

COPY

ABERDARE ESTATES SUBDIVISION

544666

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made this 24<sup>th</sup> day of June, 1993 by First Midwest Trust Company, as Trustee under Trust No. 5801 hereinafter referred to as "Declarant";

W I T N E S E T H:

WHEREAS, Declarant is the title holder of that certain real property situated in Lake County, Illinois, more particularly described as:

Lots 1 through 64 ~~in the subdivision~~ inclusive in Aberdare Estates being a subdivision of part of the Northwest quarter of Section 20, Township 45 North, Range 11 East of the Third Principal Meridian, in Lake County, Illinois

("Property"); and

WHEREAS, the foregoing property consists of lots to be developed for single family residential use and Outlots to be used for drainage, detention, open space and emergency access.

WHEREAS, Declarant intends to subject the foregoing Property, to the covenants, conditions, and restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Association, Owners, and all parties having any right, title, or interest in the Property; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities of the subject development to create an Association for the purpose of maintaining the Landscape Easement Areas (hereinafter defined), and for administering and enforcing these covenants, conditions and restrictions, and for collecting and disbursing the assessments and charges hereinafter created;

NOW, THEREFORE, Declarant hereby declares that the foregoing Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens which are for the purpose of protecting the value and desirability of, and which shall run with, the Property submitted hereto, and shall be binding on and inure to the benefit of all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns.

CINCAGO TRUST COMPANY

## ARTICLE I

### Definitions

Section 1: "Association" shall mean and refer to an Illinois corporation, its successors and assigns, to be organized by Developer and to be known by the name of Aberdare Estates Homeowners Association.

Section 2: "Board" shall mean the Board of Directors or other governing body, however designated, of the Association.

Section 3: "Common Expenses" shall mean those expenses incurred by the Association under the authority of this Declaration and under its by-laws and as defined in Article IV, Section 2.

Section 4: "Declarant" shall mean and refer to First Midwest Trust Company, as Trustee under Trust No. 5801.

Section 5: "Declaration" shall mean the within instrument together with those exhibits which are attached hereto and made a part hereof and shall include such amendments, if any, to the within instrument as may be from time to time adopted pursuant to the terms hereof. The within Declaration may be referred to in any other document as Aberdare Estates Declaration of Covenants, Conditions and Restrictions.

Section 6: "Developer" shall mean Aberdare Venture, an Illinois general partnership.

Section 7: "Landscape Easement Area(s)" shall mean all those areas designated as (a) "Landscape Buffer Easement" as designated on the Plat, (b) those areas in any right-of-way as depicted on the Plat which constitute curbed islands in any cul de sac (c) the full width of the right-of-way on Aberdare Lane from its intersection with Almond Road easterly a distance of 130 feet to the extent of any entry monuments or entry landscaping therein, (d) Outlots B and C (owned by the Village) and (e) any easement for stormwater management area as designated on the Plat, which areas may be referred to herein collectively either as "Landscape Easement Areas" or by their individual designation as noted above and on the Plat.

Section 8: "Lot" shall mean and refer to a platted lot which is included in the Property, designated as such upon any recorded subdivision map of the Property and upon which lot one dwelling unit is or may be constructed and shall include the dwelling unit if said dwelling unit is constructed thereon.

Section 9: "Member" shall mean and refer to a person or entity who holds membership in the Association.

Section 10: "Owner" shall mean and refer to the record owner, the beneficiary of a land trust which is record owner of a fee simple title to any Lot which is part of the Property, and contract sellers, all whether one or more persons or entities, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include Developer to the extent of the number of Lots owned by Trustee or Developer individually or by any other trust holding title of which the Developer shall be the sole beneficiary, and also includes the interest of Developer or of trustee (or of such other trust holding title) as contract seller of any Lot.

Section 11: "Person" shall mean any individual, firm, corporation, trustee, or other entity capable of holding title to real estate.

Section 12: "Plat" or "Plat of Subdivision" shall mean that document recorded in the office of the Recorder of Deeds of Lake County on JUL 25, 1993 as document number 3354759 known as "Aberdare Estates" subdivision, Gurnee, Illinois.

Section 13: "Property" shall mean and refer to the Property described on page 1 hereof.

Section 14: The "Trustee" shall be the Declarant.

## ARTICLE II

### The Association

#### A. INITIAL ORGANIZATION:

Section 1: The Declarant will cause the Association to be incorporated or formed at such time as the Declarant determines, but in no case later than the sale by Declarant to unrelated third parties of seventy-five percent (75%) of the Lots.

Section 2: Until the Association has been organized and until election of the initial Board, the same rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board by this Declaration and in the By-Laws shall be vested in, and held and performed by Developer. The Developer shall have free use of all assessments for this purpose. All references to the Association shall be deemed a reference to the Developer until the Developer resigns as the Association in accordance herewith. The election of the initial

Board shall be five (5) years after the recording of this Declaration, or earlier upon resignation of the Developer, but no sooner than the date on which the Association has been duly incorporated. If the initial Board is not elected by the Owners at the time so established, Developer shall continue in office for a period of an additional thirty (30) days whereupon written notice of its resignation shall be sent to all Owners entitled to vote at such election.

Section 3: Upon Developer's resignation, Developer shall turn over the corporate books of the Association, a list of all current owners of the Property, an accounting for Association dues collected and/or spent on behalf of the Association in accordance herewith, and a current status of account for all assessments currently due, whether paid or in default. Thereafter, Developer shall have no further obligations whatsoever as the Association.

**B. FUNCTIONS OF ASSOCIATION:**

Section 1: The Association shall have the easement rights as separately granted on the Plat, in addition or in conjunction with the rights specified herein. The Association shall have the obligation to maintain the aesthetic and functional aspects of the Landscape Easement Areas including the maintenance, repair, replacement or new acquisition of landscaping and capital improvements. The Association shall have the absolute right to enter the easement areas and remove all non-conforming landscape materials. The Association shall remove and replace landscaping which in its opinion does not preserve a uniform landscaped appearance and shall otherwise maintain aesthetic control through its approval procedures or through its own initiative by utilizing the assessments provided for herein. Such easement rights may only be exercised if they are not otherwise in conflict with other easement rights granted in the Plat.

The Developer shall grade, seed and maintain each Lot which is not in a wooded or environmentally sensitive area, whether or not such Lot is owned by the Declarant or an Owner, until such time as the Lot is sold to a third party unrelated to Declarant or Developer. Developer is hereby granted an easement for such purpose. The cost of maintenance shall be apportioned to each affected Lot and the Lot Owner shall contribute its proportionate share of such expense as and when notice of payment is given by the Developer. Upon any failure to maintain a Lot in a neat and trimmed appearance after sale of the Lot to such a third party, or upon failure of an Owner to promptly install approved landscaping on such Lot, any officer of the Association or its agents may enter any such Lot, without committing a trespass or other actionable wrong against such Owner, and maintain said

Lot(s) (except wooded areas) or install such landscaping, and such Owner shall pay to the Developer or the Association, as the case may be, its costs of the same upon demand.

Section 2: The Association, through the resolutions of the Board, shall have the right to adopt rules and regulations governing those portions of the Lots which fall within the Landscape Easement Areas, and the use thereof, not otherwise in conflict with this Declaration.

Section 3: Whenever possible, the Association shall perform its function and carry out its duties by entering into agreements for the performance thereof with such persons and business entities regularly engaged in the performance of generally similar functions and duties as the Board shall determine, which agreements shall be for such length of time, at such rates of compensation and upon such other terms and provisions as the Board shall determine from time to time. Such persons or business entities may, but need not, be persons or business entities owning or otherwise directly or indirectly interested in the Property or any part thereof. The Association itself shall also have power to perform its functions and carry out its duties.

Section 4: The Association shall have the general powers to enforce in its own behalf or on behalf of the Association members, in a court of law or otherwise, all of the covenants and conditions appearing in this Declaration reserved to it.

Section 5: The Association shall have the powers generally granted to community associations in Illinois.

C. MEMBERSHIP AND VOTING RIGHTS.

Section 1: Every Owner who is subject to assessment in whole or in part shall automatically be a Member of the Association and shall remain such so long as he remains an Owner of a Lot subject hereto. Developer shall be a Member of the Association but shall have no obligation to pay assessments. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

Class A: Class A members shall be all Owners with the exception of the Developer and shall be entitled to one (1) vote for each Lot owned.

Class B: The Class B member shall be the Developer in its capacity as an Owner who shall be entitled to three (3) votes for each Lot owned, provided however that the Developer shall be entitled to only one (1) vote per lot and no greater than forty-nine percent (49%) of the total number of votes outstanding on the happening of either of the following events, whichever occurs earlier:

(a) When seventy-five percent (75%) of the Lots have been conveyed by the Trustee to Owners other than Developer or Developer's constituent partners; or

(b) Five (5) years after the date the first Lot is conveyed by the Trustee to such other Owners.

D. INSURANCE.

Section 1: The Association may maintain on behalf of the Association, Board, Officers, Managers and Managing Agent, 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 other liability insurance as it may deem desirable, insuring the Association from liability of whatever reasonable nature including specifically, without limitation, those liabilities in connection with its maintenance of the Landscape Easement Areas even though it holds no title to these premises. Each Owner of a lot comprising any of the Landscape Easement Areas shall also maintain public liability insurance for injury or death and flood insurance in amounts satisfactory to the Board for casualty associated with said Area.

Section 2: The Association may also maintain such policies of insurance for workman's compensation and property damage, property loss, vandalism and malicious mischief in relation to the Landscape Easement Areas as the Association may deem desirable and may also obtain such other kinds of insurance as the Association shall from time to time deem prudent with respect to all of its activities pursuant to its by-laws and this Declaration.

Section 3: The premiums for all insurance purchased pursuant to the provisions of this Section shall be Common Expenses and shall be paid at least thirty (30) days prior to the expiration date of any policy.

ARTICLE III

Landscape Easement Areas

Section 1: The Landscape Easement Areas shall be maintained in perpetuity and shall not be developed for any other use which would limit or cause to limit the function and purpose of the facilities.

Section 2: A perpetual easement is hereby granted for the benefit of the Declarant, the Developer (while a Member of the Association), the Association, their successors and assigns, over, upon and across the Landscape Easement Areas for the purpose of administering such areas for the purposes described in Article II.

Section 3: The Developer (while a Member of the Association) and the Association shall further have the right of ingress and egress over and upon the Lots not within said Landscape Easement Areas for any and all purposes connected with the maintenance of the Landscape Easement Areas and the construction, operation, repair and reconstruction of any facilities thereon.

Section 4: The Landscape Easement Areas shall be maintained at all times in compliance with the ordinances of the Village of Gurnee.

Section 5: A perpetual easement is hereby granted for the benefit of the Village of Gurnee or its successors in all non-right-of-way areas, over, upon and across the Landscape Easement Areas for the purpose of inspecting such areas. In the event of a default by the Association in its obligation to maintain, the village shall have the right but not the obligation to perform such maintenance as it deems necessary, and shall be entitled to reimbursement by the Association for any such work performed in good faith. In the exercise of its rights hereunder, the Village shall not be deemed guilty of any manner of trespass.

Section 6: Use. The Landscape Easement Areas may not be used for any purpose other than (a) open space and aesthetic preservation; (b) stormwater detention and wetland preservation; (c) maintenance; and (d) pedestrian walkways within paved areas. No other use of any kind or nature will be permitted in, on or under such easements.

Section 7: Notwithstanding any provisions herein to the contrary, the easements herein created shall be subject to easements of record on the date hereof, including those easements granted on the Plat of Subdivision.

## ARTICLE IV

### Covenants for Maintenance Assessments

Section 1: Each Owner of a Lot (except as otherwise specifically herein noted), by acceptance of a deed therefor or otherwise, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association and/or Developer, as the case may be, for each Lot owned (or to a mortgage company or other collection agency designated by the Association or Developer): (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The assessments thus collected by the Association or Developer shall constitute the maintenance fund of the Association for Common Expenses. The annual and special assessments, together with such interest thereon and costs of collection thereof, including, but not limited to reasonable attorneys' fees, as hereinafter provided, shall be a charge on such Lot(s) and shall be a continuing lien upon each Lot against which each such assessment is made. Each such assessment, together with such interest thereon and the cost of collection thereof, including but not limited to reasonable attorneys' fees, as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the said assessment fell due.

Section 2: Each Owner shall pay to the Association or Developer assessments representing his allocated share of (a) the expenses of improvement, maintenance, repair, replacement, administration and operation of the Landscape Easement Areas; (b) the cost of maintaining and enforcing the easements, restrictions, and covenants established and reserved by this Declaration and by any Plat of Subdivision, deed of conveyance or other instrument affecting the Property including reasonable attorneys' fees; (c) the administrative expenses of the Association; (d) the full performance of all obligations by the Association imposed by the Declaration and the Association's by-laws and (e) any further matter not otherwise enumerated herein which is consented to by 75% or more of the Owners. Said expenses hereinabove referred to shall be known as Common Expenses. To the extent, if at all, that any assessments for any fiscal year are not expended by the Association or Developer, any such savings shall be applied by the Association or Developer in reduction of its budget for the following year, except with respect to amounts held by the Association or Developer as reserves which shall be deemed to be held by the Association or Developer in trust for the Members for the uses and purposes for



which such reserves have been established. Any interest of any Owner in and to such reserve funds shall be deemed appurtenant to such Owner's membership and shall automatically transfer and inure to such Owner's successor in interest.

Section 3: Payments of assessments shall be in such amounts and at such times as provided below:

(a) Upon each sale or transfer of any Lot from the Declarant or from any future Owner, including the sale of a beneficial interest in a land trust or such similar transfer intended to directly or indirectly vest a person or entity other than the Owner with use and ownership of the Lot (except transfers by foreclosure, death or to the same real party in interest such as a conveyance into a land trust where the grantor is the majority beneficial owner of the trust), there shall be paid to the Association or Developer, as the case may be, a sum equal to one-half of the then current amount for annual Association dues ("Initial Fee") provided, however, that the initial amount as of the date of recording hereof shall be the fixed amount of \$100.00 until the first budget is prepared and an assessment based thereon is calculated.

(b) Until December 31, 1994, the maximum annual assessment (not including any special assessment) shall be One Hundred Fifty and 00/100 Dollars (\$150.00) per Lot, in addition to the \$100.00 initial fee set forth in paragraph (a) above.

(c) On or before October 31, 1993 and on or before each October 31st thereafter, the Board of Directors shall estimate the total amount necessary to pay the costs and expenses of the Association as are provided for herein and in the by-laws of the Association, which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount necessary for a reserve for contingencies and replacements, and the Board of Directors shall on or before November 30 of each year, notify each Owner in writing as to the amount of such estimate, with a reasonable itemization thereof. All obligations of the Owners hereunder, including, but not limited to the Common Expenses, for assessments, special assessments or other levies by the Association, pursuant to this Declaration or the by-laws of the Association, shall be determined by multiplying the amount of such assessment, special assessment or levy by a fraction, the numerator of which is the number of Lots owned by the Owner, and the denominator of which shall be 64. Commencing on January 1 of the ensuing year, the new annual assessments or charges as calculated above are to be paid in full on January 31 of each such year.

If an Owner takes title to a Lot from the Developer after July 1 of any given year, said Owner shall be responsible to pay at closing one-half of the annual assessment for said Lot (in addition to the Initial Fee). The Initial Fee shall be due at the time of closing. Notwithstanding anything to the contrary in this Declaration, the Developer or Declarant shall have no obligation to pay assessments.

(d) On or before the date of the annual meeting of each calendar year, the Board shall supply all Owners with an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or under the actual expenditures plus reserves.

If said estimated cash requirement proves inadequate, for any reason, to defray the operating expenses and costs during any given year, then the Board shall be authorized to adopt a supplemental budget or budgets and shall adjust the assessments accordingly. The Board shall serve notice of such further or adjusted assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further or adjusted assessment shall become effective sixty (60) days after the delivery or mailing of such notice. Any increase in the annual assessment in excess of fifty percent (50%) of the approved assessment must be approved by two-thirds (2/3) of each class of Members voting in person or by proxy at a meeting duly called for such purpose.

The Association shall also have the power to borrow funds not to exceed one-half (1/2) of the annual budget on terms calling for repayment within three (3) years, or in such additional amounts and for such additional time periods as are approved by two-thirds (2/3) of each class of Members voting in person or by proxy at a meeting duly called for such purpose.

(e) In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any taxes, construction, reconstruction, repair or replacement of a capital improvement upon the Landscape Easement Areas, provided that any such assessments in excess of a total of fifty percent (50%) of the annual assessment or for a purpose other than one which affects the Landscape Easement Areas, shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for the purpose. Any such assessment shall be levied equally against each Owner.

(f) The Board shall establish and maintain reasonable reserves for contingencies and replacements as it shall deem necessary, and any extraordinary expenditure not included in the estimated cash requirements shall be first charged against such reserves in the year of such expenditure. If such reserves are depleted or, in the opinion of the Board, significantly reduced, then any supplemental budget, or the next regular estimated cash requirements shall provide for the re-establishment of such reserves as the Board shall deem reasonably appropriate.

(g) The failure or delay of the Board to prepare or serve the annual or adjusted estimate or the itemized accounting or other document on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs, necessary reserves or adjusted assessments, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the bi-annual charge at the then existing rate established for the previous period until 30 days after notice of the maintenance payment shall have been mailed or delivered.

(h) The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Property, specifying and itemizing maintenance and repair expenses of the Property and any other expenses incurred. Such records shall be available for inspection by any Owner or first mortgagee of record, at such reasonable time or times during normal business hours as may be requested by the Owner or mortgagee.

(i) No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

Section 4: Any assessments which are not paid when due shall be delinquent.

Any Owner who is delinquent in his or her assessments shall have no power to vote on any matter affecting the Association until such delinquency is fully cured, including the interest and costs provided herein.

The annual and special assessments, together with interest thereon at the rate of nine percent (9%) per annum thereon and costs of collection thereof, including, but not limited to reasonable attorneys' fees, as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon each Lot against which each such assessment is made.

The grantee from any Lot Owner will be jointly and severally liable with such Lot Owner (excluding Developer) for all unpaid assessments and accrued interest due and payable at the time of conveyance without prejudice, however, to the rights of the grantee to recover from the grantor any amounts paid by the grantee. The Association shall further have the power to record a notice of its lien created by this document by filing an appropriate certificate with the recorder of deeds of Lake County, Illinois.

Each such assessment, together with such interest thereon and costs of collection thereof, including but not limited to reasonable attorneys' fees, as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the said assessment fell due.

Section 5: The lien of the assessment provided for herein shall be subordinate to the lien of any bona fide first mortgage (or equivalent security interest) on a Lot and to the liens of Developer's Lender(s) recorded prior to the date upon which such assessment became due. If Developer's lender takes possession of the Property through foreclosure, deed in lieu of foreclosure, or other means in partial or full extinguishment of the debt, any liens attached to those Lots for which Developer's lender has taken possession are extinguished. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE V

##### Standards of Construction

Section 1: No construction of a building, fence, wall, or other structure shall be commenced, erected, or maintained nor shall any addition to or change or alteration thereto be made (except interior alterations), nor shall any landscaping be installed until the Developer or its assigns or successors has approved such construction or installation in accordance with the terms hereof. The Developer shall retain such authority until such time as title to each of the Lots is conveyed by the Trustee to the Owners and a permanent residence is constructed thereon, notwithstanding that the Developer has resigned, or been removed by passage of time, from the Association, provided however, that Developer may, at any time after formation of the Association vest by written assignment all such powers in the Association. After such time all further powers of architectural control shall be vested in the Board of the Association.

Section 2: Owners are required to first submit a review fee of \$350.00 (which may be waived in Developer's sole discretion) and preliminary sketches of any structure or landscaping to be built or installed for "informal comment" showing the nature, kind, shape, height, material, color scheme, proposed location on Lot, and any proposed modification of the grade of the Lot to the Developer for review prior to the submittal of detailed architectural, grading or other plans and specifications for full review. Developer, or its successors or assigns, shall have the sole and exclusive right to refuse to approve any such preliminary sketches, which are not suitable or desirable in the opinion of the Developer or its successors, assigns, or their consultants, for aesthetic or other reasons; and in so passing upon such preliminary sketches, Developer, or its successors or assigns, shall have the right to take into consideration the suitability of the proposed building or other structures with the surroundings, and the overall design intent of an upscale residential community which shall exceed the general standards of the surrounding community. In no instance shall a building of a design exactly the same as on any other Lot in the property be permitted. If the Developer, or its successors or assigns, fails to approve or disapprove preliminary plans within fourteen (14) days after submission of the plans and the review fee, approval shall be deemed to have been given. No review shall commence or approval be given or be deemed to be given until the review fee has been paid or waived in writing.

If such preliminary sketches are approved, the Owner shall then submit detailed architectural plans and specifications, and a landscape and grading plan relating to such proposed construction. Developer shall approve such detailed architectural plans, grading plan, and landscaping plan if the same are substantially in conformity with the preliminary sketches previously approved. In the event Developer, or its successors or assigns, fails to approve or disapprove such detailed plans and specifications or other material within fourteen (14) additional days after submission, approval shall not be required, and the requirements of this Declaration shall be deemed to be complete. After any disapproval, an Owner may resubmit plans as amended for a like review period of time to attempt to again meet the architectural review criteria.

Developer, or its successors or assigns, following the submission of both the informal sketches and detailed plans and specifications, will aid and assist the respective residents, or their agents, and will make every attempt to reasonably cooperate with the wishes of the Owner, and shall specify in detail in what manner the plans fail to pass architectural review upon any disapproval.

Section 3: No house shall be built on any Lot which house has a minimum area of less than 2,600 square feet for a two story residence and 2,200 square feet for a one story residence. Split level houses shall be deemed two story houses. Houses where the front door is on the upper level, even though the rear of the house exhibits two floors, shall be considered one story houses. For the purpose of calculating floor area, the garage, basement and areas such as decks and screened in porches not designed for year-round living are not included in the square footage requirements and stairwells shall be included in the area of one floor only.

Section 4: No building or above grade improvement, or any part thereof, including garages and porches, shall be erected on any Lot other than wholly within the building envelopes as appear on the Plat. Any other grade level improvements permitted by Village ordinance outside of the building envelope, such as driveways and patios, shall be constructed no closer than four (4) feet from any Lot boundary line. Notwithstanding anything herein to the contrary, all dog runs shall be located behind a line parallel to the front Lot line(s) which is even with the rear-most portion of any house, shall be at least twenty (20) feet from any side or rear Lot boundary line, and shall be screened from all front and side yard view by suitable landscaping.

Section 5: The Developer shall have absolute discretion in the orientation of any garage opening. Garage door openings which are positioned out of view from the roadway fronting any residence will be encouraged where practical considerations allow. No residence shall have less than a two (2) car garage, and all garages shall be attached to their respective dwelling.

Section 6: All front and side yards must be sodded and rear yards sodded or seeded within 30 days of occupancy and plant material must be placed in front of and on the sides of all residences, weather permitting, except in wooded areas, and in the Landscape Easement Areas.

Section 7: Access driveways and other paved areas for vehicular use on a Lot shall have a base of compacted gravel, crushed stone, or other approved base material and shall have a wearing surface of asphalt, concrete or brick and shall not be closer than four (4) feet to the side Lot boundary line. Plans and specifications for driveways, culverts, pavement edging, or markers, shall be approved in writing by Developer or its successors or assigns in the manner prescribed in Section 2 above.

Section 8; All structures shall be painted with two coats of paint unless constructed with ornamental masonry or brick. No aluminum or vinyl siding is allowed, unless it is dark gray or white and then only when approved by the Developer, or by the Association upon assignment by Developer of the right of architectural review. All sides of any structure shall be faced with the same material (e.g., wood, brick), provided however that the building material used on one floor of a structure may be different from that used on another, subject to Section 1 of this Article.

All roofs shall be hand split cedar shakes, slate or concrete tile.

Section 9: All electrical services and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead. No exposed or exterior radio or television transmission or receiving antennas shall be erected, placed, or maintained on any part of such premises including specifically, without limitation, satellite dishes. All such receiving antennas shall be placed in the attic or elsewhere entirely within the premises.

Section 10: Except with respect to Section 4 of this Article V (unless otherwise agreed by the Village), Declarant hereby grants and gives Developer, or its successors and assigns, the right to enter into agreements with the owners of any Lot or Lots (without the consent of Owners of other Lots or adjoining or adjacent property) to deviate from any and all of the covenants set forth in this Article V provided, however, that such deviation is in compliance with the ordinances of the Village of Gurnee. Any such deviation shall be granted if there are practical difficulties or particular hardships evidenced by the petitioning Owner, and any such deviation (which shall be manifested by an agreement in writing) shall not constitute a waiver of a particular covenant involved or any other covenant as to the remaining property.

Section 11: Developer shall have no obligation, but only the right to issue and enforce the approvals as described herein and shall not be held liable for any action or inaction taken with respect to the authority granted to it in this Article V, or otherwise.

#### ARTICLE VI

##### Use and Control of the Property

Section 1: Each and every Lot in the subdivision shall be used only for single family residential purposes. No building or structure intended for or adapted to business purposes, and no

apartment house, double house, lodging house, rooming house, multiple family dwelling or any other than a single family residential structure constructed according to the standards set forth above shall be erected, placed, permitted or maintained on the Property, or any part thereof, and no house shall be occupied by more than a single family.

Section 2: No private dwelling house erected upon any Lot shall be occupied in any manner (a) while in the course of construction, (b) at any time prior to its being fully completed, as herein required, (c) at any time prior to the issuance of an occupancy permit by the Village of Gurnee or appropriate governing authority, or (d) prior to the issuance of a letter from the Developer or its successors or assigns that any structure or landscaping placed upon Owner's Lot conforms with the architectural and landscape plans as originally approved for the Lot. No residence, when completed, shall be in any manner occupied until made to comply with the approved plans, the requirements herein, and all other covenants, conditions, reservations, and restrictions herein set forth. All construction shall be completed within one year from the start thereof. No temporary house, temporary dwelling, temporary garage, temporary outbuilding, trailer home, or other temporary structure shall be placed or erected upon any Lot, provided however that Developer reserves the right for itself, or its agents, to use any Lot for office, sale or display purposes.

Notwithstanding the above, any Lot Owner shall be entitled to leave portions of the interior of the premises unfinished for future completion as long as all exterior surfaces conform to the requirements herein, and as long as all structural and foundational components of the residence are complete prior to occupancy.

Section 3: None of the Lots shall at any time be divided into as many as two or more building sites. A single Lot together with contiguous portions of one or more whole Lots may be used for one building site, provided however that any improvements thereon must be constructed entirely within the building envelope (described in Section 4 of Article V) of one of the whole Lots, unless otherwise agreed by the Village.

Section 4: No commercial vehicles, construction, or like equipment, recreational vehicles or boats, or mobile or stationary trailers of any kind shall be permitted on any Lot within the Property unless kept in a garage and completely enclosed, except such construction vehicles as are necessary for the period of any approved construction.



Section 5: The Developer shall determine location, color, size, design, lettering and all other particulars of all mail or paper delivery boxes, and lamp posts and the standards and brackets and name signs for such boxes in order that the area shall be uniform in appearance with respect thereto. Notwithstanding the foregoing, each mailbox must be placed in accordance with post office standards.

Section 6: No dogs or domesticated animals shall be allowed to run free within the Property unless properly restrained by a leash.

Section 7: No horses, cattle, swine, goats, poultry, fowl non-domesticated animals, vicious animals (including specifically, without limitation, all pit bull terriers) or offensive animals shall be kept on any Lot. No clotheslines or drying yards shall be permitted unless concealed by hedges acceptable to the Association. No signs or other advertising shall be displayed unless the size, form and number of the same are first approved in writing by the Association or its successor. No refuse pile or other unsightly objects shall be allowed to be placed or suffered to remain anywhere upon a Lot, other than for regular household garbage pickup. All construction refuse shall be placed in a dumpster or roll off box of sufficient capacity.

Section 8: No Lot shall be used in whole or part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any Lot that will emit a foul or obnoxious odor or that causes any noise that will or might disturb the peace, quite, comfort or serenity of the occupants of the surrounding Lots or property.

Section 9: No tennis court or swimming pool (as measured from the water's edge) shall be located on a Lot in any front yard or within twenty (20) feet of any side or rear Lot line, or as required by applicable ordinance (whichever is more restrictive), and shall not be located within any easement appearing of record or on the Plat of Subdivision. Notwithstanding anything to the contrary in the foregoing, no structures of any kind, including grade level improvements, may be constructed within twenty (20) feet of the municipal golf course adjacent to the Property. There shall be no above ground swimming pools other than whirlpools built into outdoor decks joined to a residence.

Section 10: Outbuildings, shacks, barns or other detached buildings on the premises shall generally not be allowed except when permitted by the Developer or its successors or assigns and approved in accordance with Article V, and unless placed entirely within the building envelope referred to herein. The architecture of said out buildings shall resemble the architecture of the residence and be in conformance with the general character of the neighborhood.

Section 11: All natural streams upon the property shall remain totally unobstructed by the landowner. No parcel shall be graded other than as approved by the Village and the Developer, or its successors or assigns, or in a manner that will in any way affect the drainage to or from a Lot. No Lot or parcel shall be increased in size by filing in the wetland or open space it abuts. No rock, gravel, or clay shall be excavated or removed from any property for any commercial purposes, but may be removed for the purpose of construction only in accordance with Village of Gurnee ordinances, regulations and rules.

Section 12: All fencing shall comply with either of the following standards:

(a) split rail fences may be installed only on the Lot boundary lines and may be no higher than 3½ feet. On any Lot which abuts the adjacent municipal golf course, the Owner of a Lot shall be required to construct, within one year of initial occupancy, a 3½ foot high split rail fence along any portion of a Lot which is contiguous to the golf course.

(b) stockade fences no higher than 6 feet may be installed only in rear yards on the side and rear Lot boundary lines, except as otherwise required by the Village on Lots which abut the golf course.

In Developer's discretion, exceptions may be made to the placement of such fences around swimming pools. No other fences shall be allowed except as determined on an individual basis by Developer to avoid a hardship.

## ARTICLE VII

### Remedies

Section 1: The violation or breach of any provision of this Declaration, any Plat of Subdivision, any deed, conveyance, or other instrument affecting lands in the Property, will not create a forfeiture, but will give the Developer and, upon resignation, the Association, in addition to any other rights herein granted

or otherwise available to it and under law, the right, in its discretion, to (a) enter on the Lot(s) on which such violation or breach exists and summarily abate, remove or correct at the expense of the Lot Owner involved, any structure, thing, or condition that may exist thereon contrary to the provisions of such instrument including specifically, without limitation, any nonconformity with approved plans, and the Developer or the Association, as the case may be, and its agents, will not thereby be deemed guilty of any manner of trespass, or (b) remedy the same by appropriate legal proceedings, at law or in equity, including, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof.

Section 2: In any proceeding arising because of an alleged default by a Lot Owner, the Association will be entitled to recover the costs of such proceeding, including, without limitation, reasonable attorneys' fees.

Section 3: All rights, remedies and privileges granted to the Association pursuant to this Declaration will be deemed to be cumulative, and the exercise of any one or more will not be deemed to constitute an election of remedies, nor will it preclude the Association from exercising such other or additional rights, remedies, or privileges as may be granted to it by this Declaration or at law or in equity.

Section 4: No restriction imposed hereby will be abrogated or waived by any failure to enforce any provision hereof, no matter how many violations or breaches may occur.

Section 5: The invalidity of any restriction hereby imposed, or of any provisions hereof, or of any part of such restriction or provision, will not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

#### ARTICLE VIII

##### Conveyances

Section 1: All conveyances of Lots are subject to taxes, assessments, restrictive covenants, this Declaration, the Homeowners Association, Village of Gurnee ordinances, and easements appearing of record and on the plat of subdivision, and other matters of record.

Section 2: Each grantee, by the acceptance of a deed of conveyance of any Lot or any portion of the Property, accepts the same subject to the provisions of this Declaration, including the right of the Association to remedy any breach hereof by the

actions specified under Article VII. All such provisions will run with the land and bind, apply to, and inure to the benefit of every Owner of any interest therein, and all persons claiming thereunder, as though the provisions of this Declaration were recited and stipulated at length in each deed of conveyance.

Section 3: No Owner shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or any of his obligations as such Member, and no purported disclaimer, termination or withdrawal thereof or therefrom on the part of any such Owner shall be of any force or effect for any purpose.

Section 4: No Lot shall be transferred or conveyed after initial construction of improvements thereon until the Developer or its successors has issued its written statement that the improvements are in conformance with previously approved architectural and landscape plans as provided for herein.

#### ARTICLE IX

##### Permits and Fees

Section 1: All building permits or permits for water or sewer service, all school donations and structural, plumbing and all other fees or donations whatsoever affecting any Lot or the Property are to be paid by the Lot Owner, unless otherwise agreed to in writing by Declarant or its agents. Any such agreement shall not be assignable unless expressly made so.

#### ARTICLE X

##### Miscellaneous Provisions

Section 1: If and to the extent that any of these 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 for which such covenants may be valid, then the provisions concerned shall continue and endure only until the expiration of a period 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 William Clinton, President of the United States, living at the date of this Declaration.

Section 2: The provisions of this Declaration will be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community.

Section 3: All article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 4: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5: This Declaration may be amended from time to time, or terminated, as follows:

(a) Prior to the conveyance of any Property from the Declarant, by an instrument executed by the Declarant, provided however that in the case of termination, the consent of the Village of Gurnee will be required.

(b) After conveyance of any of the Property by Declarant, by an instrument having the affirmative assent or vote of not less than seventy-five percent (75%) of the outstanding Owners in the subdivision at the time of the amendment.

(c) No amendment of the Declaration which in any manner affects the use of the Landscape Easement Areas may be made without first obtaining the consent of the Village of Gurnee.

Each such instrument will be effective only upon being filed in the Office of the Recorder of Deeds of Lake County, Illinois

Section 6: In the event that an action is instituted to enforce any of the provisions contained in this Declaration, the Association shall be entitled to recover from the other party thereto as part of any judgment in its favor, reasonable attorneys' fees and costs of such suit.

Section 7: This Declaration does not amend or modify nor is it intended to modify any engineering statements or any requirement of the respective ordinances of the Village of Gurnee or County of Lake, Illinois, dealing with the subdividing and planning of the land or the design and the construction of all improvements, but is intended to create additional covenants and agreements for the purposes herein set forth.

Section 8: The Village of Gurnee is granted a perpetual easement, right and privilege to enter upon the real estate herein for the purpose of providing police and fire protection services and maintaining all utilities and roadways accepted by the Village of Gurnee.

Section 9: Any notices required to be sent to any Member shall be deemed to have been properly sent when mailed, postage prepaid to the last known address of such Member as it appears on the records of the Association at the time of such mailing.

Section 10: All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa.

Section 11: In the event of any conflict between this Declaration and the by-laws or Articles of Incorporation of the Association, this Declaration shall control.

Section 12: It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee as Declarant while in the form purporting to be the warranties, indemnities, representations, covenants, undertakings, and agreements of said Trustee are nevertheless each and every one of them not for the purpose or with the intention of binding said Trustee personally but are made and are intended for the purpose of binding only that portion of the trust properties specifically described herein and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal responsibility is assumed by nor at any time shall be asserted or enforceable against the Trustee, individually or as Trustee or any of the beneficiaries under the said trust agreement, on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such liability, if any, being expressly waived and released.

DECLARANT: FIRST MIDWEST TRUST  
COMPANY, NOT PERSONALLY BUT AS  
TRUSTEE UNDER TRUST AGREEMENT DATED  
6-11-93 AND KNOWN AS TRUST NO.  
5801

By: J. A. Wilhelm, Trust Officer

ATTEST:

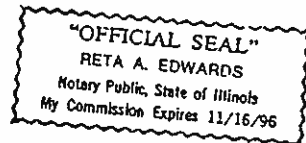
By: Thomas L. Selzer

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF LAKE )

I, Reta A. Edwards, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Trust Officer (Trust Officer) of Trust Company, and Secretary (Trust Officer) of said Trust Company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer and Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said national banking association, for the uses and purposes therein set forth; and the said Trust Officer did also then and there acknowledge that he, as custodian of the corporate seal of said Trust Company, did affix the said corporate seal of said Trust Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Trust Company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 21st day of June, 1993.

Reta A. Edwards  
NOTARY PUBLIC



Prepared by and to be mailed to:

Mark C. Eiden  
RICHARDS, RALPH, EIDEN,  
ECKERT & O'DONNELL, CHTD.  
175 East Hawthorn Parkway  
Suite 401  
Vernon Hills, Illinois 60061

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