

THIS DOCUMENT PREPARED
BY AND RETURN TO:

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FRED BUCHOLZ
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**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR THE BUCKINGHAM ORCHARD
TOWNHOME ASSOCIATION**

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS (the "Declaration") is made this 8th day of November, 2006 by BUCKINGHAM ORCHARD, L.L.C., an Illinois limited liability company (hereinafter referred to as "Declarant").

P R E A M B L E S:

- A. Declarant is the owner in fee simple of a certain parcel of real estate in the County of DuPage, State of Illinois, legally described in Exhibit "A" attached hereto and made a part hereof (the "Property"); and
- B. Declarant desires to develop a residential townhome development on the Property (the "Development"); and
- C. Declarant desires to submit the Property to the provisions of this Declaration.

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

ARTICLE I - Declaration Purposes and Property Subjected to Declaration

Section 1.1. Purpose. Declarant desires to create on the Property a single family attached townhome development for future owners of Lots (as hereinafter defined) for the following general purposes:

- (a) Declarant, by the imposition of covenants, conditions easements and restrictions, and the reservation of certain powers unto itself, does intend to provide for the Property a plan for development which is intended to enhance and to protect the values of Declarant's single family townhome residential community; and

(b) Declarant desires to provide for the maintenance of the Common Area (as hereinafter defined) and used in common by the Owners (as hereinafter defined) of the Property.

Section 1.2. Encumbrance. To further the general purposes herein expressed, Declarant, for itself, its successors and assigns, hereby declares that the Property at all times is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions easements and restrictions herein set forth.

ARTICLE II - Definitions

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

Section 2.1. "Association" shall mean and refer to Buckingham Orchard Townhome Association, an Illinois not-for-profit corporation and a common interest community as defined in Section 9-102(a)(8) of the Illinois Code of Civil Procedure, as from time to time amended, its successors and assigns.

Section 2.2. "Board" shall mean and refer to the Board of Directors of the Association.

Section 2.3. "By-Laws" shall mean the By-Laws governing the Association, which are attached hereto as Exhibit "B". The By-Laws are incorporated into this Declaration and, by this reference, will be consistent with and shall not modify the terms of this Declaration.

Section 2.4. "Common Area" shall mean all real property owned, to be owned or maintained by the Association for the common use and enjoyment of all members of the Association, including but not limited to: all common areas within the Property (as hereinafter defined), streets, parking areas and other common facilities used in the operation of the Property (as hereinafter defined), including but not limited to any stormwater detention facilities used in the operation of the Property (as hereinafter defined). The Common Area shall include Blocks 1, 2, 3 and 4 as indicated on the Subdivision Plat (as hereinafter defined).

Section 2.5. "County" shall mean County of DuPage, Illinois.

Section 2.6. "Contingency and Replacement Reserve" shall have the meaning set forth in Section 5.4 hereof.

Section 2.7. "Declarant" shall mean and refer to Buckingham Orchard, L.L.C., an Illinois limited liability company, and its successors and assigns. Any such successor or assignee shall be deemed a Declarant and entitled to exercise all or a portion of the rights of Declarant provided herein if designated as such by Declarant in any instrument recorded for such purposes as provided in Section 6.12 hereof.

Section 2.8 "Developer" shall mean and refer to Buckingham Orchard, L.L.C., an

Illinois limited liability company, and its successors and assigns.

Section 2.9 "Dwelling" shall mean any building located on a Lot and intended for the shelter and housing of a Single Family (as hereinafter defined). Dwelling shall include any improvement attached or adjacent to the Dwelling utilized for storage or personal property, tools and equipment.

Section 2.10 "Estimated Cash Requirement" shall have the meaning set forth in Section 5.5 hereof.

Section 2.11 "Improvements" shall mean and include any and all buildings, outbuildings, driveways, pedestrian walkways, fences, decks, patios, hedges, lawns, sidewalks, planted trees, shrubs and all other structures or landscaping improvements of every type and kind.

Section 2.12 "Lot" shall mean each part of the Property (as hereinafter defined), the size and dimension of which shall be established by Declarant.

Section 2.13 "Member" shall mean and refer to every Person (as hereinafter defined) who holds membership in the Association.

Section 2.14 "Mortgage" shall mean either a mortgage or deed of trust creating a lien against a portion of the Property (as hereinafter defined) given to secure an obligation of the Owner (as hereinafter defined) of such portion of the Property (as hereinafter defined).

Section 2.15 "Owner" shall mean and refer to the record owner, whether one or more Persons (as hereinafter defined), of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. Except as provided herein, the term Owner shall include Declarant to the extent of the number of Lots owned by Declarant and also includes the interest of Declarant as a contract seller of any Lot.

Section 2.16 "Person" shall mean a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Section 2.17 "Property" shall mean and refer to the real estate legally described in Exhibit "A" attached hereto and made a part hereof.

Section 2.18 "Single Family" shall mean one or more persons, each related to the other by blood, marriage or adoption or a group of not more than three (3) persons, not all so related, maintaining a common household in a Dwelling.

Section 2.19 "Subdivision Plat" shall mean and refer to the Plat of Subdivision for the Buckingham Orchard Subdivision, recorded with the Office of the Recorder of Deeds of DuPage County, Illinois, on December 7, 2005 as Document Number R2005-271050, a copy of which is attached hereto and made a part hereof as Exhibit "C".

Section 2.20 "Turnover Date" shall have the meaning set forth in Section 4.3 hereof.

ARTICLE III - General Restrictions

Section 3.1. Lots. All Lots shall be used only for Single Family Dwellings. Each Owner shall maintain his Lot, and all Improvements located thereon, in a clean, sightly and safe condition and in compliance with all County and municipal ordinances and building codes, and shall at all times cause the prompt removal of all papers, debris and refuse therefrom and the removal of snow and ice from paved areas when and as required.

Section 3.2. Noxious and Offensive Activity. No noxious or offensive activity shall be carried on, in or upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No plants, seeds or other conditions harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Lot.

Section 3.3. Temporary Structures. No temporary building, trailer, mobile home, recreational vehicle, tent, shack or other similar Improvement, except as otherwise herein provided, shall be located upon the Lots.

Section 3.4. Waste. No Person shall accumulate on his Lot junked vehicles, litter, refuse or other unsightly materials. Garbage shall be placed in receptacles provided therefor; and, if outside, shall be properly screened. Lots shall not be used for the purpose of raising crops thereon.

Section 3.5. Trucks, Boats and Recreational Vehicles. All trucks, boats and recreational vehicles or trailers shall at all times be parked in the garage of a Dwelling. Storage of any vehicles, trailers or boats in spaces designated for public parking is prohibited. The repair or maintenance of any motorized vehicle shall not be permitted, except within the confines of the garage of a Dwelling.

Section 3.6. Pets. No animals other than inoffensive common domestic household pets, such as dogs and cats, shall be kept on any Lot. The breeding or keeping of dogs or cats for sale or profit is expressly prohibited.

Section 3.7. Ham Radio; Antennae. The operation of "ham" or other amateur radio stations, or the erection of any communication antennae or similar devices (other than simple mast antennae located on the roof of a Dwelling), shall not be allowed unless completely screened from view from all streets and approved in writing and in advance by Declarant prior to the Turnover Date and by the Board thereafter.

Section 3.8. Easements. All Lots containing Common Area easements, as referred to in Section 2.5, shall be subject to deed restrictions for preservation and maintenance of said Common Area.

Section 3.9. Utilities. All Dwellings shall be individually metered for all utilities.

Section 3.10. Fences. There shall be no fences of any kind on the Property except for a

fence along the perimeter of the Property which may be installed by Declarant, pursuant to the Planned Unit Development Concept Plan along the South end of the Property. The Declarant and then the Association shall maintain this fence.

Section 3.11. Leases. An Owner may lease or sublease his Dwelling (but not less than his entire Dwelling, unless such Dwelling is owned by Declarant) at any time and from time to time provided that (except for a lease or sublease made by a Declarant or a First Mortgagee that either is in possession or is a purchaser at a judicial sale) (a) no Dwelling may be leased or subleased for a term of less than twelve (12) months; (b) no Dwelling may be leased or subleased without a written lease or sublease; (c) a copy of such lease or sublease shall be furnished to the Board within ten (10) days after execution thereof; and (d) the rights of any lessee or sub-lessee of the Dwelling shall be subject to, and each such lessee or sub-lessee shall be bound by, the covenants, conditions, easements and restrictions set forth in this Declaration, By-laws, and Board Rules and Regulations, and a default thereunder shall constitute a default under the lease or sublease; provided, however, that the foregoing shall not impose any direct liability on any lessee or sublessee of a Dwelling to pay any monthly Common Area assessments on behalf of the Owner of that Dwelling; (e) the Association may prohibit a tenant from occupying a Unit until the Unit Owner complies with the leasing requirements prescribed by this Section 3.11; and (f) the Board may proceed directly against a tenant, at law or in equity, or under the provisions of Article IX of the Code of Civil Procedure, for any breach by tenant of any covenants, Rules, Regulations or Bylaws. The remedies set forth in Article IX of the Code of Civil Procedure shall be available to the Association and against the Unit Owner and the Unit Owner's lessee in the event of any violation of this Section 3.11 or of any other provision of this Declaration concerning Unit leasing.

ARTICLE IV - Townhome Owners Association

Section 4.1. Not for Profit Corporation. Developer shall form an Illinois not-for-profit corporation to be known as the Buckingham Orchard Townhome Owners Association, or such similar name if that name is unavailable, which shall provide for maintenance and operation of the Common Area, enforce the standards set forth herein and in the By-Laws and, in general, maintain and promote the desired character of the Development.

Section 4.2.

(a) Board. The Association shall have a Board of not less than three (3) directors who shall be elected by the Members of the Association at such intervals as the By-Laws of the Association shall provide, except (i) that vacancies in the Board occurring between regularly scheduled meetings of the Members may be filled by the Board if so provided by the By-Laws; and (ii) that the first Board and subsequent Boards (until the Turnover Date) shall be appointed by Developer. Except for directors of the Board appointed by Developer, all directors shall be Members of the Association. Developer may, from time to time, by written notice to the Association, elect to relinquish its right to appoint any one or more directors and continue to exercise its right to appoint the remaining directors of the Board until the Turnover Date.

(b) Officers. The Association shall have such officers as shall be appropriate from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly provided otherwise by the By-Laws, all power and authority to act on behalf of the Association, both pursuant to this Declaration and otherwise, shall be vested in its Board from time to time and its officers under the direction of the Board, and shall not be subject to the approval of the Members. The By-Laws of the Association may include such added provisions for the protection and indemnification of its officers and directors as shall be permissible by law. The directors and officers of the Association shall not be liable to the Owners or others for any mistake of judgment or any acts or omissions made in good faith as such directors or officers.

Section 4.3. Turnover Date. Developer shall, through the Board appointed by it in accordance with Section 4.2, exercise control over all Association matters, until the first to occur of the following dates:

(a) three (3) years from the date this Declaration is recorded with the Office of the Recorder of Deeds of DuPage County, Illinois;

(b) the sale and conveyance of legal title to seventy-five percent (75%) of the Lots to Owners other than Declarant, or an assignee of Declarant, as provided in Section 6.12 hereof.; or

(c) Declarant and/or Developer elect, voluntarily, to turn over to the Members the authority to appoint the Board, which election it shall evidence by a written instrument setting forth its intention to so turn over its authority hereunder. The date upon which the authority to appoint the Board passes to the Members is hereinafter referred to as the "Turnover Date". On or subsequent to the Turnover Date, Declarant shall convey to the Association, (subject to inspection and approval by the Association for

compliance with any plans or specifications relative to the Common Areas), the Common Area to be owned by the Association hereunder and the Association shall undertake to maintain the Common Areas pursuant to the terms hereof.

Section 4.4.

(a) Membership. Every Owner shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot. Nothing herein contained shall be interpreted to exclude Declarant from membership while it, or its successors in interest, if any, owns one or more Lots. When more than one (1) Person owns a Lot, all such Persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast for any Lot, except as described in Section 4.4(b)(ii) below. All Members holding any interest in a single Lot shall together be entitled to cast only as many votes as such Lot is entitled to.

(b) Votes. The Association shall have two (2) classes of voting membership:

- (i) Class A Members shall be all those Owners as defined in Section 2.16 except Declarant. Class A Members shall be entitled to one (1) vote for each Lot owned.
- (ii) Class B Members shall be the Declarant. Class B Members shall be entitled to fifty (50) votes for each Lot owned.

Section 4.5. The Association, through the Board, shall have the following powers and duties:

(a) Own and Manage Common Area. Own, maintain and otherwise manage the Common Area, and all Improvements thereon (including but not limited to the right to dedicate all or any part of the Common Area for public easements or rights-of-way); and own, maintain and otherwise manage all other property acquired by the Association or which the Association agrees to maintain, including any obligation to maintain all common areas within the Property, streets, parking areas and other common facilities used in the operation of the Property, including but not limited to any stormwater detention facilities used in the operation of the Property.

(b) Management. Self manage or have the authority to employ a manager or other persons, and to contract with independent contractors or managing agents, to perform all or any part of the duties and responsibilities of the Association; provided, that any contract with a person or firm appointed as a manager or managing agent shall provide for the right of the Association to terminate the same not later than ninety (90) days after the date of the initial meeting of the Members of the Association is held, as provided in the By-Laws;

(c) Working Capital and Contingency Fund. Establish and maintain a

working capital and contingency fund in an amount to be determined by the Board;

(d) Maintenance. Provide for the maintenance of the Common Area;

(e) Unimproved Portions of Property. At its option, mow, care for and maintain vacant and unimproved portions of the Property and remove rubbish from same and to do any other things necessary or desirable in the judgment of the Board to keep any vacant portions of the unimproved portions of the Property neat in appearance and in good order. The foregoing rights shall not apply to any Lot or other portion of the Property owned by Declarant;

(f) Improvements. Make such improvements to the Common Area and provide such other facilities and services as may be authorized from time to time by the affirmative vote of two-thirds (2/3) of the Members of the Association acting in accordance with its By-Laws, provided, however, that any such action so authorized shall always be for the express purpose of keeping the Development a highly desirable residential community;

(g) Enforcement. Enforce the provisions of this Declaration and the Articles of Incorporation, By-Laws and Rules and Regulations of the Association by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provisions. All rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, and failure of the Association to enforce any such provisions shall in no way be deemed a waiver of the right to do so thereafter. All expenses incurred by the Association in connection with any such proceedings, including court costs and attorneys' fees, together with interest thereon at the highest rate permitted by law, shall be charged to and assessed against any Owner violating any such provisions and shall be added to and deemed a part of his Assessment (as defined in Section 5.1 hereof) and constitute a lien on his Lot and be enforceable as provided in Article V hereof. If any Owner, or his guests, violates any provision of this Declaration, the Articles of Incorporation, the By-Laws, or the Rules and Regulations of the Association, the Board may, after affording the Owner an opportunity to be heard, levy a reasonable fine against such Owner, and such fine shall be added to and deemed a part of his Assessment (as defined in Section 5.1 hereof) and constitute a lien on his Lot and be enforceable as provided in Article V hereof.

(h) Other Powers. Exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Members by this Declaration, or the By-Laws.

Section 4.6. Insurance. The Board shall also have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and worker's compensation insurance, and other liability insurance, as it may deem desirable, insuring each Owner, the Association, its officers, members of the Board, Declarant, and their respective employees and agents, from liability

and insuring the officers of the Association and members of the Board from liability for good faith actions beyond the scope of their respective authority. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. The premiums for such insurance shall be common expenses payable out of the proceeds of the Assessments (as defined in Section 5.1 hereof) required by and collected in accordance with Article V hereof. The Association shall be further responsible for maintaining such policies of insurance for the Common Area against loss or damage by fire and such other hazards contained in the customary fire and extended coverage, vandalism and malicious mischief endorsements as the Association may deem desirable, and may also obtain such other kinds of insurance as the Association shall, from time to time, deem prudent.

Section 4.7.

(a) Developer Powers. Until the Turnover Date, Developer shall have all the rights and powers herein granted to the Association and shall be authorized and empowered to take all such actions as the Board would have been authorized and empowered to take, as herein provided.

(b) Maintenance by Developer. Until the Turnover Date, Developer shall maintain the Common Area, and shall pay all expenses and costs in connection with the Common Area, including, without limitation, the costs of improving and maintaining the Common Area and general real estate taxes payable in connection with the Common Area. After the Turnover Date, Declarant shall reimburse the Association, on a pro rata basis, for any such real estate taxes. Declarant shall, not later than the Turnover Date, convey to the Association that portion of the Common Area to be owned by the Association.

(c) Sales by Developer. Developer shall be entitled, at all times, to conduct sales of Lots from the Property and shall have the right, for itself and its agents, employees, guests and invitees, to utilize roads, streets, Common Area and all other portions of the Property, excluding sold Lots, for such purposes until all Lots are sold. Developer may, at all times, utilize signage, lighting and establish temporary construction and sales offices, buildings and trailers and construct model homes to conduct its construction, sales and marketing of the Property.

Section 4.8. Easement. An easement is hereby granted to Declarant, Developer and the Association and their respective agents, employees and independent contractors, by the Owners to enter upon the Common Area and any Lot to the extent necessary for the purpose of maintaining, repairing and replacing the Common Area, as herein provided, for performing any of their respective obligations herein provided, or for providing emergency police, firefighting or rescue services. In any such case, Declarant, Developer and the Association, or any such agent, employee or independent contractor, shall not be held liable in any civil or criminal action for trespass. This easement shall continue for the term described in Section 6.1 of this Declaration.

Section 4.9. Additional Easements. An easement is hereby declared and created over and upon the Common Area for the benefit of the entire Property, and every Owner shall have a

right and easement of use and enjoyment and a right of access to and ingress and egress on, over, across, in, upon and to the Common Area, and such right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the following provisions:

- (a) The right of the Association, in accordance with its By-Laws to adopt rules and regulations governing the use, operation and maintenance of the Common Area.
- (b) The right of the Association, in accordance with its By-Laws, to borrow money for the purpose of improving the Common Area.
- (c) The right of the Association to suspend the use of facilities, except for the right of ingress and egress, by any persons who are delinquent in Assessments (as defined in Section 5.1 hereof) against said person's Lot.

Section 4.10. Utility Easements. The authorized telephone company, the authorized electric company, the authorized gas company and all other suppliers of utilities serving the Property are hereby granted the right to install, lay, construct, operate, maintain, renew, repair and replace conduits, cables, pipes, wires, transformers, mains, switching apparatus and other equipment, including housings for such equipment, into, over, under, on and through the Property and the Common Area for the purpose of providing utility services to the Property. The right is also reserved to Declarant to grant to said utilities and to cause to be recorded by separate instruments such easements. Every Owner is also hereby granted an easement of ingress and egress over and upon the Common Area for any and all purposes arising out of the construction, installation, repair, maintenance, replacement and inspection of utilities servicing such Owner's Lot. Easements are also hereby declared and granted to the Declarant, Developer or their assignees to install, lay, construct, operate, maintain, renew, repair and replace any conduits, cables, pipes, wires or other equipment or components of any utility system or of any community antenna television service system into, over, under, on and through the Common Area and any Lot for the purpose of providing such utility service or television service to any Lot, the Property, or to other property.

Section 4.11. Running with the Land. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding upon any Owner, purchaser, mortgagee or other Person having an interest in the Property. Any deeds of conveyance or any mortgage or trust deed or other evidence of obligation shall be subordinate to the easements and rights described in this Article or in any other part of this Declaration. This Section shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees or trustees as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

Section 4.12. Grant of Additional Easements. In addition to the foregoing, Declarant, Developer and the Association reserve the right to grant easements for ingress, egress, installation, construction, reconstruction, maintenance, repair, operation and inspection of utility services over, under, across and through the Common Area, as they deem necessary or desirable, in order to effectuate the intent of this Declaration.

ARTICLE V - Assessments

Section 5.1. Assessments. Each Owner, by acceptance of a deed, excluding the Developer and Declarant, is deemed to covenant and agree to pay to the Association annual assessments or charges and special assessments for capital improvements and unforeseen expenses, to be collected from time to time, as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorneys' fees, shall be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation of an Owner shall not pass to his successors in title unless expressly assumed by them.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of the Property and, in particular, for the development and maintenance of the Common Area. Such uses shall include, but are not limited to, the cost of all general real estate taxes, insurance, repair, replacement and maintenance and other charges required by this Declaration and the cost of those items that the Board shall determine to be necessary or desirable to meet the purposes of the Association, including the establishment and maintenance of a Contingency and Replacement Reserve (as hereinafter defined). The annual assessments provided for herein shall commence for all Lots on the first (1st) day of the month following the Turnover Date.

Section 5.3. Budget. Each year, from and after the Turnover Date, on or before November 1, the Board will estimate the total amount of maintenance expenses necessary to pay the cost of wages, materials, taxes, insurance, services and supplies which will be required during the ensuing calendar year (January 1 - December 31) for the rendering of all services authorized by the Board, together with a reasonable amount considered by the Board to be necessary for the Contingency and Replacement Reserve, and shall, on or before November 15, notify each Owner in writing as to the amount of such estimate ("Estimated Cash Requirement"), with reasonable itemization thereof. The Estimated Cash Requirement shall be assessed equally among all of the Owners. On or before January 1 of the ensuing fiscal year, each Owner shall be obligated to pay to the Board, or as it may direct, the annual assessment made pursuant to this Section. On or before the date of the annual meeting of each calendar year, the Board shall supply to all the Owners an itemized accounting of the maintenance expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected from the Owners, pursuant to assessments made during such year, and showing the net amount over or short of the actual expenditures, plus reserves. The Board shall, upon demand at any time, furnish a certificate in writing signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein.

Section 5.4.

(a) **Contingency and Replacement Reserve.** The Board shall build up and maintain a reserve for the replacement of capital improvements, other authorized capital expenditures and for unforeseen expenditures (the "Contingency and Replacement Reserve"). Capital improvements and expenditures which may

become necessary during the year shall be charged first against the Contingency and Replacement Reserve. Any expenditure from the Contingency and Replacement Reserve having a total cost in excess of seven thousand five hundred dollars (\$7,500.00) shall require the prior approval of the Members holding two-thirds (2/3) of the votes of the Association

(b) Inadequate Contingency and Replacement Reserve. If the Contingency and Replacement Reserve proves inadequate for any reason, including nonpayment of any Owner's assessment, the Board may, at any time, levy a special assessment which shall be assessed equally among the Owners, including Declarant. The Board shall serve notice of a special assessment of all such Owners by a statement in writing giving the amount and reasons therefor, and such special assessment shall become effective and fully payable ten (10) days after the delivery or mailing of such notice of assessment.

(c) Initial Deposit. Developer shall collect from each initial purchaser of a Lot, at the closing of the sale of such Lot, the sum of three hundred dollars (\$300.00) which shall be deposited in the Contingency and Replacement Reserve. On the Turnover Date, Developer shall assign to the Association all proceeds of the Contingency and Replacement Reserve to be applied by the Association for the purposes set forth in this Section 5.4. Declarant and Developer shall not use any portion of such funds.

Section 5.5. Estimated Cash Requirement. When the first Board, elected by the Members hereunder, takes office, it shall determine the Estimated Cash Requirement, as hereinabove defined, for the period commencing on the first (1st) day of the month following the Turnover Date and ending on December 31 of the calendar year of said conveyance. The initial Estimated Cash Requirement shall be assessed equally to all Owners of Lots with completed homes, excluding Declarant and Developer.

Section 5.6. No Waiver. The failure or delay of the Board to prepare or serve the Estimated Cash Requirement on an Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay his share of such Estimated Cash Requirement, as herein provided, whenever same shall be determined and, in the absence of the preparation of the Estimated Cash Requirement, the Owner shall continue to pay his share of such Estimated Cash Requirement at the then existing annual rate established for the previous calendar year, subject to adjustment at such time as the Estimated Cash Requirement has been prepared and the Owners have been notified thereof.

Section 5.7. Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Area specifying and itemizing the maintenance and repair expenses of the Common Area, and any other expenses incurred. Such records, and the vouchers authorizing the payments, shall be audited annually by an independent accountant or auditor retained by the Board and the audit report shall be made available for inspection by any Owner, or any representative of an Owner duly authorized in writing, or any holder of a Mortgage, at such reasonable time or times during the normal business

hours as may be requested by the Owner or by the holder of said Mortgage. Upon five (5) days written notice to the Board, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments, or other charges due and owing from such Owner.

Section 5.8. Funds in Trust. All funds collected hereunder shall be held and expended, for the purposes designated herein, and shall be deemed to be held in trust for the benefit, use and account of all the Owners. All funds not otherwise employed shall be deposited, from time to time, to the credit of the Association in such banks, trust companies or other depositories, as the Board may select.

Section 5.9. Delinquent Assessments. Any assessments or other charges which are not paid when due shall be delinquent. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments and interest, costs and fees, as above provided, shall be and become a lien against the Lot of said Owner, when payable, and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. If the assessment or charge is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the lesser of the rate of eighteen percent (18%) per annum or the highest rate allowed by law, and the Association may bring an action at law or in equity against the Owner personally obligated to pay same, or foreclose the lien against the Owner's Lot, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. The directors of the Board, and their successors in office acting on behalf of the other Owners, shall have the power to bid on the interest so foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey same. Any court of competent jurisdiction is hereby authorized to restrain the defaulting Owner from reacquiring his interest at such foreclosure sale.

Section 5.10. Additional Remedies. In addition to the rights and remedies set forth in Section 5.9, if any Owner shall default in the payment, when same shall be due, of the aforesaid charges or assessments and said default shall continue for thirty (30) days after notice to said Owner by the Board setting forth the amount of unpaid charges or assessments, together with a demand for payment thereof, the Board shall have the right to declare said default a forcible detainer of the Dwelling and shall have the right, on behalf of the other Owners, to enter and take possession of the Dwelling from said defaulting Owner, to put out the Owner, or any occupant or tenant claiming by, through or under the Owner, using such reasonable force as the Board shall deem necessary under the circumstances and to exercise any of the rights and remedies set forth in the Illinois Forcible Entry and Detainer Act, as amended from time to time.

Section 5.11. Subordination. The lien of assessments, provided for herein, shall be subordinate to the lien of any Mortgage now or hereafter placed on a Lot. In the event of the issuance of a deed, pursuant to the foreclosure of such prior Mortgage or in lieu of such foreclosure, the grantee of such deed shall take title free and clear of any lien for assessment provided herein, which shall have accrued prior to the date of recording of such deed.

ARTICLE VI - General Provisions

Section 6.1. Term. The covenants and restrictions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Board or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of fifty (50) years from the date this Declaration is recorded in the Office of the Recorder of Deeds of DuPage County, Illinois, after which time said covenants shall be automatically extended for successive periods of ten (10) years, subject to amendment as hereinafter provided.

Section 6.2. Unlawful Provision. If and to the extent that any of the covenants would otherwise be unlawful or void for violation of (i) the rule against perpetuities; (ii) the rule restricting restraints on alienation; or (iii) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then said covenant shall continue and endure only until the expiration of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of George W. Bush, President of the United States, living at the date of this Declaration.

Section 6.3. Recordation. If at any time or times the Board shall deem it necessary or advisable to rerecord this Declaration, or any part hereof, in the Office of the Recorder of Deeds of DuPage County, Illinois in order to avoid the expiration hereof or of any of the covenants or other provisions herein contained under any of the provisions of the Marketable Title Act of the State of Illinois, or any other law or statute of similar purport, it shall submit the matter to a meeting of the Members of the Association called upon not less than ten (10) days notice, and unless at such meeting at least two-thirds (2/3) of said Members shall vote against such rerecording, the Board shall have, and is hereby granted, power to so rerecord this Declaration, or such part thereof, and such rerecording shall be binding upon all the Owners of any part of the Property in every way and with all the full force and effect as though such action were taken by each of said Owners and the rerecorded document executed and acknowledged by each of them.

Section 6.4. Acceptance of Deed. Each Owner, by the acceptance of a deed of conveyance, and each purchaser under any contract for such deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such person in like manner as though said provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, or in any mortgage or trust deed or other evidence of obligation, and the rights described in this Section 6.4 or described in any other part of this Declaration shall be sufficient to create and reserve such rights to the respective grantees, mortgagees and trustees of such Lot as fully and completely as though such rights were recited fully and set forth in their entirety in such documents.

Section 6.5. General Remedies. Developer, Declarant, the Association and each Owner from time to time shall have the right, jointly and separately, to sue for and obtain a prohibitive or mandatory injunction to prevent the breach of, or to enforce the observance of, the covenants above

set forth, or any of them in addition to the right to bring a legal action for damages, including but not limited to attorneys' fees and court costs. Whenever there shall have been built (or whenever there is being built) on any Lot any Improvement which is and remains in violation of the covenants above set forth, or any of them for a period of thirty (30) days after delivery of written notice (in the manner provided in Section 6.13 hereof) of such violation from Developer, Declarant or the Association to the Owner of such Lot, then Developer, the Declarant or the Association shall have, in addition to the foregoing rights, the right to enter upon the Property where such violation exists and summarily to abate or remove same at the expense of the Owner, and such entry and abatement or removal shall not be deemed a trespass. In no event shall the failure of Developer, Declarant or the Association to enforce any such covenants due to a particular violation be deemed to be a waiver of the right to do so as to such violation, or any subsequent violation.

Section 6.6. Amendments. Subject to the provisions of Section 6.7, the Owners may revoke, modify, amend or supplement, in whole or in part, any or all of the covenants and conditions contained in this Declaration and may release all or any part of the Property from all or any part of this Declaration. Any such revocation, modification, amendment or supplement shall be effective only if the Owners of at least two-thirds (2/3) of the Lots consent thereto and only if expressed in a written instrument or instruments executed and acknowledged by each of the consenting Owners, certified by the Secretary of the Association and recorded in the Office of the Recorder of Deeds of DuPage County, Illinois.

Section 6.7. Special Amendments. Declarant and/or Developer reserve the right and power to record a special amendment (the "Special Amendment") to this Declaration at any time and from time to time which amends this Declaration:

(a) **Compliance.** To comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities;

(b) **Inducement.** To induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages encumbering any Lot; or

(c) **Clerical/Typographical Error.** To correct clerical or typographical errors in this Declaration, or any exhibit hereto or any supplement or amendment thereto.

In addition, a Special Amendment shall also be deemed to include, until the Turnover Date, such amendment to this Declaration as Declarant or Developer elects to record at any time and from time to time for any other purpose, so long as such amendment will not materially impair the rights of the Owners hereunder or materially increase the expenses to be borne by them hereunder. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant and Developer to vote in favor of, make or consent to a Special Amendment on behalf of

each Owner, as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Lot, and the acceptance thereof, shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power of Declarant or Developer to vote in favor of, make, execute and record Special Amendments. Subject to the provisions of Section 6.12 hereof, the right of Declarant or Developer to act pursuant to rights reserved or granted under this Section 6.7 shall terminate at such time as Declarant or Developer no longer holds title to any Lot.

Section 6.8. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for development.

Section 6.9. Land Trust. In the event title to any Lot is conveyed to a title holding trust, under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such title holding trustee personally for payment of any lien or, obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply, in whole or in part, against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Lot.

Section 6.10. Headings. All headings set forth herein are intended for convenience only and shall not be given or construed to have any substantive effect on the provisions of this Declaration. The singular shall include the plural wherever the Declaration so requires, and the masculine the feminine and neuter and vice versa.

Section 6.11. Invalid or Unenforceable Provision. If a court of competent jurisdiction shall hold invalid or unenforceable any part of any covenant or provision contained in this Declaration, such holding shall not impair, invalidate or otherwise affect the remainder of this Declaration which shall remain in full force and effect.

Section 6.12. Assignment by Developer or Declarant. Notwithstanding anything herein to the contrary, Declarant and/or Developer reserve the right to transfer, assign, mortgage or pledge any and all of either's respective privileges, rights, title and interest hereunder, or in the Property, by means of recording an assignment of such with the Office of the Recorder of Deeds of DuPage County, Illinois. Upon such assignment, Declaration and/or Developer, as the case may be, shall be relieved from any liability arising from the performance or non-performance of such rights and obligations accruing from and after the recording of such assignment. No such successor or assignee of the rights of Declarant and/or Developer shall have or incur any liability for the obligations or actions of any predecessor in interest.

Section 6.13. Mailing Address. Each Owner of a Lot shall file the correct mailing address of such Owner with the Association and shall notify the Association promptly in writing of any subsequent change of address; provided, however, that, if the Owner shall fail to so notify the

Association, the mailing address for such Owner shall be the street address of the Lot owned by such Owner. The Association shall maintain a file of such addresses. A written or printed notice, deposited in the United States mail, postage prepaid, and addressed to any Owner at the last address filed by such Owner with the Association shall be sufficient and proper notice to such Owner and shall be deemed delivered on the third (3rd) day after deposit in the United States mail. Any notices to Declarant, Developer or the Association shall be sent to The Dearborn-Buckingham Group, 211 Waukegan Road, Suite 100, Northfield, IL 60093, or to such other address as the Association notifies the Owners.

ARTICLE VII - Rights of First Mortgagees

In addition to all other rights of First Mortgagees (as hereinafter defined) pursuant to this Declaration, and notwithstanding any other provisions herein to the contrary:

Section 7.1. Consent of First Mortgagees. Unless at least fifty-one percent (51%) of the First Mortgagees (based upon one vote for each first mortgage owned) of individual Lots ("First Mortgagees") have given their prior written approval, the Association shall not be entitled to:

(a) **Amendment.** By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association for the benefit of the Lots and Owners. The granting of easements for public utilities or for other purposes consistent with the intended use of such property by the Association shall not, for purposes of the foregoing, be deemed to be a transfer.

(b) **Change in Determination of Easements.** Change the method of determining the obligations, assessments, dues, reserves for maintenance, repair and replacement of Common Area, or other charges which may be levied against a Lot and the Owner thereof as provided in Article V.

(c) **Enforcement.** By act or omission waive, abandon or materially change any scheme or regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of any Dwelling or garage on a Lot, the exterior maintenance of any such dwelling or garage, the maintenance of party walls or driveways, or the upkeep of plantings on the Property.

(d) **Insurance.** Fail to maintain fire and extended coverage insurance on the insurable improvements to the Common Area in an amount not less than one hundred percent (100%) of the full insurable replacement cost.

(e) **Use of Insurance Proceeds.** Use hazard insurance proceeds for losses to any improvements to the Common Area for other than the repair, replacement or reconstruction of such improvements.

(f) **Maintenance Responsibility.** Change the responsibility for maintenance and repairs of the Common Area and/or Lots thereof as provided in Article V.

(g) Change Interest in Common Area. Change the interests in the Common Area or rights to their use.

(h) Boundaries. Change the boundaries of any Lot.

(i) Voting Rights. Change the voting rights of any Member of the Association.

(j) Restrictions. Impose any restrictions on an Owner's right to sell or transfer his or her Lot.

(k) Legal Status. By act or omission, seek to terminate the legal status of the Association after substantial destruction or condemnation.

Section 7.2. Books and Records. First Mortgagees shall have the right to examine the books and records of the Association at reasonable times during normal business hours.

Section 7.3. Rights of First Mortgagees. First Mortgagees may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 7.4. Notice of Default. Any First Mortgagee, at its written request, shall be entitled to written notice from the Board of any default by the mortgagor of such Lot in the performance of such mortgagor's obligations hereunder or under the By-Laws or Rules and Regulations of the Association which is not cured within thirty (30) days.

Section 7.5. Written Notice. First Mortgagees are entitled to timely written notice, if requested in writing of:

(a) Condemnation. Any condemnation or casualty loss that affects either a material portion of the Property or the Lot securing its mortgage;

(b) Lot Delinquency. Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Lot on which it holds the mortgage;

(c) Lapse of Insurance. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Consent. Any proposed action that requires the consent of a specified percentage of First Mortgagees.

Section 7.6. Amendment. This Article VII may be amended only with the written consent of seventy-five percent (75%) of the First Mortgagees (based upon one vote for each first mortgage owned).

ARTICLE VIII – Party Walls

Section 8.1. Party Walls. Each wall which is built as a part of the original construction of the Improvements upon the Property and placed on the dividing line between the Lots and/or serves two or more Dwellings, whether wall, ceiling, or floor, shall constitute a Party Wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding Party Walls and of liability for property damages due to negligence or willful acts or omissions shall apply thereto.

Section 8.2. Shared Expenses. The cost of reasonable repair, maintenance and replacement of a Party Wall shall be shared equally by the Owners who make use of the Party Wall except that the entire cost of repairing damage caused by the negligence or willful act or omission of one (1) Owner shall be paid for by that Owner. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has used the Party Wall may restore it, and the other Owners who shared the use of the Party Wall shall contribute to the cost or restoration thereof equally without prejudice to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 8.3. Negligence Acts. Notwithstanding any other provisions of this Article, an Owner who by negligence or willful act causes a Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 8.4. Contribution. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors and assigns in title.

Section 8.5. Insurance (Copies). Each Owner(s) will provide the Association at Closing of their Lot and upon each anniversary date of such insurance policy a copy of his townhome insurance policy. Failure to provide such a policy authorizes the Association to obtain such an insurance policy on behalf of the Owner(s) as part of his Assessment.

ARTICLE IX - Exterior Maintenance by Association and Owners

Section 9.1. Association. In addition to other rights, powers and duties of the Association under applicable law or as otherwise set forth in this Declaration and in the By-Laws of the Association, the Association shall maintain, repair, replace and manage the Common Area and all facilities, improvements and equipment thereon, and pay for all expenses and services in connection therewith, including without limiting the generality of the foregoing: snow removal and landscape maintenance, to the extent not required to be maintained by an Owner, comprehensive liability, hazard and other insurance (naming said Owner and First Mortgagee of a Lot as additional insureds), as the Board deems to be in the best interests of the Association and its Members. In addition, the Association shall be responsible for the maintenance, repair and replacement of the driveways within the Property servicing the individual Dwellings. Notwithstanding the foregoing, the Association shall not be obligated for snow removal of said driveways.

Section 9.2. Owner Responsibilities. Except for that which the Association is to provide

or is liable for as provided in this Declaration, each Owner, at his sole cost and expense, shall maintain, repair and replace his Lot and the Improvements thereon, keeping the same sightly and in good condition and repair, including, without limitation, snow removal, and window washing and repair. All plants and landscaping shall be the responsibility of the Owner of the Lot on which they are located. In the event any Owner shall fail to do so, the Association, in addition to all other remedies available to it hereunder or by law, and without waiving any of said alternate remedies, shall have the right (but not the obligation), through its employees and agents or through independent contractors, upon reasonable notice or, in the case of an emergency, without notice, to enter upon any Lot and, if required, into any Dwelling or garage, to repair and maintain the Lot and the Improvements situated thereon. Each Owner, by acceptance of a deed for his Lot, hereby covenants and agrees to pay the Association the cost of such repairs and maintenance, upon demand, and the Association shall have a lien upon said Lot enforceable in the manner and to the extent herein set forth in this Declaration and the failure of such Owner to pay such costs shall carry with it the same consequences as the failure to pay any Assessments levied hereunder when due, as herein provided. The Association shall be responsible for and shall repair any damage caused by it in the exercise of its rights hereunder.

ARTICLE X – Architectural Control

Section 10.1. General Review and Approval. Except for Improvements constructed by Developer, no building, fence, wall, or other structure shall be commenced, erected or maintained upon the Property or upon any Lot, Dwelling, garage or other Improvement thereon, nor shall any exterior addition to or change or alteration therein be made, except such as are erected or approved by the Developer, until written plans and specifications showing the nature, kind, shape, height, materials, color scheme and location of the same and the approximate cost thereof shall have been submitted to and approved in writing by the Board or by an Architectural Committee composed of three (3) or more representatives appointed by the Board.

Section 10.2. Television Antenna. Notwithstanding the provisions of Section 10.1 herein, no outdoor television antenna shall be affixed to or placed upon the exterior walls or roof of any Dwelling, garage or other Improvement on a Lot or upon any other portion of a Lot, or on any portion of the Common Area, except for a single television mast antenna, without express written consent of the Board.

Section 10.3. Devices Designed for the Air Reception of Television Broadcast Signals. In compliance with Section 207 of the Telecommunications Act of 1996, and the rules and regulations promulgated thereby, devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution services or direct broadcast satellite services (collectively "Dishes") which promote a viewer's ability to receive video programming services, shall be permitted and may be affixed to or placed upon the exterior walls or roof of any Dwelling, garage or other Improvement on a Lot; provided, however, Dishes shall be placed, to the extent feasible, in locations that are not visible from any street, provided, that this placement permits reception of any acceptable quality signal. Any and all Dishes permitted pursuant to this Section shall be installed in full compliance with all health, safety, fire and electrical codes, rules, regulations, ordinances, statutes and laws of the Federal Government, State of Illinois, DuPage County and local municipalities and the Association (collectively "Health and Safety Laws"). All Dishes installed

shall be properly grounded and installed in full compliance with all installation requirements of the manufacturer and all Health and Safety Laws. No Dishes shall be installed within close proximity of any power lines. All Dishes installed, to the extent feasible, shall be painted or of such color so that the Dish blends into the background against which it is mounted, provided, however, said painting requirement does not prohibit or unreasonably interfere with the reception or signal received by the viewer. Notwithstanding anything contained herein to the contrary, the installation of any Dish shall be at the Owner's sole risk and sole cost and expense and, in the event the installation of any Dish causes any damage or destruction to any Dwelling or other Improvement installed by Developer or any Lot or voids or impairs any warranty which runs for the benefit of the Developer, other Lot Owners or the Association, the Owner installing and owning said Dish shall be liable and responsible for and shall pay for any and all costs, expenses, fees and damages and repair any and all damage or destruction created thereby, including reasonable attorneys' fees and court costs. No Dish shall be affixed to, installed or placed upon the Common Area except upon the prior written consent of the Developer, Declarant or Association, not to be unreasonably withheld, and shall only be installed, affixed or placed upon the Common Area in conjunction with the Association's duly adopted Rules and Regulations. Notwithstanding anything contained herein to the contrary, any Owner installing and affixing any Dish to a Lot, Improvement, Dwelling or the Common Area hereby agrees to and shall indemnify, defend and hold Developer, Declarant and the Association harmless from and against any and all costs, expenses, suits, damages, destruction to any real property or any person, including attorneys' fees and court costs, caused by, either directly or indirectly, the installation, affixing and maintaining, whether by said Owner or a third party contractor, of a Dish pursuant to this Declaration. This Section 10.3 shall be binding upon and inure to the benefit of each Owner and his/her heirs, successors and assigns and shall be effective upon recordation in the Office of the DuPage County Recorder of Deeds.

Section 10.4. Repair and Reconstruction. In the event of damage to or destruction of any Dwelling, garage or other Improvement installed by Developer on any Lot, the Owner or Owners from time to time of any such Improvement covenant and agree that they will, within a reasonable time after such destruction, repair or rebuild the same in a substantial and workmanlike manner with materials comparable to those used in the original structure, and shall conform in all respects to the laws or ordinances regulating the construction of such structures in force at the time of such repair or reconstruction. The exterior of such structure, when rebuilt, shall be substantially the same as and of architectural design conformable with the exterior of such structure immediately prior to such damage or destruction. If an Owner fails to make the necessary repairs or reconstruction within thirty (30) days after written notice is sent, the Board may cause the same to be done and the cost thereof shall be charged to such Owner as his personal obligation and shall be a lien on his Lot.

ARTICLE XI –Rights of Village of Lombard

Section 11.1. Easements. The Village of Lombard ("Village") is hereby granted an easement into, over, under, on and through the Common Area and Lots for the purpose of repair, maintenance and replacement of the Common Area. Such easement shall run with the land and shall remain in full force and effect.

Section 11.2. Repair of Common Area. In the event the Association fails to maintain,

repair and/or replace the Common Area, including but not limited to the storm drainage facilities, as set forth in this Declaration, the Village shall have the right, but not the obligation, to maintain, repair and replace the Common Area. In the event the Village takes on the responsibility of repairing, maintaining or replacing any portion of the Common Area, the Village shall have the right to charge the costs thereof back to the Association. In addition, the Village shall have the right to record a lien upon the Property with the Office of the Recorder of Deeds of DuPage County, Illinois in the event the Association fails to pay or reimburse the Village for the costs expended by the Village in accordance with the terms and conditions of this Section. In addition, the Village shall have the right to collect its reasonable attorneys' fees and court costs in enforcing the terms and conditions of this Declaration as well as charge interest on monies advanced by the Village at the highest rate allowed by law from the date incurred through the date on which the Village has been fully reimbursed.

Section 11.3. Amendments. No amendment may be made to any provision contained in this Article XI, without the prior written consent of the Village.

Section 11.4. Common Area and Easements. Declarant, and thereafter upon its establishment, the Association, shall be charged with the responsibility for the ownership and maintenance, landscaping, repair, restoration and upkeep of the Common Area, detention ponds and common drainage-ways, and may employ, retain or contract with appropriate entities or individuals as necessary to perform the obligations stated herein. Upon the failure of the Declarant or the Association to perform any of its maintenance duties or obligations relating to the Common Area or detention facilities within thirty (30) days after receipt of written notice from the Village to the Declarant or Association mailed to either at the last address known to the Village, the Village shall have the right, but not the obligation, to enter upon the Property and Common Area to abate, correct, maintain or eliminate any nuisance or any violation of any Village ordinance, state statute or other law at the expense of the Association, provided, however, that no notice shall be required in the event that the Village President or other Village Official designated from time to time by the President and Board of Trustees of the Village determines if an emergency exists, the Village may enter the Property and Common Area without first giving notice.

ARTICLE XII – Annexing Additional Property and Further Development

Section 12.1. Additional Parcel. Notwithstanding anything contained in this Declaration to the contrary, Declarant, Developer, and their successors and assigns, hereby reserve the right and option, at any time and from time to time, within ten (10) years from the date of recording of this Declaration in the office of the Recorder of Deeds of DuPage County, Illinois, to add-on and annex to the Property, additional adjacent property, by recording an amendment or amendments to this Declaration executed by Declarant (each such instrument being hereinafter referred to as "Amendment to Declaration") which shall set forth the legal description of the additional parcel or parcels ("Additional Parcel"). Any such adding-on and amendment shall be in Declarant's, Developer's or their successor's or assign's sole discretion and shall not need the consent of any Owners or mortgagees. Upon the recording of each such Amendment to Declaration, the Additional Parcel shall be deemed submitted to and governed in all respects by the provisions of this Declaration and shall thereupon become part of the Property. No portion or portions of the Additional Parcel shall be subject to any of the provisions of this Declaration unless and until an

Amendment to Declaration is recorded annexing such portion or portions of the property as aforesaid. Upon the expiration of said ten (10) year period, no additional property may thereafter be annexed to the Property, unless all Owners consent in writing. Additional Parcels may be added to the Property at different times within such ten (10) year period. Except as may be required by applicable laws and ordinances, there shall be no limitations (a) on the order in which Additional Parcels may be added to the Property, (b) fixing the boundaries of these portions, or (c) on the location of improvements which may be made on the Additional Parcels.

Section 12.2. Further Development. Declarant, Developer, and their successors and assigns, hereby reserve the right and option, at any time and from time to time, within ten (10) years from the date of recording this Declaration in the office of the Recorder of Deeds of DuPage County, Illinois, to further develop Blocks Two (2) and Four (4) of the Property. Any such further development shall be in Declarant's, Developer's or their successor's or assign's sole discretion, shall not need the consent of any Owners or mortgagees, and any additional Lots shall become subject to the terms of this Declaration by recording an Amendment to Declaration, containing a revised Subdivision Plat. Upon the recording of each such Amendment to Declaration, the further developed property shall be deemed submitted to and governed in all respects by the provisions of this Declaration.

Section 12.3. Additional Common Areas. Upon recording of every Amendment to Declaration, as provided in this Article XII, additional Common Areas may be added to the Property, which Common Areas shall be the obligation of the Association to repair, maintain and replace as set forth in this Declaration.

Section 12.4. Amendments to Declaration Adding Additional Property. Every Amendment to Declaration shall include the legal description of the Additional Parcel or Additional Parcels which shall be added to and included in the legal description of the Property.

Section 12.5. Existing Mortgages. Upon recording of every Amendment to Declaration, the lien of every mortgage encumbering an existing Lot shall automatically be deemed to be adjusted and amended to encumber such Lot as set forth in such Amendment to Declaration.

Section 12.6. Binding Effect. Every Owner and every First Mortgagee, grantee, heir, administrator, executor, legal representative, successor and assign of such Owner, by such Person's or entity's acceptance of any deed, mortgage or other interest in or with respect to any Lot, shall be deemed to have expressly agreed and consented to (a) each and all of the provisions this Article XII, (b) the recording of every Amendment to Declaration, and (c) all of the provisions of every Amendment to Declaration which may hereafter be recorded in accordance with the provisions of this Article XII.

IN WITNESS WHEREOF, Buckingham Orchard, L.L.C., an Illinois limited liability company, has caused its name to be signed to these presents, as of the date and year first above mentioned.

BUCKINGHAM ORCHARD, L.L.C., an Illinois
limited liability company

By: The Dearborn-Buckingham Group, Inc., an
Illinois corporation

Its: Manager

By:

Name:

Its:

Christopher F. Coleman
CHRISTOPHER F. COLEMAN
PRESIDENT

STATE OF ILLINOIS)

) SS.

COUNTY OF DUPAGE)

I, TRACY CARROLL, a notary public in and for said County, in the State
aforesaid, DO HEREBY CERTIFY that _____ as _____
of **The Dearborn-Buckingham Group, Inc.**, as Manager of **BUCKINGHAM ORCHARD,**
L.L.C., personally known to me to be the same person whose name is subscribed to the foregoing
instrument, appeared before me this day in person and acknowledged that he signed, sealed and
delivered the said instrument, on behalf of the Company and as his free and voluntary act, for the
uses and purposes therein set forth.

GIVEN under my hand and seal, this 24th day of October, 2006.

Tracy R. Carroll
Notary Public

