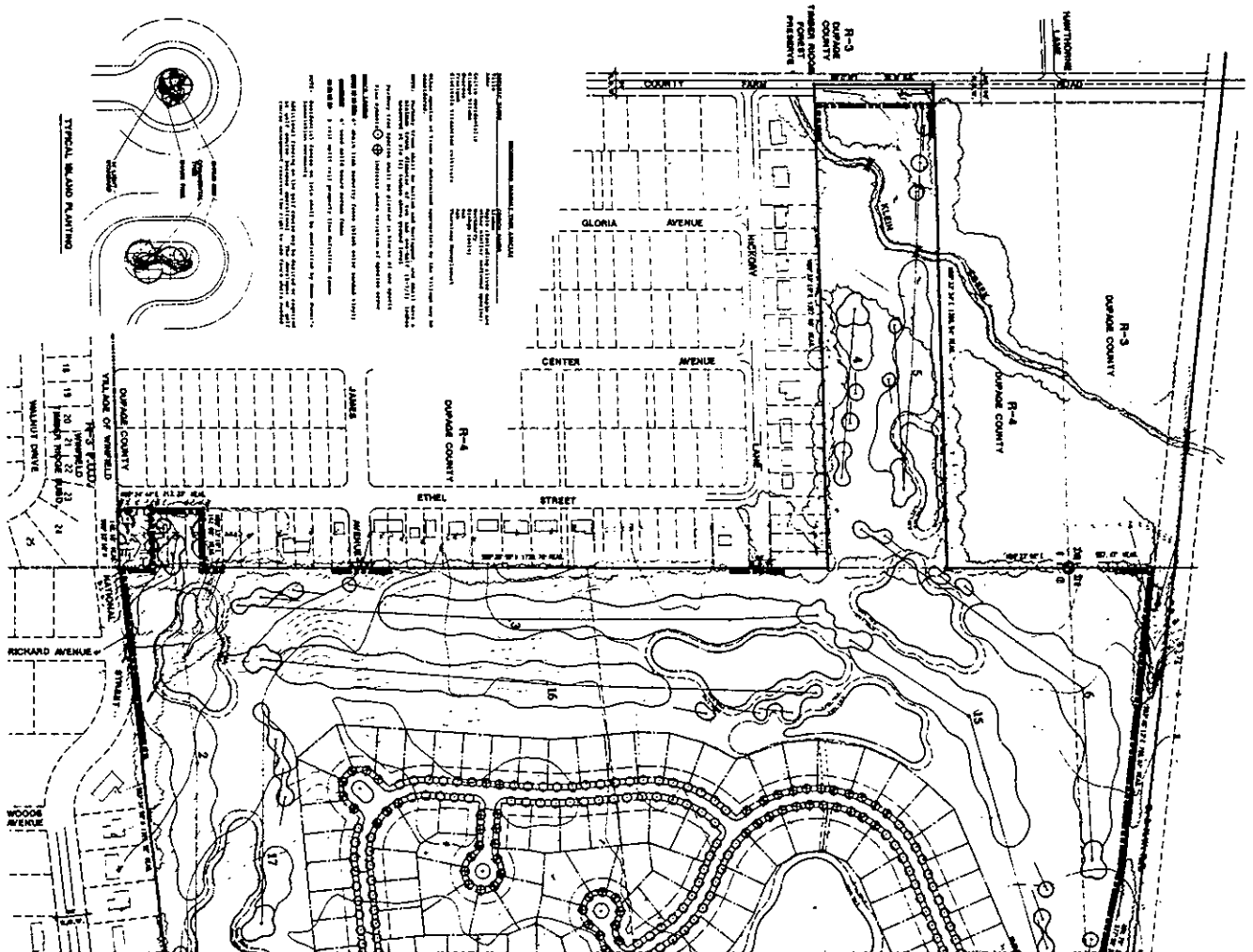
EXHIBIT "F"



FOR FURTHER INFORMATION: THE CEDAR MILL - Route 7 (159th Street)  
Lockport, Illinois 60441  
1-815-838-2957

REAR YARD PRIVACY FENCE SPECIFICATIONS

EXHIBIT "F"

[illegible]

### TYPICAL WELDED PLANTING

**R-4  
BUFFALO COUNTY**

**THE BALSAMO/OLSON GROUP, INC.**  
1800 N. WILSON AVENUE, CHICAGO, ILL. 60641  
(312) 342-1000  
TELETYPE: (312) 342-1000  
FAX: (312) 342-1000  
CABLE: BALSAMO/OLSON  
E-MAIL: [info@balsamo-olson.com](mailto:info@balsamo-olson.com)  
WWW: [www.balsamo-olson.com](http://www.balsamo-olson.com)

**DICK NUGENT ASSOCIATES**  
COAST COAST ARCHITECTURE & CONSTRUCTION MANAGEMENT  
25040 WEST HIGHWAY 12  
LONG BEACH, ILINOIS 60067-6324

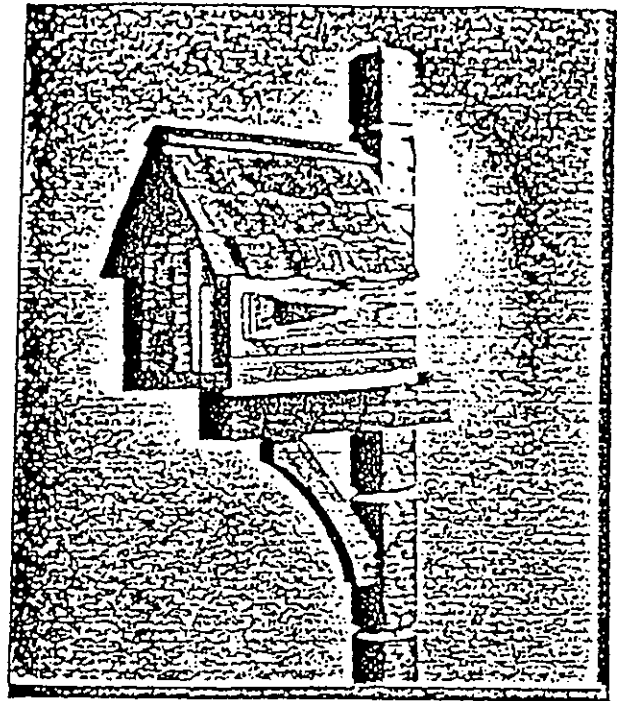
SPECIFICATIONS FOR UNIFORM MAILBOX

EXHIBIT "H"

PRODUCT CODE: CNO-1

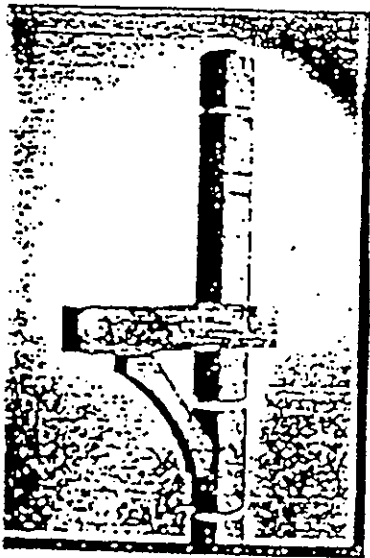
PRODUCTS: 22x12x17  
L"xW"xH"

This Mail Box and Post are made of a very high quality  
hand selected redwood from Simpson Timber Company



NEW ENGLAND  
CNO-1

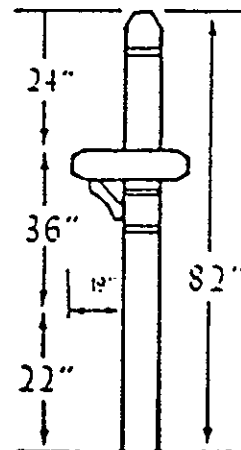
FOR FURTHER INFORMATION: MAIL BOXES, ETC.  
Naperville, Illinois 60565  
1-708-416-6666



WILLIAMSBURG POST  
CNO-2

All Cedar Posts  
Are Rustic 4 x 4  
Western Red Cedar.  
Hand Selected  
and Processed

Mail Box Post  
Specifications



SPECIFICATIONS FOR UNIFORM MAILBOX

EXHIBIT "H"

R93 - 69896