

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

COPY

THIS DECLARATION (the "Declaration") is made this 20th day of May, 1994, by Parkway Bank and Trust Company, as Trustee under Trust Agreement dated July 30, 1987 and known as Trust No. 8434 ("Declarant").

P R E A M B L E :

Declarant owns fee simple title to a certain parcel of real estate in the Village of Hawthorn Woods in the County of Lake, State of Illinois, legally described as follows:

Lots 1 through 19, both inclusive and Outlot A in Park Place Subdivision, a Subdivision of part of Section 10, Township 43 North, Range 10, East of the Third Principal Meridian, in Lake County, Illinois.

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 easement hereinafter set forth.

ARTICLE 1

Definitions

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

- 1.1 "Association" shall mean and refer to Park Place Circle Homeowner's Association, an Illinois not-for profit corporation, its successors and assigns.
- 1.2 "Board" shall mean and refer to the Board of Directors of the Association.
- 1.3 "By-Laws" shall mean those by-laws duly enacted by the Association which govern the Association in the form attached hereto as Exhibit A.
- 1.4 "Common Area" shall mean Outlot A to be owned and maintained by the Association for the common use and enjoyment of the Owners and shall be conveyed to the Association no later than the Turnover Date.
- 1.5 "Contingency and Replacement Reserve" shall have the meaning set forth in Section 6.4.
- 1.6 "Declarant" shall mean and refer to Parkway Bank and Trust Company, as Trustee under Trust Agreement dated July 30, 1987 and known as Trust No. 8434, and its successors and assigns.
- 1.7 "Developer" shall mean and refer to Hawthorn Estates, Inc..
- 1.8 "Dwelling" shall mean any home intended for the shelter and housing of a Single Family. Dwelling shall include any Improvement attached or adjacent to the Dwelling utilized for storage of personal property, tools and equipment.
- 1.9 "Improvement" or "Improvements" shall mean and include Dwellings, any and all buildings, outbuildings, driveways, pedestrian walkways, fences, decks, patios, hedges, lawns, sidewalks, planted trees, shrubs and all other structures or landscaping or architectural improvements of every kind and description.
- 1.10 "Lot" shall mean and refer to the plots of land so shown and designated upon the recorded plat of subdivision of the Property.

- 1.11 "Deed" shall mean the deed of Declarant conveying a Lot to an Owner.
- 1.12 "Member" shall mean and refer to every Person who holds membership in the Association who owns Lots 1 through 19.
- 1.13 "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.
- 1.14 "Village" shall mean the Village of Hawthorn Woods, State of Illinois.
- 1.15 "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 and the Declarant to the extent Developer or Declarant own Lots.
- 1.16 "Person" or "Persons" shall mean all natural individuals, corporations, partnerships, trustees or other legal entities capable of holding title to real property.
- 1.17 "Plan Review Fee" shall have the meaning set forth in Section 4.2.
- 1.18 "Plans and Specifications" shall have the meaning set forth in Section 4.2.
- 1.19 "Property" shall mean and refer to the real estate legally described as Lots 1 through 19, both inclusive, and Outlot A in Park Place Subdivision aforesaid.
- 1.20 "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.
- 1.21 Storm Water Detention/Retention system or facilities shall mean all storm water detention and retention areas, including all easements, whether on the common areas or on Lots.
- 1.22 "Subdivision Plat" shall mean the plat of subdivision for Park Place as recorded in the Office of the Recorder of Deeds of Lake County, State of Illinois.
- 1.23 "Turnover Date" shall have the meaning set forth in Section 5.3.

ARTICLE 2

Declaration Purposes and Property Subjected to Declaration

2.1 The Declarant desires to create on the Property a single-family home 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, for the harmonious development of a single-family home 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 home residential community.

(c) The Declarant desires to (i) prevent improper use of Lots which may depreciate the value of the Owner's 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 Development.

(d) The Declarant desires to provide for the maintenance of the Common Area which shall be owned by the Association and used in common by the Owners.

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 3

General Restrictions

3.1 All Lots shall be used only for Single-Family Dwellings. Each Owner shall (i) maintain his Lot 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 driveways and similar areas serving said Lot and (iii) 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 4 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 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 the Owners.

3.4 No Person shall accumulate on his Lot any derelict vehicles, litter, refuse or other unsightly materials. Garbage shall be placed in receptacles and all garbage receptacles shall be properly screened. All unimproved Lots shall not be planted with anything other than grass or other vegetation as permitted by the rules and regulations adopted by the Association.

3.5 Trucks, boats, recreational vehicles, trailers or other vehicles (other than automobiles) shall at all times be parked in the garage of the Dwelling and their repair or maintenance shall not be permitted except within the confines of the garage or on said driveway.

3.6 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 allowed to remain in any such areas, and no Owner shall alter the rate or direction of flow from any Lot by impounding water, changing grade, blocking or redirecting swales, ditches, 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 4

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 Board, obtained in the manner hereinafter set forth. Approvals under this Article 4 shall not be arbitrarily or capriciously withheld.

4.2 In order to secure the Board's approval, the Owner shall submit to the Board, as applicable, three (3) complete sets of the following:

(a) The Lot site plan, as prepared by the Owner's architect, showing, among other things, the location and dimension 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 without limitation the color, quality and type of exterior construction materials; and

(c) All such other information the Board may reasonably require to determine the location, scale, design, character, style and exterior appearance of Owner's intended improvements.

All of the foregoing (hereinafter collectively referred to as the "Plans and Specifications") shall conform to the applicable provisions of this Declaration. In addition, the Owner shall deliver to the Board concurrently with the Plans and Specifications a non-refundable plan review fee (the "Plan Review Fee") in the amount of Two Hundred Fifty and 00/100 Dollars (\$250.00) for each Lot owned by such Owner for which plan approval is then sought.

4.3 Within forty-five (45) days after the Board's receipt of the Plans and Specifications and Plan Review Fee, the Board shall notify Owner in writing whether such Plans and Specifications are approved or disapproved. Any such disapproval shall set forth the reason or reasons for such disapproval and shall list the changes required by the Board. If the Board fails to so approve or disapprove the Plans and Specifications within said forty-five (45) day period, then approval of the Board shall be conclusively presumed.

4.4 If the Board shall disapprove all or any portion of the Plans and Specifications submitted as aforesaid, the Owner shall revise the Plans and Specifications to incorporate the changes required by the Board and shall deliver three (3) complete sets of revised Plans and Specifications to the Board. The Board shall have thirty (30) days after its receipt of said revised Plans and Specifications to determine whether Owner has complied with the Board's requested changes. If the Board fails within said thirty (30) day period to advise the Owner in writing whether the Board approves or disapproves any such revised Plans and Specifications, the Board approval shall be presumed.

4.5 The Owner shall secure the approval of the Board, as applicable, with respect to any material change or revision in any Plans and Specifications approved in accordance with this Article 4 in the manner provided in this Article for the approval of Plans and Specifications.

4.6 The Board, nor any of its agents, employees, successors and assigns, shall be liable in damages to any Owner or to any other person submitting Plans and Specifications to any one or more of them for approval by reason of the withholding of consent or by reason of a mistake in judgment, negligence or nonfeasance arising out of or occurring in connection with the approval or disapproval or failure to approve or disapprove any such Plans and Specifications.

4.7 The provisions of Articles 3 and 4 of this Declaration shall not apply to any Improvements installed or completed by the Developer or any affiliate or subsidiary of or other entity controlled by or in common control with the Developer.

ARTICLE 5

Homeowner's Association

5.1 The Developer shall form an Illinois not-for-profit corporation to be known as the Park Place Circle Homeowner's Association which shall provide for maintenance and operation of the Common Area and in general to maintain and promote the desired character of the Park Place Development.

5.2 (a) The Association shall have a Board of 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 as 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 Developer. Except for the directors of the Board appointed by the Developer, all directors shall be Members of the Association. The Developer 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 Developer 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 ten (10) 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 rather than Declarant, or (c) the date Developer elects voluntarily to turn over to the Members the authority to appoint the Board. 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 such Member 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, including Outlot A and all Improvements and Stormwater Detention/Retention Facilities thereon and all other property acquired by the Association or which the Association agrees to maintain, including any obligation to maintain any landscaping located in concrete islands, cul-de-sacs and median strips in the dedicated roads or streets which are within the Property and to maintain any signage and lighting located thereon;

(b) Employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or firm appointed as a manager or managing agent by Developer shall give the Association

the right to terminate without cause or penalty not later than ninety (90) days after the date the initial meeting of the Members of the Association is held as provided in the By-Laws;

(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;

(f) 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;

(g) 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 Park Place Circle a highly desirable residential home community; and

(h) 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.

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 this Article 5. 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 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 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 6 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) 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) The Developer shall have the right, but not the obligation, to maintain the Common Area and all 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 signs and monuments located thereon) and general real estate taxes payable in connection with the Common Area.

(c) Developer shall be entitled at all times to conduct sales of Lots from the Property and shall have the right, for itself and its agents, employees, guests and invitees, to utilize the 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.

5.9 (a) Maintenance of the sanitary sewer lines from each Lot to the point where such lines connect into the sewer mains owned and operated by the County of Lake or other governmental entity and the Common Area, including that portion of the Common Area designated as storm water management areas (the "Storm Water Management Areas") and wetlands (the "Wetlands") on the Plans and Specifications, and the construction, alteration, repair and replacement of any Improvement thereon shall be furnished by the Board as part of the Common Expenses; provided, however, in no event shall the Board and the Association have the right to alter or construct Improvements on that portion of the Common Area designated as Storm Water Management Areas or Wetlands on the Plans and Specifications nor shall the Board and the Association violate any statutes, laws, regulations or ordinances applicable to the Common Area.

(b) No person shall obstruct, alter or in any way modify the established drainage pattern from, on or over the Property, nor shall any person obstruct, alter or in any way modify any drainage swales, devices and/or facilities now installed or to be installed by Developer. Developer reserves the right to itself or the Board to enter upon the Property to correct, as it may deem necessary, any drainage condition.

ARTICLE 6

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 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. Each such assessment, together with such interest, costs and reasonable attorneys' fees shall be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation of an Owner shall not pass to his successors in title unless expressly assumed by them.

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. The annual assessments provided for herein shall commence for each Lot on the first day of the month following delivery of a Deed to an Owner.

6.3 Each year on or before November 1, the Board will estimate the total amount of maintenance 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. 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. 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 maintenance 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 upon five (5) days. 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 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. 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 and 00/100 Dollars (\$100.00) which amount shall be deposited in the Contingency and Replacement Reserve. The Developer shall transfer all funds in the Contingency and Replacement Reserve account to the Association and the Association shall hold and apply such funds for the purposes set forth in this Section 6.4.

6.5 When the first Board elected by the Members hereunder takes office, it shall determine the Estimated Cash Requirement for the period commencing on the first day of the month following the Turnover Date and ending on December 31 of the calendar year in which the Turnover Date occurs. The initial Estimated Cash Requirement shall be assessed equally among the Owners, excluding the Declarant.

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, 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.

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, 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. 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 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.

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 7

Easements

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

(a) Each Owner and their 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 the Village 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 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.

(c) Police, fire, health and other governmental officials, employees and vehicles shall have the right to ingress and egress to the Property for performance of official duties.

7.2 The Declarant, Developer, Association, the Village 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 for performing any of their respective obligations herein provided. In any such case, the Declarant, Developer, Association, the Village or any of their agents, employees or independent contractors shall not be guilty of any trespass.

7.3 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.

ARTICLE 8

Remedies and Breach of Covenants, Restrictions and Regulations

8.1 The covenants and restrictions may be enforced by any proceeding at law or in equity, either to restrain violation or to recover damages, by any lot owner or the Village of Hawthorn Woods, against any person(s) violating or attempting to violate any covenant or restriction.

8.2 In the event of any default of any Owner under the provisions of this Declaration, or any amendment thereof, each lot owner shall have each and all of the rights which may be provided for in this Declaration and By-Laws, or which may be available at law or in equity and may prosecute any action or other proceeding for enforcement of any lien or for damages or injunction or specific performance, or for judgement for payment of money and collection thereof, or for any combination of remedies, or for any other relief. All expenses of the lot owner bringing said action in connection with such actions or proceedings, including court costs and reasonable attorney's fee and other fees and expenses, shall be charged to and assessed against such defaulting Owner.

8.3 The failure to enforce any right, provision, covenant or condition which may be granted by this Declaration, shall not constitute a waiver if the continuing right to enforce such provisions, covenants or conditions in the future, irrespective of the number of violations, defaults or breaches which may occur.

8.4 All Rights, remedies and privileges granted herein pursuant to any terms, provisions, covenants or conditions of this Declaration, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the lot owner from exercising such other and additional rights, remedies or privileges as may be granted to the Association at law or in equity.

ARTICLE 9

Rights of the Village of Hawthorn Woods

9.1 The duly designated officials and employees of the Village of Hawthorn Woods are hereby granted an easement to enter upon, on and over areas of on-site Stormwater Detention/Retention Facilities and Improvements for the purpose of inspecting such areas to determine whether the improvements and systems which constitute same have been and are being properly maintained in conformity with this Declaration and the applicable ordinances and regulations. If it is determined that the facilities are not in conformity with applicable restrictions, ordinances and regulations, the Village of Hawthorn Woods shall give the Homeowner's Association written notice of such determination.

9.2 Further, the Village shall be empowered to compel correction of a problem concerning maintenance after providing notice to the Homeowner's Association, although notice shall not be required in the event that the Village determines that the failure of maintenance constitutes an immediate threat to public health, safety and welfare. If the Homeowner's Association fails to perform the necessary maintenance within a reasonable time after receiving notice of the determination, the Village shall have the right, but not the obligation to perform or cause to be performed such maintenance or operations necessary to preserve the drainage structures and characteristics of the on-site detention improvements. If the Village is required to perform such service, it shall be entitled to complete reimbursement by the Homeowner's Association and shall be entitled to a lien against each lot for 1/19th of the total cost.

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

9.4 The Village shall have the right to enforce those covenants and restrictions (insofar as they relate to Village Ordinance Regulations) set forth in the Declaration. Should a conflict arise between this Declaration and a Village Ordinance, the most restrictive shall apply.

ARTICLE 10

General Provisions

10.1 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 Lake County, Illinois, after which time said covenants shall be automatically extended for successive periods of ten (10) years, subject to amendment as hereinabove provided.

10.2 Each grantee of Declarant by taking title to a Lot, and each purchaser under any contract for 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.

10.3 Declarant, until the Turnover Date, and then 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 shall be made effective at any time; (a) after the Turnover Date 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; (b) prior to the Turnover Date by the Developer. No amendment that effects the rights of the Village shall be made without the Village's written consent. 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 or the Developer, as the case may be, certified by the Secretary of the Association and recorded in the Office of the Recorder of Deeds of Lake County, Illinois.

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

10.5 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 Unit. 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.

10.6 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.

10.7 If the Association fails or refuses to maintain the Common Area in accordance with the terms and conditions of this Declaration, then the Village shall so notify and advise the Association in writing. If the Association fails to so maintain the Common Area within sixty (60) days of receipt of said notice by the

Association, the Village shall be authorized to enter upon the Common Area to correct any deficiencies in the maintenance of the Common Area. The Village shall be entitled to record a lien against each of the lots for said lot's proportionate share of the cost and expenses incurred by the Village for its costs and expenses in correcting the deficiencies with the Recorder of Deeds of Lake County, Illinois. Upon the Village's receipt of reimbursement for its costs and expenses, the Village shall promptly execute, acknowledge and deliver any releases of lien as may be required to release any claim of lien that may have been placed of record against any lot.

10.8 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 mails, 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 mails.

IN WITNESS WHEREOF, Parkway Bank and Trust Company, as Trustee under Trust Agreement dated July 30, 1987 and known as Trust No. 8434 have caused its (corporate) seal to be affixed hereunder and has signed (caused) its name (to be signed) to this Declaration (by its _____ President and attested by its _____ Secretary), as of the day and year first above written.

THE SIGNATURE OF PARKWAY BANK & TRUST CO. IS BASED SOLELY UPON INFORMATION FURNISHED BY THE BENEFICIARY OR BENEFICIARIES OF THE AFORESAID TRUST. THE UNDERSIGNED HAS NO PERSONAL KNOWLEDGE OF ANY OF THE FACTS OR STATEMENTS HEREIN CONTAINED.

PARKWAY BANK AND TRUST COMPANY, NOT PERSONALLY, BUT UNDER THE PROVISIONS OF A TRUST AGREEMENT DATED JULY 30, 1987 AND KNOWN AS TRUST NO. 8434

By: *James R. Reynolds*
~~President~~ Vice President Trust Officer

Attest: *John Kubinski*
~~Secretary~~ ASSISTANT TRUST OFFICER

Prepared by:
RAY & GLICK, LTD.
611 South Milwaukee Avenue
Post Office Box 400
Libertyville, Illinois 60048
(708) 680-9600

This Agreement is signed by Parkway Bank & Trust Co., not individually but solely as Trustee under a certain Trust Agreement known as Trust No. 8434. Said Trust Agreement is hereby made a part hereof and any claims against said Trustee which may result from the signing of this Agreement shall be payable only out of any trust property which may be held thereunder, and said Trustee shall not be personally liable for the performance of any of the terms and conditions of this agreement or for the validity or condition of the title of said property or for any agreement with respect thereto. Any and all personal liability of Parkway Bank and Trust Co., is hereby expressly waived by the parties hereto and their respective successors and assigns.

The Trustee in executing this document SPECIFICALLY EXCLUDES all references to any environmental condition of the premises whether under the ILLINOIS ENVIRONMENTAL PROTECTION ACT or otherwise, the responsibility of this Trust, as management and control of the premises and as such, has the authority on its/their own behalf to execute as environmental representative but not as agent for or on behalf of the Trustee.

PARKWAY BANK & TRUST COMPANY, as Trustee

STATE OF ILLINOIS)
) SS.
COUNTY OF ~~LAKE~~)

I the undersigned, a Notary Public in and for said County, in the State of ~~Illinois~~, DO HEREBY CERTIFY that DIANE Y TESZYNSKI as VICE President of PARKWAY BANK & TRUST and JO ANN KUBINSKI as ~~ASST. TRUST OFFICER~~ Secretary of said Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such VICE President and ~~ASST. TRUST OFFICER~~ 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 Bank for the uses and purposes therein set forth; and the said VICE President and did also then and there acknowledge that said Secretary as custodian of the corporate seal of said Bank did affix the said corporate seal of said Bank to said instrument as said ~~ASST. TRUST OFF~~ Secretary's own free and voluntary act, and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 20th day of MAY, 1994.

Gloria Wielgos
Notary Public

