

This Document Was  
Prepared by and Return  
to Upon Recordation:  
Schain, Firsell & Burney, Ltd.  
Robert C. Kenny, Esq.  
222 North LaSalle Street  
Suite 1910  
Chicago, IL 60601

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
PHEASANT RIDGE ESTATES, HAWTHORN WOODS, ILLINOIS

4192571

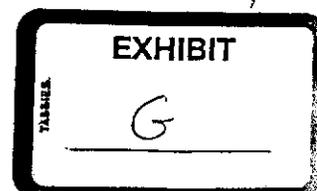


TABLE OF CONTENTS

ARTICLE I DEFINITIONS ..... 1

ARTICLE II DEVELOPMENT ..... 4

2.1 Development of Site ..... 4

2.2 Plat of Subdivision ..... 4

ARTICLE III PROPERTY RIGHTS ..... 5

3.1 In General ..... 5

3.2 Owner's Easement of Enjoyment ..... 5

3.3 Easements for Declarant ..... 6

3.4 Changes in Boundaries or Additions to Common Areas ..... 6

3.5 Easements for Public Utilities and Sidewalks, Storm Water  
Drainage and Detention, and Entrance Landscaping. .... 7

3.6 Easements for Ingress and Egress to Wetlands ..... 9

3.7 Easements for Association ..... 9

3.8 Sales and Construction Office ..... 9

3.9 Maintenance Easement ..... 9

3.10 Environmental Easement ..... 9

3.11 No Partition ..... 10

3.12 Covenant to Run with the Land ..... 10

3.13 Nonseverability of Rights ..... 10

ARTICLE IV MEMBERSHIP ..... 10

4.1 Membership ..... 10

ARTICLE V MAINTENANCE ..... 11

5.1 Responsibilities of Owners ..... 11

5.2 Responsibility of Association ..... 11

ARTICLE VI INSURANCE AND CASUALTY LOSSES ..... 13

6.1 INSURANCE ..... 13

6.2 Damage to Common Areas ..... 15

6.3 Damage to Lots or Dwellings ..... 16

ARTICLE VII CONDEMNATION ..... 16

7.1 Condemnation of Common Areas ..... 16

7.2 Condemnation of Lots or Dwellings ..... 18

ARTICLE VIII ADMINISTRATION ..... 19

8.1 Common Areas ..... 19

8.2 Duties and Powers ..... 19

8.3 Agreements ..... 20

8.4 Rules and Regulations ..... 20

8.5 Indemnification ..... 21

ARTICLE IX ASSESSMENTS ..... 21

9.1 Purpose of Assessments ..... 21

9.2 Creation of Lien and Personal Obligation of Assessments ... 21

9.3 Annual Assessments ..... 22

9.4 Assessments ..... 24

9.5 Initial Association Reserve Fund ..... 24

9.6 Individual Assessments .....	24
9.7 Notice of Annual Meeting and Quorum .....	24
9.8 Liens .....	25
9.9 Effect of Nonpayment; Remedies of the Association .....	25
9.10 Certificate .....	26
9.11 Date of Commencement of Annual Assessments .....	26
<b>ARTICLE X ARCHITECTURAL STANDARDS AND USE RESTRICTIONS .....</b>	<b>27</b>
10.1 Purpose .....	27
10.2 Architectural Review Committee .....	27
10.3 Permitted Improvements Standards .....	28
10.4 Construction of Improvements .....	28
10.5 Architectural Approval .....	29
10.6 Landscaping Approval .....	31
10.7 Approval Not a Guarantee .....	31
10.8 Building Restrictions .....	32
10.9 Use of Lots and Dwellings .....	32
10.10 Exterior Appearance .....	33
10.11 Signage .....	33
10.12 Antennas .....	34
10.13 Septic Tank .....	34
10.14 Pets .....	34
10.15 Nuisances .....	35
10.16 Motor Vehicles, Trailers, Boats, Etc .....	35
10.17 Sales and Construction Activities .....	36
10.18 Multiple Ownership .....	36
<b>ARTICLE XI RULES .....</b>	<b>36</b>
11.1 Rules and Regulations .....	37
11.2 Enforcement .....	37
11.3 Procedure .....	37
<b>ARTICLE XII GENERAL PROVISIONS .....</b>	<b>38</b>
12.1 Control by Declarant .....	38
12.2 Amendments by Declarant .....	39
12.3 Amendments by Association .....	40
12.4 Enforcement .....	40
12.5 Time Limit and Duration .....	41
12.6 Perpetuities .....	42
12.7 Interpretation .....	42
12.8 Gender and Grammar .....	42
12.9 Severability .....	42
12.10 Right of Third Parties .....	42
12.11 Notice of Sale, Lease, or_ Mortgage .....	42
12.12 Trespass .....	42
12.13 Notices .....	43
12.14 Land Trust .....	43

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
PHEASANT RIDGE ESTATES**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR PHEASANT RIDGE ESTATES is made as of this 10th day of August, 1998, by Grand Premier Trust and Investment, Inc., N.A., as Trustee under Trust Agreement dated March 7, 1996 and known as Trust No. 896-3633 ("Trustee").

**WITNESSETH**

WHEREAS, Trustee is the owner of certain real property located in Lake County, Illinois, as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, and desires to subject such property to the provisions of this Declaration, and to provide a flexible and reasonable method for the administration and maintenance of such property.

NOW, THEREFORE, Trustee hereby declares that all of the property described in Exhibit A shall be held, sold, conveyed, leased, and used subject to the following easements, restrictions, covenants, charges, liens, and conditions which are for the purpose of protecting the value and desirability of and which shall run with title to the real property subjected to this Declaration, and which shall be binding on all parties having any right, title or interest in the described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

(a) "Architectural Review Committee" shall mean and refer to the committee which shall be appointed by the Association's Board of Directors to approve exterior and structural improvements, additions, and changes within the Development as provided in Article X hereof.

(b) "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of The Pheasant Ridge Estates Property Owner's Association, Inc., as amended from time to time.

(c) "Assessment" shall mean and refer to an Owner's share of the Common Expenses and other charges from time to time assessed against an Owner by the Association in the manner herein provided.

4192571

(d) "Association" shall mean and refer to The Pheasant Ridge Estates Property Owner's Association, Inc., an Illinois not-for-profit corporation.

(e) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association.

(f) "By-Laws of the Association" shall mean and refer to the By-Laws of The Pheasant Ridge Estates Property Owner's Association, Inc., which govern the administration and operation of the Association.

(g) "Common Area" shall mean and refer to all real property now or hereafter owned by the Association for the common use and enjoyment of the Owners, which is legally described on Exhibit A, attached hereto. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment therein. Declarant may, but shall not be required to, designate and convey other property to The Association.

(h) "Common Expense" shall mean and refer to all expenditures lawfully made or incurred, by or on behalf of The Association, together with all funds lawfully assessed for the creation or maintenance of reserves pursuant to the provisions of this Declaration.

(i) "Declarant" shall mean and refer to Grand Premier Trust and Investment, Inc., N.A., as Trustee under Trust Agreement dated March 7, 1996 and known as Trust No. 896-3633, not personally but solely as Trustee under a Trust Agreement dated March 7, 1996 and/or HDB Development Corporation, Inc.

(j) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Pheasant Ridge Estates, and all amendments thereof filed for record in the Office of the Recorder of Deeds and/or Registrar of Titles of Lake County, Illinois.

(k) "Development" shall mean and refer to the Property and all improvements located or constructed thereon.

(l) " Dwelling" shall mean and refer to any improved property intended for use as a single-family detached dwelling located within the Development.

(m) "Foreclosure" shall mean and refer to, without limitation, the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of a judicial foreclosure.

(n) "Institutional Mortgage" shall be deemed to mean a

Mortgage held by a bank, trust company, insurance company, or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

(o) "Lease" shall mean and refer to any lease, sublease, or rental contract, whether oral or written.

(p) "Living Space" shall mean and refer to enclosed and covered areas within a Dwelling, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics, and basements.

(q) "Lot" shall mean and refer to any unimproved portion of the Property (and a subdivided lot of record) upon which it is intended that Dwelling shall be constructed. A parcel of land shall be deemed unimproved and thus considered to be a Lot, rather than a Dwelling, until the improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon such completion, such parcel and the improvements thereon shall collectively be considered to be a Dwelling for purposes of this Declaration.

(r) "Mortgage" shall mean and refer to a security deed, deed of trust, mortgage, installment land sales contract, or other similar security instruments granting, creating, or conveying a lien upon a security interest in, or a security title to a Lot or Dwelling.

(s) "Mortgagee" shall mean and refer to the holder of a Mortgage.

(t) "Occupant" shall mean and refer to any person, including without limitation, any Owner or any guest, invitee, lessee, tenant, or family member of an owner, occupying or otherwise using a Dwelling within the Development.

(u) "Owner" shall mean and refer to one or more persons or entities including Declarant, who or which owns a fee simple title to any Lot or dwelling, excluding, however, those persons having such an interest under Mortgage. In the event that there is recorded in the Office of the recorder of Deeds or Registrar of Title of Lake County, Illinois, any installment land sales contract covering any Lot or Dwelling, the Owner of such Lot or Dwelling shall be the purchaser under said contract and not the fee simple title holder. An installment land sales contract shall be an instrument whereby the purchaser is required to make payment for a Lot or Dwelling for a period extending beyond nine (9) months from the date of the contract, and where the purchaser does not receive title to such Lot or Dwelling until all such payments are made, although the purchaser is given use of such Lot or Dwelling. If the "Owner" is an Illinois Land Trust, the

duties and privileges of the "Owner" may be exercised by the Beneficiaries of the trust. Beneficiaries of any such land trust shall be liable to the Association or Village for any damages relating to or arising from any breach of the conditions, covenants, and restrictions imposed by this declaration, or for the failure of the land trust for which they are beneficiaries to pay assessments. In construing this section, the holder of a beneficial interest solely as collateral to secure obligations to make payment shall not be considered to be the owner of the beneficial interest unless such holder of the collateral interest in the land trust has a possessory interest in the real estate owned by the Trust which is subject to this declaration.

(v) "Person" shall mean and refer to a natural person, corporation, partnership, association, trust, or other legal entity or any combination thereof.

(w) "Plat" shall mean the Plat of Subdivision for Pheasant Ridge Estates Subdivision, recorded in the Office of the Recorder of Deeds of Lake County, Illinois, and any and all resubdivision plats thereof which may be recorded from time to time.

(x) "Property" with an initial capital letter shall mean and refer to the parcel of land described on Exhibit A, together with all improvements thereon, including the Common Areas, and improvements serving the Lots and Dwellings.

(y) "Record" or "place of record" means to record a document in the Office of the Recorder of Deeds of Lake County, Illinois.

(z) "Village" means Village of Hawthorn Woods, Illinois, an Illinois municipal corporation.

## ARTICLE II DEVELOPMENT

2.1 Development of Site. All Lots within the Development shall be and are hereby restricted exclusively to single-family residential use. Declarant shall have the right, but not the obligation, for so long as Declarant owns any Lot or Dwelling primarily for the purpose of sale to make improvements and changes to all Common Areas and to all Lots or Dwellings owned by Declarant, including, without limitation, the installation and maintenance of any improvements in and to the Common Areas, and any changes in the location of the boundaries of any Lot or Dwellings owned by Declarant or of the Common Areas. Any and all improvements or changes made, shall not result in an encroachment on Lots now owned by Declarant.

2.2 Plat of Subdivision. Declarant reserves the right to

record, amend, revise and supplement, at any time and from time to time, one or more subdivision plats or resubdivision plats setting forth such information as Declarant may deem necessary with regard to the Development, including, without limitation, the locations and dimensions of the Lots, Dwellings, Common Areas, roads, utility systems, drainage systems, utility easements, drainage easements, storm water detention easements, and access easements.

**ARTICLE III**  
**PROPERTY RIGHTS**

3.1 In General. Each Lot and Dwelling shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of this Lot or Dwelling, subject to the provisions of this Declaration, including without limitation, the provisions of this Article III. The ownership of each Lot and Dwelling shall include, and there shall pass with each Lot and Dwelling as an appurtenance thereto, membership in the Association. Each Owner shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically pass to his successor-in-title to his Lot or Dwelling. Lots shall not be subdivided, and, except as provided in Sections 2.1 and 3.4 hereof, the boundaries between Lots shall not be relocated, unless the relocation thereof is made with the consent of at least a majority of the owners in the Development and of Declarant, so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale.

3.2 Owner's Easement of Enjoyment. Subject to the provisions of the Declaration and the rules, regulations, fees, and charges from time to time established by the Board of Directors in accordance with the By-Laws and the terms hereof, every owner, his family, tenants, and guests shall have a nonexclusive right, privilege, and easement of use and enjoyment in and to the Common Areas, such easement to be appurtenant to and to pass and run with title to each Lot and Dwelling, subject to the following limitations:

(a) The right of the Association to borrow money; (i) for the purpose of improving the Common Areas, or any portion thereof, (ii) for acquiring additional Common Areas, (iii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Common Areas, or (iv) for providing the services authorized herein and subject to the provisions of Section 8.2 hereof, to give as security for the payment of any such loan a mortgage, or

other Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association shall be subject and subordinate to any and all rights, interests, options, licenses, easements, and privileges herein reserved or established for the benefit of Declarant, any owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

(b) The rights and easements reserved to Declarant.

(c) The rights and easements reserved in Section 3.7 hereof for the benefit of the Association, its Directors, officers, agents, and employees.

(d) The rights of the holder (and its successors and assigns) of any mortgage which is prior in right or superior to the rights, interests, options, licenses, easements, and privileges herein reserved or established.

3.3 Easements for Declarant. During the period that Declarant owns any Lot or Dwelling primarily for the purpose of sale, Declarant shall have an alienable and transferable right and easement on, over, through, under, and across the Common Areas for the purpose of constructing Dwellings and other improvements in and to the Lots for installing, maintaining, repairing and replacing such other improvements to the Property (including any portions of the Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, including, without limitation, any improvement or changes permitted and described by Article II hereof, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing. In addition to the other rights and easements set forth herein and regardless of whether Declarant at that time retains ownership of a Dwelling or Lot, Declarant shall have an alienable, transferable, and perpetual right and easement to have access, ingress, and egress to the Common Areas and improvements thereof for such purposes as Declarant deems appropriate, provided that Declarant shall not exercise such right so as to unreasonably interfere with the rights of owners in the Development to the use of the Common Areas.

3.4 Changes in Boundaries or Additions to Common Areas. Declarant expressly reserves for itself and its successors and assigns, the right to change and realign the boundaries of the Common Areas, any Lots or Dwellings owned by Declarant, including the realignment of boundaries or lot lines between adjacent Lots and/or Dwellings owned by Declarant and to eliminate Common Areas. Furthermore, Declarant reserves for itself, its affiliates, successors, and assigns the right, but shall not have the obligation, to convey by quit-claim deed to the Association at any time and from time to time, as an addition to the Common

Areas, such other portion of the Development owned by Declarant as it shall choose.

3.5 Easements for Public Utilities and Sidewalks, Storm Water Drainage and Detention, and Entrance Landscaping.

(a) There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement, as well as the power to grant and accept easements to and from Lake County, Illinois, the Village of Hawthorn Woods, Illinois, its successors and assigns, or any other public authority or agency, public service district, public or private utility, Commonwealth Edison Company, Illinois Bell Telephone Company, Northern Illinois Gas Company, and their respective successors and assigns, or other person, such as a television cable company, upon, over, under, across, along and upon (i) those portions of the Development depicted on the Plat as public utility easements of varying widths, (ii) all or any portion of the Common Areas, and (iii) those portions of all Lots and all Dwellings as are reasonably necessary for the purpose of installing, constructing, replacing, repairing, relocating, renewing, removing, maintaining, and using television cable systems, and all utilities, including, but not limited to, storm sewers, drainage systems, and detention ponds and facilities for the Development of any portion thereof, electrical, gas, telephone, water, sewer, and cable television lines, and sidewalks, provided that such easements shall not unreasonably affect the developability, marketability or value of any such Lot or Dwelling. Such easements may be granted or accepted by Declarant, its successors or assigns, or by the Board of Directors, provided, however, that for so long as Declarant owns any Lot or Dwelling primarily for the purpose of sale, the Board of Directors must obtain the written consent of Declarant prior to granting and/or accepting any such easements. To the extent possible, all utility lines and facilities serving the Development and located therein shall be located underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, including the Village of Hawthorn Woods, with respect to the portions of the Development so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, including emergency access to the overflow control structure by the Village of Hawthorn Woods, (ii) to cut, trim and remove any trees, bushes, roots, or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities systems and sidewalks; provided, however, that to the extent practicable, Declarant and/or

the Board of Directors shall endeavor to obtain any undertaking from such utility company or other supplier or servicer, including the Village of Hawthorn Woods, to take reasonable actions to repair any damage caused by such utility company or other supplier during the exercise of any rights conveyed under any easement granted hereunder.

(b) Declarant has declared a perpetual easement in favor of the Association, its successors and/or assigns upon, over, under, and across for the purpose of installing, replacing, repairing, maintaining, and using the storm water drainage and detention system located therein. The cost of maintenance, repair, and replacement of the storm water drainage and detention system shall be borne by the Pheasant Ridge Estates Property Owner's Association as a common expense.

The Village of Hawthorn Woods and its duly designated officials and employees are hereby granted an easement to enter upon, on and over all Common Area for the purpose of inspecting the stormwater drainage and detention system to determine whether said improvements and systems are being properly maintained in conformity with this Declaration and all applicable ordinances and regulations. If it is determined that the system is not in conformity with applicable restrictions, ordinances and regulations, the Village shall give the Association written notice of such determination. Further, the Village shall have the right, but not the obligation, to compel correction of a problem concerning maintenance of the system after providing notice to the Association, although notice shall not be required in the event that the Village determines that the failure of maintenance constitutes an immediate threat to public health, safety and welfare. If the Association fails to perform the necessary maintenance within fifteen (15) days after receiving notice of the determination, the Village shall have the right to perform or cause to be performed such maintenance or other operations necessary to preserve the system or to comply with the applicable regulations or ordinances. If the Village is required to perform such service, it shall be entitled to complete reimbursement by the Association. If payment is not made within thirty (30) days after demand, then with respect to each Lot or Dwelling, the amount due multiplied by the percentage of ownership in the Common Area shall become a lien on the Lot or Dwelling, but shall be superior to the Association's assessment lien with respect to the Lot or Dwelling for assessments which become due after the date on which the Village's lien attaches to the Lot or Dwelling. 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 of its grantees and their respective heirs, successors, personal representatives and

assigns, perpetually and in full force.

3.6 Easements for Ingress and Egress to Wetlands. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement upon, over, and across those portions of the Development depicted on the Plat as "Outlot "C", for the purpose of ingress and egress to wetlands. No landscape screening will be permitted in said easement. Declarant shall install the landscaping within said easement in accordance with the landscape plan approved by the Village of Hawthorn Woods. No fences shall be constructed or maintained in said easement area.

3.7 Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its directors, officers, agents, and employees, including, but not limited to, any manager employed by the Association, any employees of such manager, and any contractor or subcontractor of the Association, to enter upon any Lot or Dwelling or any portion thereof in the performance of their respective duties, including maintenance as provided in Section 5.2. Except in the event of emergencies, this easement is to be exercised only during normal business hours.

3.8 Sales and Construction Office. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Declarant and its successors and assigns the alienable and transferable right and easement in and to the Property for the maintenance of signs, sales offices, construction offices, business offices, parking facilities, and model Dwellings, together with such other facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the completion, improvement, and/or sale of Lots, Dwellings, or Common Areas, for so long as Declarant owns any Lot or Dwelling primarily for the purpose of sale.

3.9 Maintenance Easement. Subject to the terms of Section 5.2 (b), hereof, there is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement to enter upon any Lot and upon unimproved portions of any Dwelling for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Development, provided that such easements shall not impose any duty or obligation upon Declarant or the Association to perform any such action.

3.10 Environmental Easement. There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable,

transferable, and perpetual right and easement on, over, and across all Lots and all unimproved portions of Dwellings for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices on the Property, the right to drain standing water, and the right to dispense pesticides.

3.11 No Partition. There shall be no judicial partition of the Development or any part thereof, nor shall any person acquiring an interest in the Development or any part thereof seek any such judicial partition unless the Development has been removed from the provisions of this Declaration.

3.12 Covenant to Run with the Land. Declarant hereby declares that this Declaration and the covenants, restrictions and easements established herein shall be covenants to run with the land. Said covenants and restrictions shall inure to the benefit of and be binding upon each and every Owner, and his or her respective heirs, representatives, successors, purchasers, lessees, grantees and mortgagees. By the recording or acceptance of the conveyance of a Lot or Dwelling or any interest therein, the person or entity to whom such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration and the By-Laws of the Pheasant Ridge Estates Property Owner's Association.

3.13 Nonseverability of Rights. The rights, liabilities and obligations set forth herein shall attach to and run with the ownership of any portion of the Property as more specifically set forth herein and may not be severed or alienated from such ownership.

#### ARTICLE IV MEMBERSHIP

4.1 Membership. Every Owner of a lot shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling, and ownership of a Lot or Dwelling shall be the sole qualification for such membership. In the event that fee title to a Lot or Dwelling is transferred or otherwise conveyed, the membership in the Association which is appurtenant hereto shall automatically pass to such transferee. The foregoing is not intended to include Mortgagees or any other persons who hold any interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. Notwithstanding any of the foregoing to the contrary, no Owner, whether one or more persons, shall have more than one membership

per Lot or Dwelling. In the event of multiple owners of a Lot or Dwelling, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by a member or a member's spouse, but in no event shall more than one vote be cast or more than one office held for each Lot or Dwelling, and further provided that a member casting a vote or holding an office with respect to his Dwelling shall not be entitled to cast an additional vote or to hold an additional office for the Lot upon which his residential unit is located. When more than one person holds an interest in any Lot or Dwelling, the vote for such Lot or Dwelling shall be exercised as those Owners of such Lot or Dwelling themselves determine and so advise the Secretary or an Assistant Secretary of the Association prior to any meeting. In the absence of such advice, the vote appurtenant to such Lot or Dwelling shall be suspended in the event more than one person seeks to exercise it. The voting weight appurtenant to each Lot or Dwelling is equal and each Lot and each Dwelling shall have one vote.

#### **ARTICLE V** **MAINTENANCE**

5.1 Responsibilities of Owners. Unless specifically identified herein, all maintenance and repair of the Lots and Dwellings, together with all other improvements hereon or therein, and all lawns, landscaping, and grounds on and within a Lot or Dwelling shall be the responsibility of the Owner of such Lot or Dwelling. Each Owner shall install landscaping of no less than \$7,500 in value within eighteen (18) months of the issuance of the occupancy permit for the Owner's Dwelling in accordance with the provisions of Article X. As provided in Section 5.2(b) hereof, each owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, installing, maintaining, or cleaning any item which is the responsibility of such Owner but which responsibility such Owner fails or refuses to discharge. No Owner shall (i) decorate, change, or otherwise alter the appearance of any portion of the exterior of a Dwelling or the landscaping grounds, or other improvements within a Lot unless such decoration, change or alteration is first approved, in writing by the Architectural Review Committee as provided in Article X hereof, or (ii) do any work which, in the reasonable opinion of the Architectural Review Committee, would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement thereto, without in every such case obtaining the written approval of the Architectural Review Committee.

5.2 Responsibility of Association.

(a) Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas, which

responsibility shall include the maintenance, repair, and replacement of (i) the perimeter landscaping and any uniform fencing along Kruckenberg Road or Midlothian Road, entryway landscaping and all entrance signs, cul de sac islands, if any, flood control structure, detention areas and facilities, and other improvements made by Declarant or the Association situated within the Common Areas or within easements encumbering Lots or Dwellings, pursuant to Section 3.6 hereof, (ii) such monitoring systems and utility lines, pipes, plumbing, wires, conduits, and related systems which are a part of the Common Areas and which are not maintained by a public authority, public service district, public or private utility or other person, (iii) the storm water drainage and detention system located within the easements provided for in Sections 3.5(a) and (b) and the landscaping as provided in Section 5.2(a), the expense of which shall be borne by the Pheasant Ridge Estates Property Owner's Association, Inc. The Association and Declarant shall not be liable for injury or damage to any person or property (A) caused by the elements or by any Owner or any other person, (B) resulting from any rain or other surface of water which may leak or flow from any portion of the Common Areas, (C) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association or Declarant becoming out of repair. Nor shall the Association or Declarant be liable to any owner for loss or damage, by them or otherwise, of any property of such owner which may be stored in or upon any portion of the Common Areas or any other portion of the Property. No diminution or abatement of assessments shall be claimed or allowed by reason of an alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

(b) Responsibility of Association. In the event that Declarant or the Board of Directors determines that any Owner has failed or refused to discharge properly his or its obligation with regard to the installation, the maintenance, cleaning, repair, or replacement of items for which he or it is responsible hereunder, or that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of any Owner, his family, tenants, guests, or invitees, and is not covered or paid for by insurance in

whole or in part, then, in either event, Declarant or the Association, except in the event of an emergency situation, shall give such Owner written notice of Declarant's or the Association's intent to provide such necessary maintenance, clearing, repair, or replacement, at the sole cost and expense of such Owner, and setting forth with reasonable particularity the maintenance, cleaning, repairs, or replacement deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15) days within which to complete the same in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair, or replacement is not capable of completion within said fifteen (15) day period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of an emergency situation or the failure of any owner to comply with the provisions hereof after such notice, Declarant or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner, and said cost shall be added to and become a part of the assessment to which such Owner and his Lot or Dwelling are subject and shall become a lien against such Lot or Dwelling. In the event that Declarant undertakes such maintenance, cleaning, repair, or replacement, the Association shall promptly reimburse Declarant for Declarant's cost and expenses. In the event that the Association fails to maintain said property, the Village has the right to maintain said property and charge back to the Association its costs and place a lien on the property owned by the Association.

**ARTICLE VI**  
**INSURANCE AND CASUALTY LOSSES**

6.1 INSURANCE.

(a) The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect adequate property insurance, in such form as the Board deems appropriate, for the benefit of the Association and insuring all insurable improvements in and to the Common Areas against loss or damage by fire or other hazards including, without limitation, extended coverage, flood, vandalism, and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of any repair or reconstruction in the event of damage or destruction from any such hazard.

(b) The Board or its duly authorized agents shall have

the authority to and shall obtain and continue in effect a public liability policy covering all the Common Areas and all damage or injury caused by the negligence of the Association, its members, its directors and officers, or any of its agents. Such public liability policy shall provide such coverages, as are determined to be necessary by the Board of Directors.

(c) The Board or its duly authorized agents shall have the authority and may obtain (i) worker's compensation insurance to the extent necessary to comply with any applicable laws, and (ii) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable.

(d) All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for each of the Owners and costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Development shall be vested in the Board of Directors; provided, however, that no mortgagee or other security holder of the Common Areas having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. Insofar as permitted by law, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

(i) All property insurance policies (naming the Association as insured) shall be for the benefit of the Owners and their Mortgagees as their interests may appear.

(ii) All policies shall contain a waiver of the insurer's right to cancel without first giving thirty (30) days prior written notice of such cancellation to the Association and to any Mortgagee to which a mortgagee endorsement has been issued.

(iii) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees, and all policies shall contain a provision that the "other insurance" clauses in such policies exclude from consideration policies obtained by individual Owners or their Mortgagees.

(iv) All policies shall contain a waiver of subrogation by the insurer as to any claims against the Association, the Association's director and officers,

the Owners, and their respective families, servants, agents, tenants, guests, and invitees, including, without limitation, the Association's manager.

(v) All policies shall contain a provision that no policy may be canceled, invalidated, or suspended on account of the conduct of one or more of the individual Owners, or their respective families, servants, agents, employees, tenants, guests, and invitees, or on account of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.

(vi) All liability insurance shall contain cross-liability, liability endorsements to cover liability of the Association to an individual Owner and shall also name the Declarant and the members of the Architectural Review Committee as additional insureds.

(e) It shall be the individual responsibility of each Owner at his own expense to provide public liability, property damage, title, and other insurance with respect to his own Lot and Dwelling. The Board of Directors may require all Owners to carry public liability and property damage insurance with respect to their respective Lots and Dwellings and to furnish copies or certificates thereof to the Association.

6.2 Damage to Common Areas. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and, in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article VI, means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. Unless within sixty (60) days following any damage or destruction to all or a part of the Common Areas. Declarant, for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale, together with at least seventy-five percent (75%) of the total vote of the Association, shall otherwise agree, the Association shall restore or replace such damaged improvements. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special assessment against all owners, without the necessity of a vote pursuant to Section 9.4 hereof, such special assessment to be in an amount sufficient to provide funds to pay

such excess cost of repair or reconstruction. Such a special assessment shall be levied against the owner equally in the same manner as annual assessments are levied or as one lump sum payment, and additional assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the ruins of the Common Areas damaged or destroyed by fire or other casualty shall be cleared and the Common Areas left in a clean, orderly, safe, and slightly condition.

6.3 Damage to Lots or Dwellings. In the event of damage or destruction by fire or other casualty to any Lots or Dwellings, and in the further event that either the Owner of such Lot or Dwelling elects not to repair or rebuild the damaged or destroyed Lot or Dwelling, such owner making such election shall promptly clear away the ruins and debris of any damaged improvements or vegetation and leave such Lot or Dwelling in a clean, orderly, safe, and slightly condition. Should such Owner elect to repair or rebuild such Lot or Dwelling or other improvements, such Owner shall repair or rebuild such Lot, Dwelling, or other improvements to substantially the same condition as existed prior to such fire or other casualty and in accordance with all applicable standards, restrictions, and provisions of this Declaration (including, without limitation, Article X hereof) and all applicable zoning, subdivision, building, and other governmental regulations. All such work of repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

## ARTICLE VII CONDEMNATION

7.1 Condemnation of Common Areas. Whenever all or any part of the Common Areas of the Development shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the agreement

of at least seventy-five percent (75%) of the total vote of the Association (which conveyance may only occur with the approval of Declarant, for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale) the award or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

(a) If the taking or sale in lieu thereof involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant, for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale, together with at least seventy-five percent (75%) of the total membership of the Association, shall otherwise agree, the Association shall restore or replace such improvements so taken, to the extent practicable, on the remaining lands included in the Common Areas which are available therefore, in accordance with the plans approved by the Board of Directors, the Architectural Review Committee, and by Declarant, for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special assessment against all Owners, without the necessity of a vote pursuant to Section 9.4 hereof, such special assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such a special assessment shall be levied against the Owners equal in the same manner as annual assessments are levied, or as a lump sum payment, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. If such improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association.

(b) If the taking or sale in lieu thereof does not involve any improvements to the Common Areas, or if there are net funds remaining after any such restoration or replacement of such improvements is completed, then such award, proceeds, or net funds shall be retained by and for the benefit of the Association.

(c) If the taking or sale in lieu thereof includes all or any part of a Lot or Dwelling and also includes any part of the Common Areas, then a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners of any Lot or Dwelling taken for their interest in such Lot or Dwelling; provided, however, such apportionment

may instead be resolved by the Agreement of the Board of Directors, the owners of all Lots or Dwellings wholly or partially taken or sold, together with the Mortgagees for each such Lot or Dwelling, and Declarant, for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale.

## 7.2 Condemnation of Lots or Dwellings.

(a) In the event that all or any part of a Lot or Dwelling is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and in the further event that the Owner of such Lot or Dwelling elects not to restore the remainder of the Lot or Dwelling, then such Owner making such election shall promptly clear away any remaining improvements damaged or destroyed by such taking or conveyance and shall leave such Lot or Dwelling and any remaining undamaged improvements thereon in a clean, orderly, safe and sightly condition. In addition, if the size or configuration of such Lot or Dwelling remaining after such taking or conveyance is insufficient to permit the restoration of the remaining improvements hereon or therein to their condition, prior to such taking or conveyance in compliance with all applicable standards, restrictions, and provisions of his Declaration and all applicable zoning, subdivision, building, and other governmental regulations, then such Owner shall have the option after clearing away all remaining improvements or portions thereof and placing the remainder in a clean, orderly, safe, and sightly condition referred to above, of deeding the remaining portion of the Lot or Dwelling to the Association (at no cost to the Association) as a part of the Common Areas, and thereafter any such Owner shall not have any further voting rights or membership rights or privileges in the Association or with respect to the Development and shall not be subject to any further assessments imposed by the Association and payable after the date of such deeding.

(b) In the event that any part of a Lot or Dwelling is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and if the owner of such Lot or Dwelling elects to restore the remainder of the Lot or Dwelling, such owner making such election shall restore such remainder of such Lot or Dwelling as nearly as practicable to the same condition it was in prior to such taking or conveyance and in accordance with all applicable standards, restrictions and provisions of his Declaration and all applicable zoning, subdivision, building and other governmental regulations. All such work of restoration shall be commenced promptly following such taking or conveyance and shall be carried through diligently to conclusion.

## ARTICLE VIII ADMINISTRATION

8.1 Common Areas. The Association, subject to the rights of Declarant and the rights and duties of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon and shall keep the same in a good, clean, attractive, and sanitary condition, order and repair. Except to the extent otherwise required by the provisions of the laws of Illinois relating to nonprofit corporations, this Declaration, the By-Laws, or the Articles of Incorporation, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors, acting through the officers of the Association, without any further consent or action on the part of the Owners. As provided in Section 12.1 hereof and notwithstanding any other provision to the contrary contained in any instruments evidencing or establishing the Development, Declarant shall have the right to appoint or remove any member or members of the Board of Directors and any officer or officers of the Association until such time as the first of the following events shall occur: (i) the expiration of ten (10) years after the date of the recording of this Declaration, or (ii) the surrender by Declarant of the authority to appoint and remove directors and officers of the Association by an express amendment to this Declaration executed and recorded by Declarant. Each Owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, vests in Declarant such authority to appoint and remove directors and officers of the Association as provided by this Section 8.1 and by Section 12.1 hereof.

8.2 Duties and Powers. The duties and powers of the Association shall be those set forth in the provision of the laws of Illinois relating to nonprofit corporations, this Declaration, the By-Laws, and the Articles of Incorporation, together with those reasonably implied to effect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the laws of Illinois, this Declaration, the By-Laws, or the Articles of Incorporation, the provisions of the laws of Illinois, this Declaration, and the By-Laws, in that order, shall prevail, and each owner of a Lot or Dwelling by acceptance of a deed or other conveyance therefore, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such powers of the Association shall include, but shall not be limited to, the power to purchase one or more Lots and/or Dwellings and to hold, lease, mortgage, sell, and convey the same. Such duties may include, but shall not be limited to, providing for the Association, or arranging with governmental

agencies, public service districts, public or private utilities, or others, as a Common Expense or by billing directly to Lots and Dwellings, to furnish trash collections, water, sewer, and/or monitoring service for the Common Areas and/or the Lots or Dwellings. Notwithstanding the foregoing provisions of this Section 8.2 or any other provision of this Declaration to the contrary for so long as Declarant shall own any Lot or Dwelling primarily for the purpose of sale, the Association shall not, without the consent of Declarant, borrow money, pledge, or mortgage, all or any portion of the Common Areas.

8.3 Agreements. Subject to the prior approval of Declarant for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale, all agreements and determinations lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, and assigns, and all others having any interest in the Development or the privilege of possession and enjoyment of any part of the Development; and in performing its responsibilities hereunder, the Association, through its Board of Directors, shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager shall be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all of the powers and shall be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers, or members of the Association by this Declaration or the By-Laws. Such manager may be an individual, corporation, or other legal entity, as the Board of Directors shall determine, and may be bonded in such a manner as the Board of Directors may require with the cost of acquiring any such bond to be a Common Expense. In addition, the Association may pay for, and the Board of Directors may hire and contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Development or the enforcement of this Declaration, the By-Laws, or the rules and regulations of the Association.

8.4 Rules and Regulations. As provided in Article XI hereof, the Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Lots and Dwellings and Common Areas, which rules and regulations shall be consistent with the rights and duties

established by this Declaration.

8.5 Indemnification. The Association shall indemnify and hold harmless every officer and director of the Association and the members of the Architectural Review Committee against any and all expenses, including court costs and reasonable attorney fees, reasonably incurred by or imposed upon any current or former officer, director, or member of the Architectural Review Committee in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the Board of Directors) to which he may be made a party by reason of being or having been an officer, director, or member of the Architectural Review Committee. The officers, directors, and members of the Architectural Review Committee shall not be liable for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or nonfeasance. The officers, directors and members of the Architectural Review Committee shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association) and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

#### ARTICLE IX ASSESSMENTS

9.1 Purpose of Assessments. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, welfare, common benefit and enjoyment of the Owners and occupants of the Development, and maintaining the Development and improvements therein, all as may be more specifically authorized herein and from time to time by the Board of Directors.

9.2 Creation of Lien and Personal Obligation of Assessments. Each Owner of a lot or Dwelling by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay the Association: (a) annual assessments, such assessments to be established and collected as provided in Section 9.3 hereof, (b) special assessments, such assessments to be established and collected as provided in Section 9.4 hereof, (c) individual or specific assessments against any particular Lot or Dwelling which are established pursuant to the terms of this Declaration including, but not limited to, fines as may be imposed against such Lot or Dwelling in accordance with Article X hereof. Any such assessments, together with late charges, simple interest at the rate of eighteen percent (18%) per annum, and court costs and attorneys' fees incurred to enforce or collect such assessments,

shall be an equitable charge and a continuing lien upon the Lot or Dwelling, the owner of which is responsible for payment. Each Owner shall be personally liable for assessments coming due while he is the Owner of a Lot or Dwelling, and his grantee shall take title to such Lot or Dwelling, subject to the equitable charge and continuing lien therefore, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefore; provided, however, the lien for unpaid assessments shall not apply to the holder of any first priority institutional Mortgage or to the holder of any Mortgage securing a loan made by Declarant, its affiliates, successors, or assigns, who takes title to a Lot or Dwelling through foreclosure, or to any purchaser of such Lot or Dwelling at such foreclosure sale. Any purchaser of a Lot through a foreclosure sale shall hereafter be a member of the Association and subject to all future assessments. In the event of co-ownership of any Lot or Dwelling, all of such co-Owners shall be jointly and severally liable for the entire amount of such assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors provided, that unless otherwise provided by the Board, the annual assessments shall be paid in equal semi-annual installments.

9.3 Annual Assessments. It shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The Board shall cause the budget and the proposed total of the annual assessments to be levied against Lots and Dwellings for the following year to be delivered to each Owner at least fifteen (15) days prior to such meeting. The total annual assessments shall be divided among the Lots and Dwellings equally, so that each Lot and Dwelling shall be subject to equal annual assessments. The budget and the annual assessments shall become effective unless disapproved at the annual meeting by either (i) Declarant, for so long as Declarant has the authority to appoint and remove directors and officers of the Association, or (ii) a vote of a majority of the votes of the Owners who are voting in person or by proxy at such meeting (provided that a minimum vote of fifty-one percent (51%) of all the votes of the Association shall be required to disapprove the budget). Notwithstanding the foregoing, in the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget and annual assessments in effect for the then current year shall be increased in proportion to the percentage increase, if any, for the then current year, in the Consumer Price Index (all Urban Consumers, United States City Average, All Items 1967-69+100), or its successor index, over the prior year, and such increased budget shall be implemented for the succeeding year, until a new budget shall have been approved as provided above.

If any budget at any time proves inadequate for any reason, then the Board may call a meeting of the Association for the approval of a special assessment as provided in Section 9.4 hereof. The Common Expenses to be funded by the annual assessments may include, but shall not necessarily be limited to, the following:

(a) management fees and expenses of administration including legal and accounting fees;

(b) utility charges for utilities serving the Common Areas and charges for other common services for the Development, including trash collection and monitoring services, if any such services or charges are provided or paid by the Association;

(c) the cost of any policies of insurance purchased for the benefit of all the Owners and the Association as required or permitted by this Declaration, including fire, flood and other hazard coverage, public liability coverage and such other insurance coverage as the Board of Directors determine to be in the interest of the Association and the Owners;

(d) the expenses of maintenance, operation, and repair of those portions of the Common Areas which are the responsibility of the Association under the provisions of this Declaration;

(e) the expenses of maintenance, operation and repair of other amenities and facilities serving the Development, the maintenance, operation and repair of which the Board from time to time determines to be in the best interest of the Association;

(f) the expenses of the Architectural Review Committee which are not defrayed by plan review charges;

(g) Ad valorem real property taxes assessed and levied against the Common Areas;

(h) the expenses for conducting recreational cultural, or other related programs for the benefit of the Owners and their families, tenants, guests and invitees;

(i) such other expenses as may be determined from time to time by the Board of Directors of the Association to be Common Expenses including, without limitation, taxes and governmental charges not separately assessed against Lots or Dwellings; and

(j) the establishment and maintenance of a reasonable reserve fund or funds (A) for inspections, maintenance, repair and replacement of those portions of the Common Areas

which are the responsibility of the Association and which must be inspected, maintained, repaired, or replaced on a periodic basis, (B) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (C) to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

9.4 Assessments. In addition to the annual assessments authorized above, the Association, acting through its Board of Directors, may levy, in any assessment year, special assessments for Common Expenses, applicable to that year only, provided that except as otherwise permitted in Sections 6.2 and 7.1 hereof, any such assessment shall be approved by Declarant, for so long as Declarant owns any Lot or Dwelling primarily for the purpose of sale, and by a majority of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose in accordance with the provisions of Section 9.7 hereof. The Board of Directors may make such special assessments payable in installments over a period which may, in the Board's discretion, extend in excess of the fiscal year in which adopted. Such special assessments are to be prorated among the Lots and Dwellings equally as provided with respect to annual assessments.

9.5 Initial Association Reserve Fund. Upon the purchase of each Lot or Dwelling from the Declarant and upon the subsequent resale of a Lot or Dwelling, each Owner shall deposit with the Board an amount equal to two (2) months assessment as determined by the Board. Such amount shall be held, together with the amounts similarly deposited by the other Owners, as an operating reserve for Common Expenses.

9.6 Individual Assessments. Any expenses of the Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests or invitees of an owner shall be specially assessed against such Owners and their respective Lots or Dwellings. The individual assessments provided for in this Section shall be levied by the Board of Directors and the amount and due date of such assessment so levied by the Board shall be as specified by the Board.

9.7 Notice of Annual Meeting and Quorum. Written notice of the annual meeting of the Association as well as any other meeting called for the purpose of taking any action authorized under Sections 9.3 and 9.4 hereof shall be sent to all members not less than fifteen (15) days nor more than forty-five (45) days in advance of such meetings. With respect to annual meetings, the presence of members or proxies entitled to cast over fifty percent (50%) of all the votes of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice

requirement, and the required quorum at the subsequent meeting shall be the presence in person or by proxy of members having one-third (1/3) of the total votes of the Association. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Notwithstanding such reduced quorum requirement at a subsequent meeting, a minimum vote of fifty-one percent (51%) of all the votes of the Association shall be required to disapprove the Association's budget.

9.8 Liens. All sums assessed against any Lot or Dwelling pursuant to this Declaration, together with court costs, reasonable attorneys' fees, late charges, and interest as provided herein, shall be secured by an equitable charge and continuing lien on such Lot or Dwelling in favor of the Association. Such liens shall be superior to all other liens and encumbrances on such Lot or Dwelling except only for (i) liens of ad valorem taxes, and (ii) liens for all sums unpaid on any first priority institutional Mortgage or on any Mortgage to Declarant, or its affiliates, successors, or assigns, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument. Notwithstanding the foregoing to the contrary, the subordination of assessments to the lien of such Mortgages shall only apply to such assessment which have become due and payable prior to a foreclosure. All other persons acquiring liens or encumbrances on any Lots or Dwellings after this Declaration shall have been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for assessments as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances.

9.9 Effect of Nonpayment; Remedies of the Association. Any assessments of any owner or any portions thereof which are not paid when due shall be delinquent. An assessment delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount as may be determined by the Board from time to time and shall also commence to accrue simple interest at the rate of eighteen percent (18%) per annum. A lien and equitable charge as herein provided for each assessment shall attach simultaneously as the same shall become due and payable, and if an installment of the assessment for such year has not been paid within thirty (30) days, the entire unpaid balance of the assessment may be accelerated at the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such assessment shall include the late charge established by the Board of Directors, interest on the principal amount due at the rate of eighteen percent (18%) per annum, all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the assessment remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. The equitable

charge and lien provided for in this Article shall be in favor of the Association, and each owner, by his acceptance of a deed or other conveyance to a Lot or Dwelling vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such assessments as a debt and/or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The Association shall have the power to bid on the Lot or Dwelling at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No owner may waive or otherwise escape liability for the assessments provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of his Lot or Dwelling and an Owner shall remain personally liable for assessments, interest and late charges which accrue prior to a sale, transfer, or other conveyance of his Lot or Dwelling.

9.10 Certificate. The Treasurer, any Assistant Treasurer, or the manager of the Association shall, within ten (10) days of a written request and upon payment of such fee as is from time to time reasonably determined by the Board of Directors, furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate in writing signed by said Treasurer, Assistant Treasurer, or manager setting forth whether the assessments for which such owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any assessments stated therein to have been paid.

9.11 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to each Lot and Dwelling on the date on which such Lot or Dwelling is conveyed to a person other than Declarant and shall be due and payable in such manner and on such schedule as the Board of Directors may provide. Annual assessment and any outstanding special assessments shall be adjusted for such Lot or Dwelling according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such Lot or Dwelling is first conveyed. Anything contained herein to the contrary notwithstanding, Declarant shall not be responsible for the payment of annual or special assessments on Lots or Dwellings which it or its affiliates own and which do not contain occupied residences (except as hereinafter provided), provided that Declarant covenants and agrees to pay annual and special assessments for each Lot and Dwelling owned by Declarant or any affiliate and containing occupied residences. Furthermore, Declarant shall have the option to either pay annual assessments on Lots and Dwellings owned by Declarant or fund any deficit which may exist between assessments and the annual budget of the Association for so long as Declarant has the authority hereunder to appoint and remove directors of the Association, provided, however, that the budget,

assessments and deficits, if any, shall be annually reviewed by Declarant and the Board of Directors, and during such period Declarant's obligation for funding deficits shall only be up to the amount of the Association's budget. Upon Declarant no longer having the authority to appoint directors or officers of the Association, Declarant shall be obligated only to pay assessments on Lots and Dwellings owned by Declarant.

**ARTICLE X**  
**ARCHITECTURAL STANDARDS AND USE RESTRICTIONS**

10.1 Purpose. In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the property, the Lots, Dwellings, and any and all improvements located therein or thereon shall be subject to the restrictions set forth in this Article. Every grantee of an interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article and agrees to be regulated by the same Village of Hawthorn Woods restrictions as the Declarant.

10.2 Architectural Review Committee. The Board of Directors shall establish the Architectural Review Committee which shall consist of up to five (5) but not less than three (3) members, all of whom shall be Owners and who may or may not be members of the Board of Directors, provided that prior to the termination of Declarant's right to appoint and remove officers and directors of the Association, such members do not have to be Owners. The regular term of office for each member shall be one (1) year, coinciding with the fiscal year of the Association. Any member appointed by the Board may be removed with or without cause by the Board at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. Notwithstanding the foregoing to the contrary, any member appointed to the Architectural Review Committee by the Board shall be subject to the prior approval of Declarant until that date which is one (1) year from and after the day on which Declarant's right to appoint and remove officers and directors of the Association is terminated. The Architectural Review Committee shall elect a chairman and he, or in his absence, the vice chairman, shall be the presiding officer at its meetings. The Architectural Review Committee shall meet upon call of the chairman, and all meetings shall be held at such places as may be designated by the chairman. Three (3) members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or by proxy at a meeting of the Architectural Review Committee shall constitute the action of the Architectural Review Committee on any matter before it. The Architectural Review Committee is authorized to retain the

services of consulting architects, landscape architects, urban designers, engineers, inspectors and/or attorneys in order to advise and assist the Architectural Review committee in performing its functions set forth herein. Each member of the Architectural Review Committee may be paid a stipend or honorarium as may, from time to time be determined by the Board.

#### 10.3 Permitted Improvements Standards.

(a) No improvements of any nature whatsoever shall be constructed, altered, added to, or maintained upon any part of the Property, except for Dwellings and other improvements which are constructed by Declarant, such improvements as are approved by the Architectural Review Committee in accordance with this Article or improvements which pursuant to this Article do not require the consent of the Architectural Review Committee.

(b) The Architectural Review Committee is hereby authorized to promulgate from time to time written architectural standards, policies and guidelines (the "Standards") governing the construction, location, landscaping and design of improvements, the contents of submissions of plans and specifications, and other information required to evidence compliance with and obtain approval pursuant to Sections 10.5, 10.6 and 10.8 hereof. Any such Standards published by the Architectural Review Committee shall be binding and enforceable on all owners with respect to all improvements in the Development requiring the approval of the Architectural Review Committee.

(c) No improvements of any nature whatsoever shall be commenced, constructed, altered, added to or maintained upon any part of the Property (except for Dwellings and other improvements which are constructed by Declarant and for improvements which pursuant to this Article do not require the consent of the Architectural Review Committee) unless and until approved in writing by the Architectural Review Committee.

#### 10.4 Construction of Improvements.

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

(b) Dwellings may not be temporarily or permanently occupied until the exteriors thereof and the landscaping of

the Lot on which the Dwelling is located have been completed, or adequate provision have been made for the completion of landscaping, and a certificate of occupancy for such Dwelling has been issued. No temporary house, shack, tent, barn, or other outbuilding shall be permitted on any Lot or Dwelling at any time, except for temporary structures for social functions as may be permitted by rules and regulations promulgated by the Board nor shall any stable, poultry house or yard, rabbit hut, or other similar yard structure be constructed or allowed to remain on any Lot or Dwelling. Construction of all dwellings shall be completed within one (1) year of the commencement date of said construction. During the continuance of construction by an Owner, such Owner shall require its contractors to maintain the Lot and Dwelling in a reasonably clean condition and all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the Lot and Dwelling on which such construction has been completed.

10.5 Architectural Approval. To preserve the architectural and aesthetic appearance, construction of improvements of any nature whatsoever shall be commenced or maintained by any owner, other than Declarant, with respect to the construction or affecting the exterior appearance of any Dwelling or with respect to any other portion of the Property including, without limitation, the construction or installation of sidewalks, driveways, parking lots, identical mail boxes and posts, decks, patios, courtyards, swimming pools, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, or other outbuildings, nor shall any exterior addition to or change or alteration herein be made (including, without limitation, painting or staining of an exterior surface), unless and until two (2) copies of the plans and specifications and related data (including, if required by the Architectural Review Committee, a survey showing the location of trees of six (6) inches in diameter at a height of four (4) feet and other significant vegetation on such Lot or Dwelling) showing the nature, color, type, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Review Committee as to the compliance of such plans and specifications with such Standards as may be published by the Committee from time to time, including the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the Architectural Review Committee and the other copy shall be returned to the Owner marked "approved," "approved as noted," or "disapproved". The Architectural Review Committee shall establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any

consulting architects, landscape architects, urban designers, inspectors, or attorneys retained in accordance with the terms hereof. The fee initially established for such review shall be for each submission, and the Architectural Review Committee shall have the right to increase this amount from time to time. Notwithstanding the foregoing, an owner may make interior improvements and alterations within his Dwelling that do not affect the exterior appearance without the necessity of approval or review by the Architectural Review Committee. The Architectural Review Committee shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association in connection with approval rights and to prevent excessive drainage or surface water runoff and in order to comply with any restrictions imposed from time to time on the development of portions thereof, by the applicable governmental authorities, the Architectural Review Committee shall have the right to establish a maximum percentage of a lot or dwelling which can be cleared or graded and a maximum percentage of a lot or dwelling which may be covered by dwellings, buildings, out structures or other improvements, which standards shall be promulgated on the basis of topography, percolation, rate of the soil, soil types and conditions, vegetation cover, and other environmental factors. Following approval of any plans and specifications by the Architectural Review Committee, representatives of the Architectural Review Committee shall have the right during reasonable hours to enter upon and inspect any Lot or Dwelling or other improvements with respect to which construction is underway to determine whether or not the plans and specifications therefor have been approved and are being complied with. In the event the Architectural Review Committee shall determine that such plans and specifications have not been approved or are not being complied with, the Architectural Review Committee shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. In the event the Architectural Review Committee fails to approve or disapprove in writing any proposed plans and specifications within thirty (30) days after such plans and specifications shall have been submitted, such plans and specifications will be deemed to have been expressly approved provided the proposed improvements are generally in harmony with the scheme of the Development as set forth in this Declaration. Upon approval of plans and specifications, no further approval under this Article X shall be required with respect thereto, unless such construction has not substantially commenced within six (6) months of the approval of such plans and specifications (e.g. clearing, pouring of footings, etc.), or unless such plans and specifications are materially altered or changed. Refusal of approval of plans and specifications may be based by the Architectural Review Committee upon any ground which is consistent with the objects and purposes of this Declaration, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious. All dwellings shall be

no less than 1,750 square feet in size, unless said minimum square footage is increased by the Architectural Review Committee.

10.6 Landscaping Approval. To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed by any Owner, other than Declarant, unless and until the plans therefor have been submitted to and approved in writing by the Architectural Review Committee. The provisions of Section 10.5 hereof regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling. Such plans shall include a calculation of the ratio of the area to be covered by grassy lawns versus the area to be left in a natural state and the Architectural Review Committee shall be entitled to promulgate standards with respect to such ratios. Furthermore, no hedge or shrubbery planting or tree which obstructs the sight-line of streets and roadways within the Development shall be placed or permitted to remain on any Lot or Dwelling which such hedge, shrubbery or tree interferes with traffic sight-lines, including sight-lines at the intersection of a driveway and a road or tree in the Development. No Owner, other than Declarant, shall be entitled to cut, remove, or mutilate any trees, shrubs, bushes, or other vegetation having a trunk diameter of six (6) inches or more at a point of four (4) feet above ground level, without obtaining the prior approval of the Architectural Review Committee, except as set forth in the preceding sentence and provided further that dead or diseased trees which are inspected, and certified as dead or diseased by the Architectural Review Committee or its representatives, as well as other dead or diseased shrubs, bushes, or other vegetation, shall be cut and removed promptly from any Lot or Dwelling by the Owner of such Lot or Dwelling. All of the landscaping of Lots and Dwellings must be completed prior to occupancy of the Dwelling, except as provided in Section 10.4 (b) hereof. The Architectural Review Committee shall be entitled to require each owner to expend a minimum amount for landscaping of \$7,500.00 for plant material and labor or such greater amount as the Architectural Review Committee shall designate.

10.7 Approval Not a Guarantee. No approval of plans and specifications and no publication of Standards shall be construed as representing or implying that such plans, specifications, or Standards will, if followed, result in properly designed improvements. Such approvals and Standards shall in no event be construed as representing or guaranteeing that any Dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association nor the Architectural Review Committee shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the

terms of this Article, any loss or damage to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications.

10.8 Building Restrictions. All Dwellings and other structures shall be constructed in compliance with any and all applicable state, county and municipal zoning and building restrictions and any applicable regulations and restrictions of applicable governmental agencies. All grading, clearing, construction of impervious surfaces and other construction activity performed on Lots or Dwellings shall be performed in accordance with the standards promulgated by the Architectural Review Committee. Prior to any such grading, clearing, construction of impervious surface, or other construction activity, the Owner of any Lot or Dwelling shall receive the prior written approval of the Architectural Review Committee. Any Owner that performs any grading, clearing, construction of impervious surface, or other construction activity in violation of the above, shall be liable to Declarant for any damages incurred by Declarant arising out of such violation and Declarant thereby expressly reserves the right to sue any such Owner for monetary damages and for specific performance of the above covenants and restrictions. In addition, the Architectural Review Committee is authorized to promulgate from time to time as part of the standards described in Section 10.3(b) hereof, additional restrictions applicable to the Development including, without limitation, restrictions relating to height of improvements above grade, roof pitch and minimum square footage of living space in each Dwelling, and whether the Dwelling shall have a basement, English basement, or walk-out basement. To assure that Dwellings and other structures will be located so that the maximum view, privacy and breeze will be available to each Dwelling or structure, Dwellings and structures will be located with regard to the topography of each Lot or Dwelling, taking into consideration the location of trees and vegetation and other aesthetic and environmental considerations, as well as the precise site and location of any other Dwellings or structures within the Development and the Architectural Review Committee shall have the authority to determine such locations for Dwellings and structures. In addition, all residential structures constructed on a Lot shall have as a minimum first floor elevation the level of the 100 year flood as designated on official flood plain maps adopted by the Village, and be designed and constructed in compliance with the requirement of any building code related to construction in a flood hazard area, if any are applicable.

10.9 Use of Lots and Dwellings. Except as permitted by Section 3.8 hereof, each Lot and Dwelling shall be used for residential purposes only, and no trade or business of any kind

may be carried on therein. No more than one (1) Dwelling shall be located on any Lot. The use of a portion of a Dwelling as an office by any Owner or his tenant shall not be considered to be a violation of this covenant if such use does not create regular customer, client, or employee traffic. The use of a Dwelling or a portion thereof for business meetings, entertainment, or the enjoyment or business of the Owner's employees, trustees, agents, clients, or customers shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. Lease or rental of a Dwelling for residential purposes shall also not be considered to be a violation of this covenant so long as the lease is for not less than the entire Dwelling and all the improvements thereon, is for a term of at least six (6) months, and is otherwise in compliance with the rules and regulations as may be promulgated and published from time to time by the Board of Directors. All leases shall be required to be in writing and, prior to the commencement of any such lease, the owner shall provide the Secretary of the Association and the managing agent of the Association, if any, with copies of such lease. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration and the rules and regulations adopted hereunder. Notwithstanding any provisions of this Section to the contrary, Declarant, its successors or assigns, if the right is so transferred by Declarant, shall have the perpetual right to designate in writing to the Association from time to time Dwellings in the Development which may be leased for such period of time as Declarant shall determine, including daily and weekly rentals, and for these Dwellings, Declarant or the Owner shall not be required to supply copies of the leases therefor to the Association.

10.10 Exterior Appearance. The design location, installation and screening of all fences shall be approved by the Architectural Review Committee pursuant to the provisions of this Article. Further, no foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades, or other purpose, nor shall any window-mounted heating or air-conditioning units be permitted. Outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed, or maintained, nor shall any clothing, rugs, or other item be hung on any railing, fence, hedge, or wall. When not in use all garage doors shall be kept closed. No projections of any type shall be placed or permitted to remain above the roof of any improvements except approved chimneys or vent stacks.

10.11 Signage. Except as may be required by legal proceedings, no signs or advertising posters of any kind shall be maintained or permitted within any windows, on the exterior of land improvements located within the Development, or elsewhere on any portion of the Property, without the express written permission of the Architectural Review Committee. The approval

of any signs and posters including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by the Architectural Review Committee and may be arbitrarily withheld. Notwithstanding the foregoing, the restrictions of this Section shall not apply to Declarant. In addition, the Board of Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas and within those easement areas established in Section 3.7 hereof.

10.12 Antennas. No television antenna, radio receiver, satellite dish, or other similar device shall be attached to or installed on any portion of the Development, unless contained entirely within the interior of a building or other structure, nor shall radio or television signal, nor any other form of electromagnetic radiation, be permitted to originate from any Lot or Dwelling which may unreasonably interfere with the reception of television or radio signals within the Development; provided, however, that Declarant and the Association shall not be prohibited from installing equipment necessary for master antenna, security, cable television, mobile radio, or other similar systems within the Development, and should cable television service be unavailable and adequate television reception not be otherwise available, then an Owner may make written application to the Architectural Review Committee for permission to install a television antenna or satellite dish.

10.13 Septic Tank. No private septic tanks or similar sewage facilities may be installed or maintained on any Lot or Dwelling.

10.14 Pets. No animals, livestock, birds, swine, or poultry of any kind shall be raised, bred, or kept by any Owner upon any portion of the Development, provided that generally recognized house pets may be kept in Dwellings, subject to rules and regulations adopted by the Association, through its Board of Directors, and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose. No pets shall be allowed to make any unreasonable amount of noise or to become a nuisance. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Areas. Pets shall be under leash at all times when walked or exercised in any portion of the Common Areas, and no pet shall be permitted to leave its excrement on any portion of the Common Areas, and the owner of such pet shall immediately remove the same. Upon the written request of the Owner, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether, for purposes of this Section, a particular pet is a generally recognized house pet or such pet is a nuisance, and the Board shall have the right to require the owner of a particular pet to remove such pet from the Development if such pet is found to be a nuisance or to be in violation of these restrictions. The Board

of Directors shall have the further right, subject to Section 11.3 hereof, to fine any Owner (in an amount not to exceed \$50.00 per violation) for the violation of these pet restrictions by such Owner or an occupant of his Lot or Dwelling, and an owner shall be liable to the Association for the cost of repair of any damage to the Common Areas caused by the pet of such owner or of an Occupant of such Owner's Lot or Dwelling.

10.15 Nuisances. No rubbish or debris of any kind shall be dumped, placed, or permitted to accumulate upon any portion of the Development, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Development, so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to persons using or occupying any other portions of the Development. Noxious or offensive activities shall not be carried on in any Lot or Dwelling or in any part of the Common Areas, and each Owner, his family, tenants, guests, invitees, servants, and agents shall refrain from any act or use of a Lot or Dwelling or of the Common Areas which could cause disorderly, unsightly, or unkempt conditions, or which could cause embarrassment, discomfort, annoyance, or nuisance to the occupants of other portions of the Development, or which could result in a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation. In addition, no exterior speakers, horns, whistles, bells, or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Development. Any owner, or his family, tenants, guests, invitees, servants, or agent, who dumps or places any trash or debris upon any portion of the Development shall be liable to the Association for the actual costs of removal thereof or the sum of One Hundred Fifty and No/100 Dollars (\$150.00), whichever is greater, and such sum shall be added to and become a part of that portion of any assessment next becoming due or which such Owner and his Lot or Dwelling are subject.

10.16 Motor Vehicles, Trailers, Boats, Etc. Each Owner shall provide for parking of at least two (2) automobiles in garages, equipped with garage doors, prior to occupancy of the Dwellings owned or maintained by such Owner. All automobiles owned or used by Owners or Occupants other than temporary guests and visitors shall be parked in garages to the extent that garage space is available, and garages shall not be used for storage or otherwise so that they become unavailable for parking cars therein. The Board of Directors of the Association shall have the authority to promulgate rules and regulations to govern or prohibit the outside storage or parking upon any Lot or Dwelling or within any portion of the Common Areas (other than areas provided therefore within the Common Areas, if any) of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other

watercraft, boat trailer, motorcycle, motorized bicycle, motorized go-carts, and other similar vehicles, or any of them, from being kept, placed, stored, maintained, or operated upon any portion of the Development if in the opinion of the Board of Directors such prohibition shall be in the best interests of the Development. No Owners or other Occupants of any portion of the Development shall repair or restore any vehicle of any kind upon or within any Lot or Dwelling or within any portion of the Common Areas, except within enclosed garages or workshops or for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

10.17 Sales and Construction Activities. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, successors, and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the completion, improvement, and sale of Lots and/or Dwellings or the developing of Lots, Dwellings, and Common Areas including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model Dwellings, all as may be approved by Declarant from time to time, provided that the location of any construction trailers of any assignees of Declarant's rights under this Section 10.17 shall be subject to Declarant's approval. The right to maintain and carry on such facilities and activities shall include specifically the right to use Dwellings as model residences, and to use any Dwelling as an office for the sale of Lots and/or Dwellings and for related activities.

10.18 Multiple Ownership. No Lots or Dwellings may be sold under any time-sharing, time-interval, or similar right-to-use programs.

## ARTICLE XI RULES

11.1 Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Dwellings, and the Common Areas and facilities located thereon. In particular, but without limitation, the Board of Directors may promulgate rules and regulations which shall govern activities which may, in the judgment of the Board of Directors, be environmentally hazardous to any wetland or other areas such as application of fertilizers, pesticides and other chemicals. Copy of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective day of such rules and regulations and amendments hereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents.

11.2. Enforcement. Subject to the provisions of Section hereof, upon the violation of this Declaration, the By-Laws, or any rules and regulations duly adopted hereunder including, without limitation, the failure to timely pay any assessments, the Board shall have the power to impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot or Dwelling, the Owners or Occupants of which are guilty of such violation, or to suspend an owner's right to vote in the Association, and the Board shall have the power to impose all or any combination of these sanctions. An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests, or tenants or by his co-Owners or the family, guests, or tenants of his co-Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days per violation. The Village also has the right of enforcement for violations by the Association and/or Owner, the right to charge back to correct violation to the Association and/or Owner, and put a lien on the property.

11.3 Procedure. Except with respect to the failure of an Owner to pay assessments, the Board shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner or other Occupant of the Development for violations of the Declaration, the By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

(a) Written demand to cease and desist from an alleged violation shall be served upon the owner responsible for such violation specifying:

(i) The alleged violation;

(ii) The action required to abate the violation;

and

(iii) A time period of not less than ten (10) days

during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

(b) Within six (6) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice of a hearing to be held by the Board in executive session. The notice shall contain:

(i) The nature of the alleged violation;

(ii) The time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;

(iii) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and

(iv) The proposed sanction to be imposed.

(c) The hearing shall be held in executive session of the Board of Directors pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be held shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer, director, or other individual who delivered such notice. In addition, the notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

## **ARTICLE XII** **GENERAL PROVISIONS**

12.1 Control by Declarant. NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION, OR IN THE BY-LAWS OF THE ASSOCIATION, Declarant hereby retains the right to appoint and remove any member or members of the Board of Directors of the Association and any officer or officers of the Association as provided by and for the terms set forth in Section 8.1 hereof. Every grantee of

any interest in the Development, by acceptance of a deed or other conveyance of such interest agrees that Declarant shall have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section and the provisions of Section 8.1. Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of Section 8.1 and this Section, such right shall pass to the Owners, including Declarant if Declarant then owns one or more Lots or Dwellings, and a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting the Owners shall elect a new Board of Directors which shall undertake this responsibility of the Board of Directors, and Declarant shall deliver all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

12.2 Amendments by Declarant. During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing filed and recorded in the offices of the Recorder of Deeds or registrar of Titles of Lake County, without the approval of an Owner or Mortgagee; provided, however, that in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of his Lot, Dwelling, or the Common Areas as set forth in this Declaration or adversely affects the title to any Lot or Dwelling, such amendment shall be valid only upon the written consent thereto being a majority in number of the then existing Owners affected hereby, or in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected. Each Owner, by acceptance of a deed or other conveyance of a Lot or Dwelling, agrees to be bound by such amendments as are permitted by this Section and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this declaration or any other instruments relating to the Development (a) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of an applicable governmental statute, rule, or regulation or any judicial determination which shall be in conflict therewith, (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots or Dwellings, subject to this Declaration, (c) if such amendment is required by any institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any Lot, Dwelling, or other improvements subject to this Declaration, or (d) if any such

amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the Lots, Dwellings, or other improvements subject to this Declaration. No amendment to this Declaration relating to or affecting the rights of the Village of Hawthorn Woods shall be effective without the prior written consent of the Village, by ordinance or resolution duly passed and approved by the corporate authorities of the Village.

12.3 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 12.2 hereof, shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of directors or by members of the Association. Such amendment must be approved by Owners holding at least two-thirds (2/3) of the total votes in the Association; provided, however, that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee, and during any period in which Declarant owns a Lot or Dwelling primarily for the purpose of sale, such amendment must be approved by Declarant.

(c) The agreement of the required percentage of the Owners and, where required, Declarant and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

(d) No amendment to this Declaration relating to or affecting the rights of the Village of Hawthorn Woods shall be effective without the prior written consent of the Village, by ordinance or resolution duly passed and approved by the corporate authorities of the Village.

12.4 Enforcement. Each owner shall comply strictly with the By-Laws and the published rules and regulations of the Association adopted pursuant to this Declaration and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed or other instrument of conveyance to

his Lot or Dwelling. Failure to comply with any of the same shall be grounds for imposing fines for suspending voting rights, or for instituting any action to recover sums due, for damages, and/or for injunctive relief and/or any other remedy available at law or in equity, such actions to be maintainable by Declarant, the Board of Directors on behalf of the Association, or by any aggrieved Owner. Should Declarant or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner. No delay, failure, or omission on the part of Declarant, the Association, or an aggrieved owner in exercising any right, power, or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power, or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant or the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any person of the provisions of this Declaration, the By-Laws, or any rules and regulations of the Association, however long continued.

12.5 Time Limit and Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect for a period of twenty (20) years from and after the date of the recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said twenty (20) year period, this Declaration shall be automatically renewed for successive ten (10) year periods. The number of ten (10) year renewal periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration, if, during the last year of the initial twenty (20) year period or the last year of any ten (10) year renewal period, seventy-five percent (75%) of the total votes of the Association are cast in favor of terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, any instrument evidencing such termination shall be duly filed, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in the Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to

the Property as provided hereby.

12.6 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the Honorable William Clinton, President of the United States.

12.7 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors will best effect the intent of the general plan of development. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance, building codes or other regulations which are less restrictive. The effective date of this Declaration shall be the date of its filing for Record. This Declaration shall be construed under and in accordance with the laws of the State of Illinois.

12.8 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

12.9 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision is prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this and the provisions of this Declaration are declared to be severable.

12.10 Right of Third Parties. This Declaration shall be recorded for the benefit of Declarant, the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof.

12.11 Notice of Sale, Lease, or Mortgage. In the event any owner sells, leases, mortgages, or otherwise disposes of any Lot or Dwelling, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee, or transferee.

12.12 Trespass. Whenever the Association, Declarant,

the Architectural Review Committee, and their respective successors, assigns, agents, or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action shall not be deemed to be a trespass.

12.13 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owner's respective Lots or Dwellings. All notices to the Association or Declarant shall be delivered or sent to the following address:

HDB Development Corporation  
601 E. Burnett Road  
Island Lake, Illinois 60042

or to such other address as the Association may from time to time notify the Owners. All notices to Declarant shall be delivered or sent to Declarant at the above address or to such other address as Declarant may from time to time notify the Association. Notices of Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association. All notices are deemed delivered when delivered by hand or when deposited in the United States mail.

12.14 Land Trust. No claim shall be made against any such title holder trustee personally for any claim or obligation created hereunder and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such obligation but the amount thereof shall continue to be a charge or lien upon the Lot or Dwelling notwithstanding any transfer of beneficial interest or in the title to such Lot or Dwelling. By directing said trustee to take title to said Lot or Dwelling, the beneficiaries agree to be bound by the provisions of this Section.

IN WITNESS WHEREOF, duly authorized officers of the undersigned Declarant have executed this Declaration under seal, as of the day and year first above written.

DECLARANT

GRAND PREMIER TRUST AND  
INVESTMENT, INC., N.A.,  
as Trustee under Trust No. 896-3633

By: Janis H. Espanto

Its: Trust officer

ATTEST:

BY: Debbie Zimmerman

ITS: Trust officer

RCK\HUMMEL\COVENANTS\CCR2-19-97DRAFT.DOC



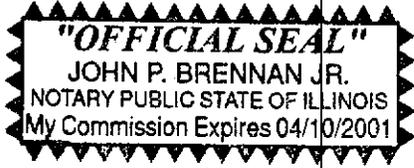
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF LAKE )

**John P. Brennan, Jr.**

I, \_\_\_\_\_ a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JAMES A. RSPORIO the TRUST OFFICER of GRAND PREMIER TRUST & INVESTMENT, INC., N.A. and LEBBIE ZUMMERMANN the TRUST OFFICER personally 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 Corporation, for the uses and purposes therein set forth, and the said TRUST OFFICER did also then and there acknowledge that he/she as custodian of the corporate seal of said Corporation did affix the said corporate seal of said Corporation to said instrument as his/her own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal this 10TH day of August, 1998.

NOTARY PUBLIC



[Signature]  
My commission expires:

This document prepared by:  
  
Robert C. Kenny  
Schain, Firsell & Burney, Ltd.  
222 North LaSalle Street  
Suite 1910  
Chicago, Illinois 60601-1102  
(312) 332-0200  
FAX#: (312) 332-4514

4192571

108