

**THE OAK BROOK CLUBDOMINIUM WEST**

**AMENDED AND RESTATED**

**DECLARATION OF CONDOMINIUM OWNERSHIP**

**and of**

**EASEMENTS, RESTRICTIONS AND COVENANTS**

**DATED SEPTEMBER 21, 2006**

**TABLE OF CONTENTS**  
**THE OAK BROOK CLUBDOMINIUM WEST**

SECTION 1 - DEFINITIONS ..... 3

1.1 Assessment..... 3

1.2 Association..... 3

1.3 Board..... 3

1.4 Building ..... 3

1.5 Common Expenses ..... 3

1.6 Community Area..... 3

1.7 Common Elements..... 4

1.8 Condominium ..... 4

1.9 Condominium Documents ..... 4

1.10 Declaration ..... 4

1.11 Developer..... 4

1.12 Development ..... 4

1.13 Limited Common Elements ..... 4

1.14 Majority or Majority of Owners:..... 4

1.15 Occupant or Resident..... 5

1.16 Owner..... 5

1.17 Oak Brook Club Community Area Trust or Community Area Trust ..... 5

1.18 Parking Area..... 5

1.19 Parking Space ..... 5

1.20 Person..... 5

1.21 Plans and Specifications ..... 5

|  |   |
|--|---|
| 1.22 Plat .....  | 5 |
| 1.23 Property.....   | 5 |
| 1.24 Share.....  | 5 |
| 1.25 Surveys .....   | 5 |
| 1.26 Trustees .....  | 6 |
| 1.27 Unit.....   | 6 |
| 1.28 Unit Ownership.....   | 6 |
| SECTION 2 - SUBMISSION OF PROPERTY TO ACT .....                          | 6 |
| 2.1 Submission of Property to the Act .....                              | 6 |
| SECTION 3 - UNITS AND UNIT OWNERSHIP .....                               | 6 |
| 3.1 Legal Description.....   | 6 |
| 3.2 Further Description.....   | 6 |
| 3.3 Unit Constituting Separate Parcel of Real Property.....              | 7 |
| 3.4 No Ownership of Structural Components .....                          | 7 |
| 3.5 Unit Appurtenances.....  | 7 |
| SECTION 4 - COMMON ELEMENTS .....  | 8 |
| 4.1 General Description.....   | 8 |
| 4.2 Limited Common Elements .....  | 8 |
| 4.3 Ownership of Common Elements.....                                    | 8 |
| 4.4 Units and Commons Elements -- Balconies .....                        | 9 |
| 4.5 Units and Common Elements -- General Provisions -- Storage Area..... | 9 |
| 4.6 Restriction on Transfer .....  | 9 |
| 4.7 Easements Running With The Land.....                                 | 9 |

|        |   |    |
|--------|---|----|
| 4.8    | Encroachments .....   | 10 |
| 4.9    | Utility Easements.....  | 10 |
| 4.10   | Parking Space and Parking Area .....                              | 10 |
|        | SECTION 5 -- EASEMENTS.....                                       | 11 |
| 5.1    | Easements in Gross .....  | 11 |
| 5.2    | Cross-Easements.....  | 11 |
| 5.3    | Utility Easements.....  | 11 |
| 5.4    | Easement to Board.....  | 11 |
| 5.5    | Effect of Easements .....   | 11 |
|        | SECTION 6 -- USE AND OCCUPANCY -- COVENANTS AND RESTRICTIONS..... | 12 |
| 6.1    | In General .....  | 12 |
| 6.2    | Maintenance of Unit .....   | 14 |
| 6.3    | Maintenance of Unit to Protect Common Elements.....               | 14 |
| 6.4    | Rules and Regulations .....                                       | 14 |
|        | SECTION 7 - ADMINISTRATION - ASSOCIATION - BOARD OF MANAGERS..... | 14 |
| 7.1    | Administration of Property .....                                  | 14 |
| 7.2    | Organization of Not-For-Profit Corporation.....                   | 15 |
| 7.3    | Voting Rights of Owners.....                                      | 15 |
| 7.3(a) | Direct Ballot Rules .....   | 16 |
| 7.4    | Meetings – In General .....                                       | 17 |
| 7.5    | Initial Meeting and Election of Board Members .....               | 17 |
| 7.5(a) | Meetings of the Board.....  | 18 |
| 7.6    | Officers of Association.....                                      | 19 |

|  |  |    |
|--|--|----|
| 7.7  | Removal of Board Member .....                          | 19 |
| 7.8  | Annual Meeting .....                                   | 19 |
| 7.9  | Special Meetings.....                                  | 19 |
| 7.10   | Notice of Meetings.....                                | 19 |
| SECTION 8 – DUTIES AND POWERS OF BOARD ..... |  | 20 |
| 8.1  | Powers of Board -- In General.....                     | 20 |
| 8.2  | Structural Alterations, Capital Improvements, etc..... | 24 |
| 8.3  | Books and Records.....                                 | 24 |
| 8.4  | Board Access to Units .....                            | 24 |
| 8.5  | Employment of Professional Management.....             | 24 |
| 8.6  | Execution of Agreements, Contracts, etc. ....          | 25 |
| 8.7  | Bylaws, Rules and Regulations .....                    | 25 |
| 8.8  | Assessment Against Owners.....                         | 25 |
| 8.9  | Authority of Trustee and Developer.....                | 25 |
| 8.10   | No Business Activity.....                              | 25 |
| 8.11   | Liability of the Board.....                            | 25 |
| 8.12   | Authority of Developer .....                           | 26 |
| 8.13   | Contracts with Board Members .....                     | 26 |
| SECTION 9 – MAINTENANCE AND REPAIR .....     |  | 26 |
| 9.1  | Board of Manager's Responsibilities .....              | 26 |
| 9.2  | Board's Liability .....                                | 27 |
| 9.3  | Responsibility of Unit Owner .....                     | 27 |
| 9.4  | Estimate of Maintenance Costs.....                     | 28 |

|  |    |
|--|----|
| 9.4(a) Budget/Assessment Adoption .....          | 29 |
| 9.5 Reserves for Contingencies .....             | 30 |
| 9.6 Estimate of Cash Requirement .....           | 30 |
| 9.7 Failure of Board to Prepare Estimate .....   | 30 |
| 9.8 Assessment Roll.....                         | 30 |
| 9.9 Unit Owner’s Liability for Assessments ..... | 30 |
| 9.10 Lien for Assessments .....                  | 31 |
| 9.11 Payment of Assessments and Interest .....   | 31 |
| 9.12 Default.....                                | 31 |
| 9.13 Funds and Titles For The Owner.....         | 32 |
| SECTION 10 – INSURANCE .....                     | 32 |
| 10.1 Insurance Coverage .....                    | 32 |
| 10.2 Premiums as Common Expenses .....           | 34 |
| 10.3 Policies.....                               | 34 |
| 10.4 Payment of Premiums .....                   | 35 |
| 10.5 Losses.....                                 | 35 |
| 10.6 Insurance on Unit Contents.....             | 37 |
| 10.7 Mortgagees .....                            | 37 |
| 10.8 Distribution of Proceeds .....              | 37 |
| 10.9 Primary Insurance .....                     | 38 |
| 10.10 Deductibles.....                           | 38 |
| 10.11 Directors and Officers Coverage .....      | 38 |
| 10.12 Mandatory Unit Owner Coverage.....         | 38 |

|  |    |
|--|----|
| 10.13 Certificates of Insurance.....   | 38 |
| SECTION 11 -- OAK BROOK CLUB COMMUNITY AREA TRUST .....                        | 38 |
| 11.1 The Community Area .....  | 38 |
| 11.2 Execution of the Oak Brook Club Community Area Trust.....                 | 39 |
| 11.3 Ownership of Community Area.....  | 39 |
| 11.4 Owner's Easements of Enjoyment .....                                      | 39 |
| 11.5 Extent of Owner's Easements .....   | 39 |
| SECTION 12—SALE, LEASING, OR OTHER ALIENATION OF UNITS .....                   | 40 |
| 12.1 Sale or Lease .....   | 40 |
| 12.2 Gift.....   | 40 |
| 12.3 Devise .....  | 41 |
| 12.4 Involuntary Sale.....   | 42 |
| 12.5 Exercise of Option By Board of Managers – Consent of Voting Members ..... | 42 |
| 12.6 Release or Waiver of Option .....   | 42 |
| 12.7 Proof of Termination of Option .....                                      | 42 |
| 12.8 Financing of Purchase Under Option .....                                  | 43 |
| 12.9 Title to Acquired Interest .....  | 43 |
| 12.10 Exceptions to Board’s Right of First Refusal .....                       | 43 |
| 12.11 Leasing.....   | 43 |
| 12.12 Leases.....  | 44 |
| SECTION 13 – SALE OF PROPERTY IN ITS ENTIRETY .....                            | 44 |
| 13.1 Sale of Property in its Entirety .....                                    | 45 |
| 13.2 Right of First Refusal.....   | 45 |

|   |    |
|---|----|
| SECTION 14 – PROPERTY REMOVED FROM CONDOMINIUM LAW .....          | 45 |
| 14.1 Property Removed from Condominium Law – How, Effects.....    | 45 |
| SECTION 15 – ADDITIONS TO EXISTING PROPERTY.....                  | 46 |
| 15.1 Additions to Existing Property .....                         | 46 |
| 15.2 Additions in Accordance with a General Plan Development..... | 46 |
| SECTION 16 --DEVELOPER’S EXERCISE OF RIGHTS .....                 | 46 |
| 16.1 Developer’s Exercise of Rights.....                          | 46 |
| 16.2 Developer’s Rights After Formation of Association .....      | 46 |
| 16.3 Developer’s Disclaimer.....                                  | 47 |
| 16.4 Advertising by the Developer .....                           | 47 |
| SECTION 17 -- COMPLIANCE, BREACH OF COVENANTS, AND DEFAULT .....  | 47 |
| 17.1 Compliance and Default .....                                 | 47 |
| 17.2 Involuntary Sale.....  | 48 |
| 17.3 Liens.....   | 49 |
| 17.4 Abatement and Enjoinment .....                               | 49 |
| SECTION 18 -- AMENDMENT OF DECLARATION.....                       | 51 |
| 18.1 Declaration May Be Amended.....                              | 51 |
| 18.2 Notice of Amendment.....                                     | 51 |
| SECTION 19 -- TERMINATION OF DECLARATION .....                    | 51 |
| 19.1 Agreement of Owners and Lien Owners .....                    | 51 |
| 19.2 Destruction .....  | 51 |
| 19.3 Interest of Unit Owners After Termination .....              | 51 |
| 19.4 Sale of Property.....  | 52 |

|  |    |
|--|----|
| 19.5 Powers of Board After Termination .....                   | 52 |
| SECTION 20 -- GENERAL PROVISIONS.....                          | 52 |
| 20.1 Unit Ownership In Trust.....                              | 52 |
| 20.2 Notices -- In General .....                               | 52 |
| 20.3 Notices -- Representatives of Deceased Owners.....        | 53 |
| 20.4 Notices -- To Mortgagees .....                            | 53 |
| 20.5 No Waiver .....   | 53 |
| 20.6 Liberal Interpretation -- Rule Against Perpetuities ..... | 53 |
| 20.7 Invalidity of Any Covenant or Restriction.....            | 53 |
| 20.8 Gender, Singular, Plural .....                            | 53 |
| 20.9 Captions .....  | 53 |
| 20.10 Owner Non-Delegation.....                                | 54 |

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EASEMENTS, RESTRICTIONS AND COVENANTS

THIS DECLARATION made and entered into on September 15, 1970 by CHICAGO TITLE AND TRUST COMPANY, as Trustee under Trust Agreement dated June 27, 1969, and known as Trust No. 53984, and not individually, for convenience hereinafter referred to as the "Trustee":

WITNESSETH THAT:

The Trustee is the legal titleholder of the following described real estate:

That part of Lot 1 in the Oak Brook Club Assessment Plat in Section 23, Township 39 North, Range 11 East of the Third Principal Meridian, described as follows: Commencing at a point on the center line of Sixteenth Street, said point being the Southwest corner of said Lot 1; thence Northerly on the West line of said Lot 1, 312.49 feet (said West line having a bearing of N 00°-01'-20" W for the purposes of this description); thence S 45°-35'-28" E 57.87 feet to the place of beginning of this description (said point being 267.89 feet North of the South line and 41.32 feet East of the West line of said Lot 1); thence N 44°-24'-32" E 83.00 feet; thence S 45°-35'-28" E 79.75 feet; thence N 44°-24'-32" E 152.83 feet; thence N 45°-35'-28" W 159.46 feet; thence S 44°-24'-32" W 78.50 feet; thence N 45°-35'-28" W 83.00 feet; thence N 44°-24'-32" E 78.50 feet; thence N 45°-35'-28" W 75.75 feet; thence N 44°-24'-32" E 24.50 feet; thence N 45°-35'-28" W 32.00 feet; thence N 44°-24' 32" E 34.00 feet; thence S 45°-35'-28" E 32.00 feet; thence N 44°-24'-32" E 24.50 feet; thence S 45°-35'-28" E 75.75 feet; thence N 44°-24'-32" E 78.50 feet; thence S 45°-35'-28" E 83.00 feet; thence S 44°-24'-32" W 78.50 feet; thence S 45°-35'-28" E 159.46 feet; thence N 44°-24'-32" E 78.50 feet; thence S 45°-35'-28" E 83.00 feet; thence S 44°-24'-32" W 78.50 feet; thence S 45°-35'-28" E 75.75 feet; thence S 44°-24'-32" W 83.00 feet; thence N 45°-35'-28" W 75.75 feet; thence S 44°-24'-32" W. 152.83 feet; thence S 45°-35'-28" E 75.75 feet; thence S 44°-24'-32" W 24.50 feet; thence S 45°-35'-28" E 32.00 feet; thence S 44°-24'-32" W 34.00 feet; thence N 45°-35'-28" W 32.00 feet thence S 44°-24'-32" W 24.50 feet; thence N 45°-35'-28" W 75.75 feet; thence S 44°-24'-32" W 78.50 feet; thence N 45°-35'-28" W 83.00 feet; thence N 44°-24'-32" E 78.50 feet; thence N 45°-35'-28" W 79.75 feet to the place of beginning, in DuPage County, Illinois.

(herein referred to as "Property").

The above described property will be improved with buildings containing 108 residential apartment units, known as "The Oak Brook Clubdominium West", Oak Brook, Illinois, sometimes herein referred to as the "Development".

The Oak Brook Club Company, a joint venture between American Growth Industries Inc. and American Growth Development Corporation, both Illinois corporations, herein called "Developer", is the beneficial owner of the real estate in DuPage County, Illinois, consisting of approximately twenty-five acres and bounded on the south by 16<sup>th</sup> Street and on the east by Spring Road which real estate less the real estate now being used by the Developer for office purposes is herein sometimes referred to as "The Oak Brook Club Area".

B. The Developer intends to develop The Oak Brook Club Area into a community of multiple family residences and related facilities to be owned by the Developer and as the development is consummated, to submit portions of The Oak Brook Club Area to the Condominium Property Act of the State of Illinois, as same is amended from time to time.

C. Developer desires to provide for the preservation of the values and amenities of The Oak Brook Club Area for the maintenance of park areas, open spaces, other common areas and related facilities, and to this end desires to subject, from time to time, portions of The Oak Brook Club Area to the covenants, restrictions, easements, charges and liens hereinafter set forth, when and if Developer specifically declares from time to time such portions of said existing property to be subject to these covenants and restrictions.

D. It is the desire and intention of the Developer to enable said Property together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in anywise pertaining thereto, to be owned by Trustee and by each successor in interest of Trustee, under that certain type or method of ownership commonly known as "CONDOMINIUM", and to submit the Property to the provisions of the "Condominium Property Act" of the State of Illinois, as amended from time to time.

E. The Trustee, acting under direction of the parties authorized to direct the Trustee, has elected to establish, for the benefit of such Trustee and for the mutual benefit of all future owners or occupants of the Property, or any part thereof, which shall be known as "The Oak Brook Clubdominium West", certain easements and rights in, over and upon said premises and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof.

F. The Trustee has further elected to declare that the several owners, mortgagees, occupants, and other persons acquiring any interest in the Property shall at all times enjoy the benefits of, and shall at all times hold their interests subject to, the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the co-operative aspect of ownership and to facilitate the property administration of the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

G. Developer has deemed it desirable for the efficient preservation of the values and amenities in the Property to create an agency to which should be delegated and assigned the powers of maintaining and administering the Community Area facilities (hereinafter defined) and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created or authorized.

NOW THEREFORE, The Chicago Title and Trust Company, as Trustee aforesaid and not individually, as the legal titleholder of the real estate hereinbefore described, and the Developer, and for the purposes above set forth, DECLARE AS FOLLOWS:

## SECTION 1 – DEFINITIONS

1.1 **Assessment:** The portion of the cost of maintaining, repairing and managing the Property, Common Elements and the Community Area which is to be paid by each Owner.

1.2 **Association:** The association of Owners as described in Section 7 hereof, or an Illinois Not-For-Profit Corporation, which may be organized pursuant to the provisions of this Declaration.

1.3 **Board:** The Board of Managers, if there is no Association, and if there is an Association, then the Board of Directors acting for the Association.

1.4 **Building:** The structure or structures located or to be located on the Property which are or will be built substantially in accordance with plans and specifications heretofore prepared by Leitch-Kiyotoki and Associates, Architects.

1.5 **Common Expenses:** The actual and estimated costs of:

(a) maintenance, management, operation, repair, improvement, and replacement of the Common Elements and the Community Area, and those parts of the Units as to which pursuant to other provisions hereof it is the responsibility of the Board to maintain, repair and replace,

(b) management and administration of the Property, including, without limiting the same, compensation paid to a managing agent, accountants, attorneys, and other employees,

(c) any other items deemed by or in accordance with other provisions of this Declaration or the Condominium Documents to be Common Expenses.

1.6 **Community Area:** All of Lot 1 in The Oak Brook Club Assessment Plat in the Northwest Quarter of Section 23, Township 39 North, Range 11, East of the Third

Principal Meridian according to the plat thereof recorded July 23, 1969, as Document R69-32780 in DuPage County, Illinois, except the Property, together with such other land in The Oak Brook Club Area as may from time to time be added thereto by the Developer to be used for community and recreational purposes for the benefit of all Owners, occupants and residents of Units in The Oak Brook Club Area, as hereinafter provided.

1.7 **Common Elements:** All portions of the Property excepting the Units.

1.8 **Condominium:** The Property, including improvements thereon and all easements, rights and appurtenances belonging thereto submitted to the provisions of the Condominium Property Act, as provided herein.

1.9 **Condominium Documents:** This Declaration and the Exhibits annexed hereto as the same may from time to time be amended. Said Exhibits are as follows:

Exhibit A – Survey of the Property.

Exhibit B – Percentage of Ownership.

The Condominium Documents shall include all Supplemental Declarations filed as Supplements hereto pursuant to Section 18, together with surveys attached thereto as may be required by the Illinois Condominium Property Act.

1.10 **Declaration:** This instrument by which the Property is submitted to the provisions of the Condominium Property Act of the State of Illinois and such Declaration as from time to time amended.

1.11 **Developer:** The Oak Brook Club Company, its successors and assigns, or any other firm, corporation, or partnership which is owned or controlled by the majority owners of The Oak Brook Club Company, its successors and assigns.

1.12 **Development:** The development of The Oak Brook Club Area as a residential community.

1.13 **Limited Common Elements:** The portion of the Common Elements contiguous to and serving exclusively a single Unit or adjoining Units as an inseparable appurtenance thereto, including specifically but not by way of limitation, balconies, patios, parking spaces and such portions of the perimeter walls, floors and ceilings, doors, vestibules, windows and entryways, and of all associated fixtures and structures therein as lie outside the Unit boundaries.

1.14 **“Majority” or “Majority of Owners”:** The owners of more than 50% in the aggregate in interest of the undivided ownership of the Common Elements as set forth in Exhibit B. Any specified percentage of the Owners means such percentage of the aggregate in interest of such undivided ownership of the Common Elements.

1.15 **Occupant or Resident:** Person or persons, including Owner, in lawful possession of a Unit.

1.16 **Owner:** The person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit Ownership. Unless otherwise specifically provided herein, the word "Owner" shall include any beneficiary of a trust, shareholder of a corporation, or partner of a partnership holding legal title to a Unit.

1.17 **Oak Brook Club Community Area Trust or Community Area Trust:** The trust to be created with respect to The Oak Brook Club Community Area as described in Section 11.

1.18 **Parking Area:** The part of the Common Elements provided for parking automobiles of guests of occupants and residents.

1.19 **Parking Space:** The portion of the buildings intended for the parking of single automobiles by occupants or residents of the Property.

1.20 **Person:** A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.21 **Plans and Specifications:** The Plans and Specifications referred to in Paragraph 1.4.

1.22 **Plat:** The Plat attached hereto as Exhibit A, and by this reference made a part hereof, which sets forth the measurements, elevations, locations and other data, as required by the Act, including (1) the Parcel and its exterior boundaries; (2) the Building and each floor thereof, and (3) each Unit of the Building.

1.23 **Property:** All the land, buildings and space comprising the real estate described on page 1 hereof, all improvements and structures constructed or contained therein or thereon, including the buildings and all easements, rights and appurtenances belonging thereto, and all fixtures and property intended for the common and mutual use, benefit or enjoyment of the Owners.

1.24 **Share:** The extent of participation by each Owner, including voting rights, which shall be computed on the same basis as provided in Paragraph 7.3 and adjusted from time to time as provided therein.

1.25 **Surveys:** The survey annexed hereto and made a part hereof as Exhibit A. As additional property is subjected to this Plan of Condominium Ownership and this Declaration and the Condominium Property Act, surveys thereof shall be made exhibits hereto. Whenever in this Declaration the term "Surveys" or "Exhibit A" appears, it shall

be deemed to include such amended survey as shall be recorded hereafter, pursuant to Paragraph 3.2.

1.26 **Trustees:** The trustees of The Oak Brook Club Community Area Trust described in Section 11.

1.27 **Unit:** A part of the building on the Property including one or more rooms, occupying one or more floors or a part or parts thereof, designed and intended for a one-family dwelling or such other uses permitted by this Declaration.

1.28 **Unit Ownership:** A part of the property consisting of one Unit and the undivided interest in the Common Elements, Limited Common Elements and easements appurtenant thereto.

## SECTION 2 – SUBMISSION OF PROPERTY TO ACT

2.1 **Submission of Property to the Act:** The Declarant, as the owner in fee simple of the Property, expressly intends to and by recording this Declaration does hereby submit the Property to the provisions of the Condominium Property Act of the State of Illinois. The Declarant specifically withholds submission of the remainder of The Oak Brook Club Area from the Act.

## SECTION 3 – UNITS AND UNIT OWNERSHIP

3.1 **Legal Description:** All Units in the building located on the Property are delineated on the surveys attached hereto as Exhibit “A” and made a part of this Declaration and are legally described as follows:

Units No. A101 to A112, inclusive, A201 to A212, inclusive, A301 to A312, inclusive; B101 to B112, inclusive, B201 to B212, inclusive, B301 to B312, inclusive; C101 to C112, inclusive, C201 to C212, inclusive, and C301 to C312, inclusive, in the Property as hereinabove described.

3.2 **Further Description:** Each Unit consists of the space enclosed or bounded by the horizontal and vertical planes set forth in the delineation thereof in Exhibit “A”. The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown in Exhibit “A”. Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on Exhibit “A”, and every such description shall be deemed good and sufficient for all purposes. Except as provided by the Condominium Property Act, no Owner, by deed, plat or otherwise, shall subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on Exhibit “A”.

It is further understood that the Building located on the Property is substantially, but not wholly, completed, and that in the event the structural components of the Building constituting all the Unit boundaries are not in place on the date of recording of

the Declaration, the Developer or Trustee reserves the right to and shall cause to be recorded at such time as all said structural components are in place, an amended survey showing the actual location and dimensions of all Unit boundaries in the Building.

**3.3 Unit Constituting Separate Parcel of Real Property:** Each Unit together with all appurtenances thereto, shall constitute for all purposes a separate parcel of real property which may be owned in fee simple and which may be conveyed, devised, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the Property, subject only to the provisions of this Declaration and the Condominium Property Act.

**3.4 No Ownership of Structural Components:** No Owner shall own any pipes, wires, conduits, public utility lines or structural components running through his Unit and serving more than his Unit except as a tenant in common with all other Owners.

**3.5 Unit Appurtenances:** Each Unit shall include, and there shall pass with each Unit as an inseparable appurtenance thereto, whether or not separately described, conveyed or encumbered, all of the right, title and interest of a Unit Owner in the Common Elements and Limited Common Elements of the Property of which said Unit is a part, and a beneficial interest in the Community Area, which shall include but not be limited to

(a) an undivided interest in the Common Elements as defined below in Paragraphs 4.1 and 4.2, such undivided interest to be the percentage set forth in the Declaration;

(b) an easement for the use of one or more passenger automobiles in the parking space or spaces allotted to him, in accordance with the Rules and Regulations adopted by the Board;

(c) an undivided interest in the funds and assets held by the Board of Managers for the benefit of the Unit Owners;

(d) an undivided beneficial interest in the Oak Brook Club Community Area Trust;

(e) the following easements from each Unit Owner to each other Unit Owner and to the Board of Managers:

(i) Ingress and Egress. Easements through the Common Elements for ingress and egress for all persons making use of such Common Elements in accordance with the terms of the Condominium Documents and easements of ingress and egress in the Community Area.

(ii) Maintenance, Repair and Replacement. Easements through the Units and Common Elements for maintenance, repair and replacement of the Units and Common Elements. Use of these easements, however, for access to the Units shall be limited to reasonable hours, except that access may be had at any time in case of emergency.

(iii) Structural Support. Every portion of a Unit which contributes to the structural support of the Buildings shall be burdened with an easement of structural support for the benefit of the Common Elements.

(iv) Utilities. Easements through the Units and Common Elements for the furnishing of utility services within the Buildings, which facilities and easements therefore shall include but not be limited to the right to install, lay, maintain, repair and replace water mains, pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and on that part of the Common Elements which may be identified in the Surveys as "Easements for Public Utilities".

All easements and rights described in this subsection (e) of this Paragraph 3.5 or elsewhere in this Declaration are easements appurtenant running with the land, perpetually in force and effect, and at all times shall inure to the benefit of and be binding upon the undersigned, its successors and assigns, and any Unit Owner, purchaser, mortgagee and other person having interest in said land, or any part or portion thereof.

## SECTION 4 – COMMON ELEMENTS

4.1 **General Description:** Except as otherwise in this Declaration provided, the Common Elements shall consist of all portions of the Property except the Units. Without limiting the generality of the foregoing, the Common Elements shall include the land, stairways, entrances and exits, elevators, halls, courtyards, balconies, patios, lobbies, corridors, storage areas, basement, roof, structural parts of the Building, parking facilities, pipes, ducts, flues, chutes, conduits, wires, and other utility installations to the outlets, and such component parts of walls, floors and ceilings, as are not located within the Units.

4.2 **Limited Common Elements:** The Limited Common Elements shall include but not be limited to balconies, patios, underground parking spaces, storage lockers and such heating, cooling, plumbing and electrical fixtures and all associated pipes, ducts and wiring as may serve exclusively a single Unit or group of contiguous Units. The Board may from time to time designate other portions of the Common Elements as Limited Common Elements.

4.3 **Ownership of Common Elements:** Each Owner shall own an undivided interest in the Common Elements and the Limited Common Elements as a tenant in common with all the other Owners of the Property, and, except as otherwise limited in

this Declaration, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of his Unit as a place of residence, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with the Unit. The extent or amount of such ownership shall be expressed by a percentage amount, and once determined shall remain constant, and may not be changed without unanimous approval of all Owners. The Developer has determined each Unit's corresponding percentage of ownership in the Common Elements as set forth in Exhibit "B" attached hereto.

**4.4 Units and Common Elements – Balconies:** A valid exclusive easement is hereby declared and established for the benefit of each Unit and its Owner, consisting of the right to use and occupy the balcony or patio adjoining the Unit; provided, however, that no Owner shall decorate, fence, enclose, landscape, adorn or alter such balcony or patio in any manner contrary to such rules and regulations as may be established by the Board, as hereinafter provided, or unless he shall first obtain the written consent of said Board so to do.

**4.5 Units and Common Elements – General Provisions – Storage Area:** The storage area for the Owners' personal property in the Building outside of the respective Units shall be part of the Limited Common Elements, and the exclusive use and possession of such area by a Owner shall be subject to such rules and regulations as the Board may prescribe. Each Owner shall be responsible for his personal property in such storage area. The Board and the Association shall not be considered the bailee of such personal property and shall not be responsible for any loss or damage thereto whether or not due to the negligence of the Board and/or the Association.

**4.6 Restriction on Transfer:** No Owner shall execute any deed, mortgage, lease, or other instrument affecting title to his Unit Ownership without including therein both his interest in the Unit and his corresponding percentage of ownership in the Common Elements and Limited Common Elements, and his beneficial interest in the Community Area, it being the intention hereof to prohibit and prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the others shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

**4.7 Easements Running With The Land:** All easements and rights described herein are easements appurtenant, running with the land and so long as the Property is subject to the provisions of this Declaration, shall remain in full force and effect, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Property, or any part or portion thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Section, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees of such Unit Ownerships

as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

**4.8 Encroachments:** In the event that by reason of the construction, settlement or shifting of the Building, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements or any other Unit, or, if by reason of the design or construction of any Unit it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Elements for any reasonable use appurtenant to said Unit, which will not unreasonably interfere with the use or enjoyment of the Common Elements by other Unit Owners, or, if by reason of the design or construction of utility and ventilation systems, any main pipes, ducts or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit, valid easements for the maintenance of such encroachments and for such use of the Common Elements are hereby established and shall exist for the benefit of such Unit and the Common Elements, as the case may be, so long as all or any part of the Building shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Elements be created in favor of any Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Property by the other Owners and if it occurred due to the willful conduct of such Owner.

**4.9 Utility Easements:** With respect to the original construction of the Property the Illinois Bell Telephone Company, Commonwealth Edison Company, and all other public utilities serving the Property are hereby granted the right to lay, construct, renew, operate and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Common Elements for the purpose of providing utility services to the Property. Thereafter, additional such rights may be granted by the Board of Managers.

**4.10 Parking Space and Parking Area:** The plans and specifications for the Property provide for underground parking spaces for owners and occupants of Units and for outdoor parking areas for guests of owners and occupants.

The underground parking spaces shall be deemed to be part of the Limited Common Elements. The use of the underground parking spaces and outdoor parking areas shall be governed by the following:

(a) Each owner or occupant will be entitled to the use of the underground parking space(s) assigned to the respective Unit and as part of such Unit, but only for the use of the owner, or occupant. Such right of use shall be deemed an easement running with the ownership of the Unit.

(b) The outdoor parking area shall be available for use only by guests of owners or occupants.

(c) The underground parking spaces and outdoor parking area shall be used only in accordance with rules and regulations promulgated by the Board from time to time.

(d) The cost of repairing, maintaining and improving the underground parking spaces shall be deemed as part of the expense of the repair, maintenance and improvement of the Common Elements.

## SECTION 5 – EASEMENTS

**5.1 Easements in Gross:** Perpetual easements are hereby established in the Common Elements and the Community Area for the use and enjoyment of same by all Owners, their families, tenants, guests, invitees, and servants, and for use and enjoyment of same. In addition thereto, each Owner is hereby granted an exclusive perpetual easement to use and occupy any portion of any balcony or patio, which adjoins his Unit and to which the Owner has sole access.

**5.2 Cross-Easements:** Cross-easements are hereby established in the Community Area whereby the Developer, Owners, their families, tenants, guests, invitees, servants and agents shall be permitted to use the roads and pedestrian walks for ingress and egress, unassigned parking spaces, and gardens, lawn areas, swimming pool and cabanas in the Community Area as are now or hereafter may be established. See Section 11.

**5.3 Utility Easements:** Easements, if any, as shown on the plat, are established and dedicated for sanitary and storm sewers, electricity, gas, water and telephones and for all other public utility purposes, including the right to install, lay, maintain, repair, and replace water mains and pipes, sewer lines, drainage, gas mains, telephone wires and equipment and electrical conduits and wires over, under, along and on portions of the Common Elements. See Paragraph 4.9.

**5.4 Easement to Board:** The Property shall be subject to a perpetual easement in gross to the Board, its successors and assigns, for ingress and egress, to perform its obligations and duties as required by this Declaration and Bylaws. Should it be necessary to enter a Unit to repair a Common Element, employees, agents and workmen shall be entitled to entrance by exhibiting to the Unit Owner an order from the Board or its agent.

**5.5 Effect of Easements:** All easements and rights herein established shall run with the land and inure to the benefit of and be binding on the Trustee and Developer, their successors or assigns, and any Owner, purchaser, mortgagee or other person having an interest in any portion of the property herein described, whether or not such easements are mentioned or described in any deed of conveyance.

## SECTION 6 – USE AND OCCUPANCY – COVENANTS AND RESTRICTIONS

6.1 **In General:** The occupancy and use of the Units and Common Elements shall be subject to the following:

(a) No part of the Property shall be used for other than housing and related common purposes for which the Property was designed. Each Unit or any two or more adjoining Units used together shall be used as a residence for a single family or such adjoining Units used together shall be used as a residence for a single family or such other uses permitted by this Declaration and for no other purpose. That part of the Common Elements separating any two or more adjoining Units used together as aforesaid may be altered to afford ingress and egress to and from such adjoining Units in such manner and upon such conditions as shall be determined by the Board in writing, provided that such action does not weaken, impair or endanger any Common Element or Unit, and provided further that the Owner shall notify the Board of the nature of the removal or alteration at least ten (10) days prior to commencing work.

(b) Each Owner shall be obligated to maintain and keep his own Unit in good order and repair.

(c) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Building or contents thereof, applicable for residential use, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Building, or contents thereof, or which would be in violation of any law. No waste shall be committed in the Common Elements.

(d) Each Owner shall be responsible for his own insurance on his Unit and Common Elements to the extent not required to be provided by the Board pursuant to Section 10.1 herein, his personal property in his own Unit, his personal property stored elsewhere on the Property and his personal liability to the extent not covered by the liability insurance for all the Owners obtained by the Board as herein provided.

(e) Owners shall not cause or permit anything to be placed on the outside walls of the Building and no sign, awning, canopy, shutter, radio or television antenna (subject to applicable governmental regulations and orders) shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior consent of the Board.

(f) The covering of the interior surfaces of the windows and glass doors appurtenant to the Units in the Building, whether by draperies, shades or other items visible from the exterior of the Building, shall be subject to the rules and regulations of the Board.

(g) In order to insure proper operation, any washer or dryer or other laundry equipment installed in any Unit shall comply both as to type of equipment and as to plumbing and electrical installment with minimum standards specified by rules and regulations from time to time promulgated by the Board. In order to enhance the soundproofing of the Building, the floor-covering for all occupied Units shall meet the minimum standard as may be specified by rules and regulations of the Board.

(h) No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Elements, except that dogs, cats, or other household pets may be kept in Units, or on the Property, subject to rules and regulations adopted by the Board, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon three (3) days' written notice from the Board.

(i) No noxious or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or Occupants.

(j) Nothing shall be done in any Unit, or in, on or to the Common Elements, which will impair the structural integrity of the Building or which would structurally change the Building except as is otherwise provided herein.

(k) No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials.

(l) There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs in any part of the Common Elements except that baby carriages, bicycles and other similar personal property may be stored in the common storage or other area designated for that purpose. The balcony, patio, and designated recreation areas may be used only for their intended purposes.

(m) No industry, business, trade, occupation or profession of any kind, commercial, religious, educational, or otherwise, designated for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted in any Unit.

(n) Except as set forth in Paragraph 16.4, no "For Sale" or "For Rent" signs, advertising or other displays shall be maintained or permitted on any part

of the Property except at such location and in such forms as shall be determined by the Board.

(o) After completion of construction of the Building, nothing shall be altered or constructed in or removed from the Common Elements, except upon the written consent of the Board.

(p) The Unit restrictions in paragraphs (a) and (m) of this Paragraph 6.1 shall not be construed, however, in such a manner as to prohibit an Owner from: (a) maintaining his personal professional library therein; (b) keeping his personal business or professional records or accounts therein; or (c) handling his personal business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of paragraphs (a) or (m) of this Paragraph 6.1. All prohibitions in Paragraph 6.1 which relate to the Common Elements shall apply equally to the Limited Common Elements.

**6.2 Maintenance of Unit:** Each Owner shall maintain and keep his Unit (including balconies or patios) in good repair and order and shall do nothing which will prejudice the structural integrity or will increase the rate of insurance on the building in which his Unit is situated or which would be in violation of law. The exterior of Unit entry doors shall be maintained by the Board of Managers as a part of the Common Elements. The Owner shall maintain and keep in good repair, and pay the cost thereof, the air conditioning condensing units appertaining to his Unit.

**6.3 Maintenance of Unit to Protect Common Elements:** Whenever the Board shall determine in its discretion that any maintenance or repair of any Unit is necessary to protect the Common Elements or any other portion of the Building, the Board may cause a written notice of the necessity for such maintenance or repair to be served upon such Owner, which notice may be served by delivering a copy thereof to any occupant of such Unit, or by mailing the same by certified or registered mail addressed to the Owner at the Unit. If such Owner fails or refuses to perform any such maintenance or repair within a reasonable time stated in the notice (or any extension thereof approved by the Board), the Board may cause such maintenance and repair to be performed at the expense of such Owner.

**6.4 Rules and Regulations:** Rules and Regulations concerning use of the Property may be promulgated by the Board as herein set forth; provided, however, that copies of such regulations are furnished to each Owner prior to the time that the same become effective.

## SECTION 7 - ADMINISTRATION - ASSOCIATION - BOARD OF MANAGERS

**7.1 Administration of Property:** The direction and administration of the Property shall be vested in a Board of Managers (herein referred to as the "Board"), consisting of five (5) persons who shall be elected in the manner hereinafter provided.

Each member of the Board shall be one of the Owners; provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any officer, director or other designated agent of such legal entity shall be eligible to serve as a member of the Board.

**7.2 Organization of Not-For-Profit Corporation:** The Trustee or Developer, upon the sale of one or more Units and prior to the election of the first Board, and the Board at any time thereafter, may cause to be incorporated a not-for-profit corporation under the General Not-For-Profit Corporation Act of the State of Illinois, to be called "OAK BROOK CLUBDOMINIUM WEST ASSOCIATION", or a name similar thereto, which corporation (herein referred to as the "Association") shall be the governing body for all the Owners for the maintenance, repair, replacement, administration and operation of the Property. The Board of Directors of the Association shall be deemed to be the "Board of Managers", referred to herein and in the Condominium Property Act. Upon the formation of such Association, every Owner shall be a member therein, which membership shall automatically terminate upon the sale, transfer or other disposition by such member of his Unit Ownership, at which time the new Owner shall automatically become a member therein. The Association may issue certificates evidencing membership therein. In the event of the organization of a corporation under the General Not-For-Profit Corporation Act of Illinois, such corporation, except as otherwise restricted or limited under said Act, shall have all of the powers, duties and obligations, and shall be operated in the manner, as set forth in this Section 7 pertaining to the administration of the Association.

**7.3 Voting Rights of Owners:** The Association shall have one class of membership. There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Owners. Such person shall be known (and hereinafter referred to) as a "voting member". Such voting member may be the Owner or one of the group composed of all the Owners of a Unit Ownership, or may be some person designated by such Owner or Owners to act as proxy on his or their behalf, and such person need not be an Owner. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Owner or Owners. Any or all of such Owners may be present at any meeting of the voting members and may vote or take any other action as a voting member either in person or by proxy. An Owner may vote by proxy executed in writing by the Owner or by his duly authorized attorney in fact. The proxy shall be invalid after eleven months from the date of its execution, unless otherwise provided in the proxy. Every proxy must bear the date of execution. Where there is more than one owner of a Unit, if only one of the multiple owners is present at a meeting of the Association, he or she shall be entitled to cast all the votes allocated to that Unit. If more than one of the multiple owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners. There is majority agreement when any one of the multiple owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit. In the event of a resale of a Unit, the purchaser of a Unit

from a seller pursuant to an installment contract to purchase shall during such times as he or she (the purchaser) resides in the Unit be counted toward a quorum for purposes of election of members of the Board at any meeting of the Unit Owners called for purposes of electing members of the Board, shall have the right to vote for the election of members of the Board and to be elected to and serve on the Board unless the seller expressly retains in writing any or all such rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the Board. Satisfactory evidence of an installment contract shall be made available to the Association or its agent. For purposes of this section "installment contract" shall have the same meaning as set forth in Section 1(e) of "An Act Relating to Installment Contracts to Sell Dwelling Structures", approved August 11, 1967 as amended (765 ILCS 75/1). The total number of votes of all voting members shall be 100 and each Owner or group of Owners shall be entitled to the number of votes equal to the total of the percentage of ownership in the Common Elements applicable to his or their Unit Ownership as set forth in Exhibit "B". Trustee or Developers shall be the voting member with respect to any Unit Ownership owned by the Trustee. Matters subject to the affirmative vote of not less than two-thirds of the votes of Unit Owners at a meeting duly called for that purpose shall include, but not be limited to: (1) merger or consolidation of the Association; (2) sale, lease, exchange, or other disposition (excluding the mortgage or pledge) of all, or substantially all of the property and assets of the Association; and (3) the purchase or sale of land or of Units on behalf of all Unit Owners. When thirty percent (30%) or fewer of the Units, by number, possess over fifty percent (50%) in the aggregate of the votes in the Association, any percentage vote of members specified in the Condominium Property Act or in the condominium instruments shall require the specified percentage by number of units rather than by percentage of interest in the Common Elements allocated to units that would otherwise be applicable.

**7.3(a) Direct Ballot Rules:** If a rule is adopted by the Board at least 120 days before a Board election or the Declaration or Bylaws provide for balloting as set forth in this Paragraph 7.3(a), the Owners may not vote by proxy in Board elections, but may vote only (i) by submitting an Association-issued ballot in person at the election meeting or (ii) by submitting an Association-issued ballot to the Association or its designated agent by mail or other means of delivery specified in the Declaration, Bylaws, or rule; that the ballots shall be mailed or otherwise distributed to Owners not less than ten (10) and not more than thirty (30) days before the election meeting, and the Board shall give Owners not less than twenty-one (21) days' prior written notice of the deadline for inclusion of a candidate's name on the ballots; that the deadline shall be no more than seven (7) days before the ballots are mailed or otherwise distributed to Owners; that every such ballot must include the names of all candidates who have given the Board or its authorized agent timely written notice of their candidacy and must give the person casting the ballot the opportunity to cast votes for candidates whose names do not appear on the ballot; that a ballot received by the Association or its designated agent after the close of voting shall not be counted; that an Owner who submits a ballot by mail or other means of delivery specified in the Declaration, Bylaws, or rule may request and cast a ballot in person at the election meeting, and thereby void any ballot

previously submitted by that unit owner; and if a written petition by Owners with at least 20% of the votes of the Association is delivered to the Board within fourteen (14) days after the Board's approval of a rule adopted pursuant to this Paragraph 7.3(a), the Board shall call a meeting of the Owners within thirty (30) days after the date of delivery of the petition; and that unless a majority of the total votes of the Owners are cast at the meeting to reject the rule, the rule is ratified.

**7.4 Meetings – In General:** Meetings of the voting members shall be held at the Property or at such other place in DuPage County, Illinois, as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the voting members having twenty percent (20%) of the total votes shall constitute a quorum, unless Owners holding a majority of the percentage interest in the Association provide for a higher percentage. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes present at such meeting.

**7.5 Initial Meeting and Election of Board Members:** The initial meeting of the voting members shall be held upon ten (10) days' written notice given by the Trustee or Developer. Such written notice may be given by the Developer at any time after at least 51% of the Units are occupied but must be given not later than thirty (30) days after the Units are occupied. At the initial meeting the voting members shall elect a Board of Managers. In all elections for members of the Board of Managers, each voting member shall be entitled to vote on a cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Members of the Board elected at the initial meeting shall serve until the first annual meeting. At the first annual meeting the five (5) Board members shall be elected from among the Owners. The three (3) persons receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years, and the two (2) persons receiving the next highest number of votes shall be elected to the Board for term of one (1) year. Upon the expiration of the terms of office of the Board members so elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each. The voting members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease such number of persons on the Board or may increase or decrease the term of office of Board members at any annual or special meeting, provided that such number shall not be less than three (3), and that the terms of at least one-third (1/3) of the persons on the Board shall expire annually. If there are multiple Owners of a single Unit, only one of the multiple Owners shall be eligible to serve as a member of the Board at any one time. The Board may disseminate to the Owners biographical and background information about candidates for election to the Board if reasonable efforts to identify all candidates are made and all candidates are given an opportunity to include biographical and background information in the information to be disseminated; and the Board does not express a preference in favor of any candidate. Any proxy distributed for Board elections by the Board of Managers must give Owners the opportunity to designate any person as the proxy holder and give the Owner the

opportunity to express a preference for any of the known candidates for the Board or to write in a name. No member of the Board or officer shall be elected for a term of more than two years, but officers and Board members may succeed themselves. The Association may, upon adoption of the appropriate rules by the Board, conduct elections by secret ballot whereby the voting ballot is marked only with the percentage interest for the Unit and the vote itself, provided that the Board further adopt rules to verify the status of the Owner issuing a proxy or casting a ballot. A candidate for election to the Board or such candidate's representative shall have the right to be present at the counting of ballots at such election. Members of the Board shall receive no compensation for their services, unless expressly allowed by the Board at the direction of the voting members having two-thirds (2/3) of the total votes. Vacancies in the Board, including vacancies due to any increase in the number of persons on the Board, shall be filled by the voting members present at the next annual meeting or at a special meeting of the voting members called for such purpose. The remaining members of the Board may fill a vacancy on the Board by a two-thirds (2/3) vote until the next annual meeting of Owners or for a period terminating no later than thirty (30) days following the filing of a petition signed by Owners holding twenty percent (20%) of the votes of the Association requesting a meeting of the Owners to fill the vacancy for the balance of the term. A meeting of the Owners shall be called for the purpose of filling a vacancy on the Board no later than thirty (30) days following the filing of a petition signed by Owners holding twenty percent (20%) of the votes of the Association requesting such a meeting. Except as otherwise provided in this Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present at its meetings when a quorum exists.

**7.5(a) Meetings of the Board:** Meetings of the Board may be called, held, and conducted in accordance with such regulations as the Board may adopt. A majority of the total number of members on the Board shall constitute a quorum. Meetings of the Board shall be open to any Owner except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the Association or an Owner's unpaid share of Common Expenses. Any vote on these matters shall be taken at a meeting or portion thereof open to any Owner. Any Owner may record the proceedings at meetings or portions thereof required to be open by tape, film, or other means. The Board may prescribe reasonable rules and regulations to govern the right to make such recordings. Notice of such meetings shall be mailed or delivered to Board members at least forty-eight (48) hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened. In addition, copies of notices of meetings of the Board shall be posted in entranceways, elevators, or other conspicuous places in the condominium at least forty-eight (48) hours prior to the meeting of the Board except where there is no common entranceway for seven (7) or more Units, the Board may designate one or more locations in the proximity of these Units where the notices of meetings shall be posted. The Board shall meet at least four (4) times annually.

Special meetings of the Board of Managers can be called by the President or twenty-five percent (25%) of the members of the Board.

**7.6 Officers of Association:** The Board shall elect from among its members a President, a Vice President, a Second Vice President, a Secretary, and a Treasurer. The Secretary may also act as the Treasurer. The President shall preside over the meetings of the Board of Managers and members and shall be the chief executive officer of the Board and the Association. The Vice President shall act in the event of the inability of the President to act. The Secretary shall keep the minutes of all meetings of the Board and of the members, and shall in general perform all the duties incident to the office of secretary, including but not limited to the giving and receipt of notices as provided in the Act and this Declaration. The Treasurer shall keep the financial records and books of account. The Board may elect any additional officers as it shall determine, and may provide for the duties and powers of such officers. The remaining members of the Board may fill a vacancy among the officers for the unexpired term of office.

**7.7 Removal of Board Member:** Any Board member may be removed from office by affirmative vote of the voting members having at least two-thirds (2/3) of the total votes, at any special meeting called for the purpose. A successor to fill the unexpired term of a Board member removed may be elected by the voting members at the same meeting or any subsequent meeting called for that purpose.

**7.8 Annual Meeting:** After the initial meeting of the Board, there shall be an annual meeting of the voting members on the first Tuesday of November following such initial meeting, and on the first Tuesday of November of each succeeding year thereafter at 7:30 P.M., or at such other reasonable time or date (not more than thirty (30) days before or after such date) as may be designated by written notice of the Board mailed or delivered to the voting members, not less than ten (10) nor more than thirty (30) days prior to the date fixed for said meeting, setting for the time, place and purpose of such meeting, one of which shall be to elect members of the Board.

**7.9 Special Meetings:** After the initial meeting of the Board, special meetings of the voting members may be called at any time for the purpose of considering matters which by the terms of this Declaration require the approval of all or some of the voting members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by the President, the Board, or by the voting members having one-fifth (1/5<sup>th</sup>) of the total votes and delivered not less than ten (10) nor more than thirty (30) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

**7.10 Notice of Meetings:** Notices of meetings required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the Unit of the Owner with respect to which such voting right appertains, if no address has been given to the Board.

## SECTION 8 – DUTIES AND POWERS OF BOARD

**8.1 Powers and Duties of Board -- In General:** For the benefit of all the Owners, the Board shall have all powers relating to the maintenance of the Property, including but not limited to the powers set forth in this Section 8. The Board shall have the power and duty to acquire and pay out maintenance funds hereinafter provided for the following:

(a) Water, waste removal, garage operating expense, professional management fees, operating expenses for fuel gas, electricity and telephone and other necessary utility services for the Common Elements and Limited Common Elements and (if not separately metered or charged) for the Units.

(b) A policy or policies of insurance insuring the Common Elements and Limited Common Elements and the Units against loss or damage as set forth in Section 10.

(c) Comprehensive public liability and property damage insurance in such limits as the Board shall deem desirable insuring the members of the Board, the managing agent, if any, their agents and employees and the Owners including Trustee individually and as Trustee as aforesaid from any liability in connection with the Common Elements. Such insurance coverage shall also cover cross liability claims of one insured against another.

(d) Workmen's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Board in its judgment shall elect to effect.

(e) The services of any person or firm employed by the Board. The Board may employ the services of any person or firm to act on behalf of the Owners in connection with real estate taxes and special assessments of the Unit Ownerships, and in connection with any other matter where the respective interests of the Owners are deemed by the Board to be similar and nonadverse to each other. The cost of such services shall be common expenses.

(f) Snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (except as otherwise provided in Section 9) and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the Common Elements.

(g) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a

first class condominium apartment building or for the enforcement of these restrictions.

(h) Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Owners. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed to said Owners.

(i) Maintenance and repair of any Unit if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements, or any other portion of the Building, and any Owner of any Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said Owner, provided that the Board shall levy a special assessment against such Owner for the cost of said maintenance or repair.

(j) Any amounts necessary to pay the proportionate cost by the Association assessed by The Oak Brook Community Area Trust in connection with the maintenance, repair, and improvement of the Community Area, as set forth in Section 11.

(k) All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Owners in the percentages set forth in Exhibit "B".

(l) The Board may contract with the Board of Trustee of Oak Brook Club Community Area Trust (Section 11) and with the Board of Managers or Association of each condominium in The Oak Brook Club Area and the other owners, if any, of residential units in The Oak Brook Club Area for the maintenance of all land and buildings in The Oak Brook Club Area. The costs of such maintenance and upkeep shall be apportioned equitably to and paid for by such Associations and Owners of the Units in The Oak Brook Club Area.

(m) To provide for the operation, care, upkeep, maintenance, replacement and improvement of the Common Elements. Nothing in this Paragraph 8.1(m) shall be deemed to invalidate any provision in the Declaration or By-Laws placing limits on expenditures for the Common Elements, provided, that such limits shall not be applicable to expenditures for repair, replacement, or restoration of existing portions of the Common Elements. The terms "repair, replacement or restoration" means expenditures to deteriorated or damaged portions of the Property related to the

existing decorating, facilities, or structural or mechanical components, interior or exterior surfaces, or energy systems and equipment, with the functional equivalent of the original portions of such areas. Replacement of the Common Elements may result in an improvement over the original quality of such elements or facilities; provided that, unless the improvement is mandated by law or is an emergency as defined in Section 18(a)(8)(iv) of the Condominium Property Act, if the improvement results in a proposed expenditure exceeding five percent (5%) of the annual budget, the Board of Managers, upon written petition by Owners with 20 percent (20%) of the votes of the association delivered to the Board within fourteen (14) days of the Board action to approve the expenditure, shall call a meeting of the Owners within thirty (30) days of the date of delivery of the petition to consider the expenditure; unless a majority of the total votes of the Owners are cast at the meeting to reject the expenditure, it is ratified;

(n) To prepare, adopt and distribute the annual budget for the Property;

(o) To levy and expend assessments;

(p) To collect assessments from the Owners;

(q) To provide for the employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Common Elements;

(r) To obtain adequate and appropriate kinds of insurance;

(s) To own, convey, encumber, lease and otherwise dealing with Units conveyed to or purchased by it;

(t) To adopt and amend rules and regulations covering the details of the operation and use of the Property, after a meeting of the Owners called for the specific purpose of discussing the proposed rules and regulations. Notice of the meeting shall contain the full text of the proposed rules and regulations, and the meeting shall conform to the requirements of Section 18(b) of the Condominium Property Act, except that no quorum is required at such meeting of the Owners. However, no rule or regulation may impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Illinois Constitution, nor may any rules or regulations conflict with the provisions of the Condominium Property Act or the condominium instruments;

(u) To keep detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;

(v) To have access to each Unit from time to time as may be necessary for the maintenance, repair or replacement of any Common Elements or for making emergency repairs necessary to prevent damage to the Common Elements or to other Units;

(w) To pay real property taxes, special assessments, and any other special taxes or charges of the State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property of the condominium;

(x) To impose charges for late payment of an Owner's proportionate share of the Common Expenses, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, to levy reasonable fines for violation of the Declaration, Bylaws, and rules and regulations of the Association;

(y) By a majority vote of the entire Board of Managers, to assign the right of the Association to future income from Common Expenses or other sources, and to mortgage or pledge substantially all of the remaining assets of the Association;

(z) To record the dedication of a portion of the Common Elements to a public body for use as, or in connection with, a street or utility where authorized by the Owners under the provisions of Section 14.2 of the Condominium Property Act;

(aa) To record the granting of an easement for the laying of cable television cable where authorized by the Unit Owners under the provisions of Section 14.3 of the Condominium Property Act, and to obtain, if available and determined by the Board to be in the best interests of the Association, cable television service for all of the Units of the condominium on a bulk identical service and equal cost per Unit; and to assess and recover the expense as a common expense and, if so determined by the Board, to assess each and every Unit on the same equal cost per Unit;

(bb) To seek relief on behalf of all Unit Owners when authorized pursuant to Subsection (c) of Section 10 of the Condominium Property Act from or in connection with the assessment or levying of real property taxes, special assessments, and any other special taxes or charges of the State of Illinois or of any political subdivision thereof or of any lawful taxing or assessing body;

(cc) To reasonably accommodate the needs of a handicapped Unit Owner as required by the federal Civil Rights Act of 1968, the Human Rights Act and any applicable local ordinances, in the exercise of its powers with respect to the use of Common Elements or approval of modifications in an individual Unit;

(dd) To establish and maintain a system of master metering of public utility services and collect payments in connection therewith, subject to the requirements of the Tenant Utility Payment Disclosure Act;

(ee) To accept service of a notice of claim for purposes of the Mechanics Lien Act on behalf of each respective member of the Association with respect to improvements performed pursuant to any contract entered into by the Board or any contract entered into prior to the recording of the condominium declaration pursuant

to this Condominium Property Act, and to distribute the notice to the Owners within 7 days of the acceptance of the service by the Board of Managers. The service shall be effective as if each individual Owner had been served individually with notice.

**8.2 Structural Alterations, Capital Improvements, etc.:** The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay out of the maintenance funds for any structural alterations, capital additions to, or capital improvements of the Common Elements (other than for purposes of replacing or restoring portions of the Common Elements, subject to all the provisions of this Declaration) requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00), without in each case the prior approval of the voting members holding two-thirds (2/3) of the total votes, except in the case of emergency repairs necessary to preserve the Oroperty in which case the Board may act without approval of the owners.

**8.3 Books and Records:** The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. In accordance with the Condominium Property Act, such records and the vouchers authorizing the payments shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner. Upon ten (10) days' notice to the Board and payment of a reasonable fee, 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.

**8.4 Board Access to Units:** The Board or its agents upon reasonable notice may enter any Unit when necessary in connection with any maintenance or construction for which the Board is responsible. The Board or its agent may likewise enter any balcony for maintenance, repairs, construction or painting. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund.

**8.5 Employment of Professional Management:** The Board shall have power to employ a manager or professional management firm to carry out the administrative duties given to the Board, and pay such manager or management firm reasonable compensation and to join with other condominiums and Owners of Units in The Oak Brook Area in retaining the same manager or management firm. The Developer may engage the initial management organization under a contract expiring not later than five years after the initial meeting of the Board. Thereafter, the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board. The Association shall obtain and maintain a fidelity bond covering persons, including the managing agent and its employees who control or disburse funds of the Association, for the maximum amount of coverage available to protect funds in the custody or control of the Association, plus the Association reserve

fund. All management companies that are responsible for the funds held or administered by the Association must be covered by a fidelity bond for the maximum amount of coverage available to protect those funds. The Association has standing to make a loss claim against the bond of the managing agent as a party covered under the bond. The fidelity bond must be in the full amount of Association funds and reserves in the custody of the Association or the management company.

**8.6 Execution of Agreements, Contracts, etc.:** All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Treasurer and countersigned by the President of the Board.

**8.7 Bylaws, Rules and Regulations:** The Board may adopt such reasonable rules and regulations as it may deem advisable (a) for the maintenance, conservation and beautification of the Property, (b) for the health, comfort, safety and general welfare of the Owners and Occupants of the Property (c) for the use of the storage areas, parking spaces and parking areas, (d) for the operation and use of the Common Elements, and (e) for the use and regulation of such other matters as affect the maintenance, operation, management and use of the Property and Common Elements in the best interests of the Owners. Written notice of such bylaws, rules and regulations shall be given promptly to all Owners. The Developer shall have the right without obtaining the assents of the Owners to establish rules and regulations prior to the election of the first Board.

**8.8 Assessment Against Owners:** The Board may elect to have the cost of any or all of the services and goods assessed specially to each Owner in proportion to his use of or benefit from such goods and services.

**8.9 Authority of Trustee and Developer:** Prior to the election of the first Board, the Trustee or Developer, acting as the Board of Managers on behalf of all the Owners, shall have the authority to lease or to grant licenses or concessions with respect to any part of the Common Elements, subject to the terms of this Declaration. Upon election of the first Board, and thereafter, the Board by vote of at least two-thirds (2/3) of the persons on the Board shall have the same authority as aforesaid.

**8.10 No Business Activity:** Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all the Owners or any of them.

**8.11 Liability of the Board:** The members of the Board, the Trustee and the Developer, shall not be personally liable to the Owners or others for any mistake of judgment or for any acts or omissions made in good faith as such Board members, or acting as the Board. The Owners shall indemnify and hold harmless each of the members of the Board, the Trustee and the Developer against all contractual liability to

others arising out of contracts made by the Board, the Trustee or the Developer on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. The liability of any Owner arising out of any contract made by the Board, the Trustee or the Developer, or out of the aforesaid indemnity in favor of the members of the Board, the Trustee and the Developer shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all the Owners in the Common Elements. Every agreement made by the Board, Trustee, Developer or by the managing agent on behalf of the Owners shall provide that the members of the Board, Trustee, Developer or the managing agent, as the case may be, are acting only as agents for the Owners and shall have no personal liability thereunder (except as Owners) and that each Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Owners in the Common Elements.

**8.12 Authority of Developer:** Until such time as the Board provided for in this Declaration is elected and qualified, the Developer shall exercise the powers, rights, duties and functions in this Declaration given to the Board.

**8.13 Contracts with Board Members:**

The Board of Managers may not enter into a contract with a current Board member or with a corporation or partnership in which a Board member or a member of the Board member's immediate family has twenty-five percent (25%) or more interest, unless notice of intent to enter the contract is given to Owners within twenty (20) days after a decision is made to enter into the contract and the Owners are afforded an opportunity by filing a petition, signed by twenty percent (20%) of the Owners, for an election to approve or disapprove the contract. Such petition shall be filed within twenty (20) days after such notice and such election shall be held within thirty (30) days after filing the petition. For purposes of this provision, a Board member's immediate family means the Board member's spouse, parent, and children.

## SECTION 9 – MAINTENANCE AND REPAIR

**9.1 Board of Managers' Responsibilities:** The Board shall be responsible for the maintenance, repair and replacement of:

(a) All portions of the Unit which contribute to the support of the Buildings, excluding, however, interior wall, ceiling and floor surfaces, and including, but without limitation, the outside walls of the Buildings, structural slabs, roof, interior boundary walls of Units and load-bearing columns;

(b) All conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which may be contained in the Unit but excluding therefrom appliances, plumbing fixtures, and air conditioning condensers appurtenant to the Units;

(c) All incidental damage caused to a Unit by such work as may be done or caused to be done by the Board in accordance herewith;

(d) All the Common Elements and Limited Common Elements, except as otherwise provided herein; and

(e) All perimeter windows, sliding glass doors and sidelights (including the painting of the exterior surfaces thereof), subject to Paragraph 9.3(f), (g) and (i) herein.

9.2 **Board's Liability:** Nothing herein contained, however, shall be construed so as to impose a contractual liability upon the Board for maintenance, repair and replacement, but the Board's liability shall be limited to damages resulting from its negligence.

9.3 **Responsibility of Unit Owner:** The responsibility of the Owner shall be as follows:

(a) to maintain, repair and replace at his expense, all portions of the Unit except the portions of each to be maintained, repaired and replaced by the Board;

(b) to perform his responsibilities in such manner so as not unreasonably to disturb other persons residing within the Buildings;

(c) not to paint or otherwise decorate or change the appearance of any portion of the Buildings not within the walls of the Unit, unless the written consent of the Board is obtained;

(d) to report promptly to the Board or its agent any defect or need for repairs, the responsibility for the remedying of which is with the Board;

(e) not to make any alterations in the portions of the Unit or the Buildings which are to be maintained by the Board or remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety or soundness of the Buildings without first obtaining the written consent of the Board, nor shall any Owner impair any easement without first obtaining the written consents of the Board and of the Owner or Owners for whose benefit such easement exists;

(f) to maintain, repair and replace glass, weatherstripping and the mechanical components for the opening and closing of perimeter windows, sliding glass doors, and sidelights serving the Unit, subject to such specifications, conditions and terms as may be established by the Board; provided, however, that if the Owner fails to perform such maintenance, repair or replacement within fourteen (14) days after issuance of written notice from the Board, the Board may

(but in no manner is obligated to) perform such maintenance, repair and replacement, in which case the Owner shall be responsible for all expenses related thereto (including but not limited to, any attorney's or other professional fees incurred in connection therewith);

(g) to wash the exterior surfaces of perimeter windows, sliding glass doors and sidelights serving the Unit, except as otherwise determined by the Board;

(h) to paint, clean, decorate, maintain and repair the interior surfaces of the Unit and doors appurtenant thereto; and

(i) to paint, clean and decorate the interior surfaces of the perimeter windows, sliding glass doors and sidelights.

**9.4 Estimate of Maintenance Costs:** Each year on or before November 1st, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year and for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, (herein referred to as "estimated cash requirements" or "estimates") and shall notify each Owner in writing on or before December 1<sup>st</sup> as to the amount of such estimate, with reasonable itemization thereon. Such estimate shall include the allocable portion of costs of maintaining, repairing, improving and operating the Community Area as assessed by the Board of Trustees of the Oak Brook Club Community Area Trust. The annual budget shall also take into account the estimated net available cash income for the year from the operation or use of the Common Elements and Limited Common Elements. Said estimated cash requirement shall be assessed to the Owners according to each Owner's percentage of ownership in the Common Elements as set forth in Exhibit "B" attached hereto. On or before January 1<sup>st</sup> of the ensuing year, and the first of each and every month of said year (or at such intervals as the Board shall otherwise determine) each Owner, jointly and severally, shall be personally liable for and obligated to pay to the Board as it may direct, one-twelfth (1/12) of the assessment made pursuant to this paragraph. On or before April 1<sup>st</sup> of each calendar year following the initial meeting, the Board shall supply to all Owners an itemized accounting of the Common Expenses for the preceding calendar year actually incurred and paid, together with an indication of which portions were for reserves, capital expenditures or repairs or payment of real estate taxes, together with a tabulation of the amounts collected pursuant to the estimates or assessments provided, and showing the net amount over or short of the actual expenditures plus reserves. Such accounting shall be certified by an independent certified public accountant. Any amount accumulated in excess of the amount required for actual expenses and reserve shall be credited according to each Owner's percentage of ownership in the Common Elements and Limited Common Elements, to the next monthly installments due from Owners under the current year's estimate, until exhausted, and any net shortage shall be added according to each Owner's percentage of ownership in the Common Elements and Limited Common

Elements to the installments due in the succeeding six months after rendering of the accounting.

**9.4(a) Budget/Assessment Adoption.**

(a) Each Owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board of Managers, a copy of the proposed annual budget together with an indication of which portions are intended for reserves, capital expenditures or repairs or payment of real estate taxes.

(b) Each Owner shall receive notice, in the same manner as provided for in the Condominium Property Act for membership meetings, of any meeting of the Board of Managers concerning the adoption of the proposed annual budget and regular assessments pursuant thereto or to adopt a separate (special) assessment.

(c) Except as provided in Paragraph 9.4(e) below, if an adopted budget or any separate assessment by the Board would result in the sum of all regular and separate assessments payable in the current fiscal year exceeding one hundred fifteen percent (115%) of the sum of all regular and separate assessments payable during the preceding fiscal year, the Board of Managers, upon written petition by Owners with twenty percent (20%) of the votes of the Association delivered to the Board within fourteen (14) days of the Board action, shall call a meeting of the Owners within thirty (30) days of the date of delivery of the petition to consider the budget or separate assessment. Unless a majority of the total votes of the Owners are cast at the meeting to reject the budget or separate assessment, it is ratified.

(d) Any Common Expense not set forth in the budget or any increase in assessment over the amount adopted in the budget shall be separately assessed against all Owners.

(e) Separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the Board of Managers without being subject to Owner approval or the provisions of Paragraph 9.4(c) above or Paragraph 9.4(f) below. As used herein, "emergency" means an immediate danger to the structural integrity of the Common Elements or to the life, health, safety or property of the Owners.

(f) Assessments for additions and alterations to the Common Elements or to Association-owned property not included in the adopted annual budget, shall be separately assessed and are subject to approval of two-thirds of the total votes of all Owners.

(g) The Board of Managers may adopt separate assessments payable over more than one fiscal year. With respect to multi-year assessments not governed by Paragraph 9.4(e) and Paragraph 9.4(f), the entire amount of the multi-year assessment shall be deemed considered and authorized in the first fiscal year in which the assessment is approved.

**9.5 Reserves for Contingencies:** The Board may build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year, shall be charged first against such reserve. If the estimated cash requirement proves inadequate for any reason, including non-payment of any Owner's assessment, the Board may at any time levy a further assessment, which shall be assessed to the Owners according to each Owner's percentage ownership in the Common Elements and Limited Common Elements. The Board shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefore, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.

**9.6 First Estimate of Cash Requirements:** When the first Board elected hereunder takes office, it shall determine the estimated cash requirement, as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31<sup>st</sup> of the calendar year in which said election occurs. Assessments shall be levied against the Owners during said period as provided in paragraph 9.4 of this Section.

**9.7 Failure of Board to Prepare Estimate:** The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the monthly maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

**9.8 Assessment Roll:** The assessment against all Owners shall be set forth upon a roll of the Units which shall be available in the office of the Association for inspection at all reasonable times by Unit Owners or their duly authorized representatives. Such roll shall indicate for each Unit the name and address of the Owner or Owners, the assessments for all purposes and the amounts of all assessments paid and unpaid. A certificate made by the Board as to the status of an Owner's assessment account shall limit the liability of any person for whom made other than the Owner. The Board shall issue such certificates to such persons as an Owner may request upon ten (10) days' notice in writing.

**9.9 Unit Owner's Liability for Assessments:** The Owners of a Unit and his grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of conveyance but without prejudice to the rights of the grantee to

recover from the grantor the amounts paid by the grantee therefor. Such liability may not be avoided by a waiver of the use or enjoyment of the Common Elements or the Community Area or by abandonment of the Unit for which the assessments are made.

**9.10 Lien for Assessments:** The unpaid portion of an assessment which is due shall be secured by a lien upon

(a) the Unit and all appurtenances thereto in accordance with the provisions of Section 9 of the Act, provided, however, that encumbrances owned or held by any bank, insurance company or savings and loan association shall be subject as to priority only to the lien of all Common Expenses on the encumbered Unit which become due and payable subsequent to the date said encumbrancer either takes possession of the Unit, accepts a conveyance of any interest therein, or has a receiver appointed in a suit to foreclose his lien;

(b) all tangible personal property located in the Unit except that such lien shall be subordinate to prior bona fide liens of record; and

(c) the Owner's beneficial interest in the Community Area Trust (See Section 11).

**9.11 Payment of Assessments and Interest:** The Association shall have no authority to forebear the payment of assessments by any Owner. Assessments and installments thereof paid on or before 10 days after the date when due shall not bear interest but all sums not paid on or before twenty (20) days after the date when due shall bear interest at the rate of eight percent (8%) per annum, or the highest interest rate permitted under applicable Illinois law, from the date when due until paid. All payments upon account shall be applied first to interest and then to the assessment payment first due. All interest collected shall be credited to a common expense account. The obligation to pay the monthly assessments for maintenance, repairs and replacement provided for in this Section 9 shall commence as of the date of the purchase by an Owner for residential purposes from the Developer, its successors and assigns, and rests upon such Owner. The Developer shall not be obligated to pay assessments or any costs of the Association for any Units which have not been sold by the Developer for purposes of occupancy. However, the Developer may elect in its discretion to contribute to the cost of maintenance, repair, improvement and operation notwithstanding the obligation of the Owners to pay assessments for all such costs.

**9.12 Default:** If an Owner is in default in the monthly payment of the aforesaid charges or assessment for thirty (30) days, the members of the Board may bring suit for and on behalf of themselves and as representatives of all Owners, to enforce collection thereof or to foreclose the lien therefore as hereinafter provided; and there shall be added to the amount due the costs of said suit, and other fees and expenses together with legal interest and reasonable attorneys' fees to be fixed by the court. To the extent permitted by any statute or law or any decision now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as

above provided shall be and become a lien or charge against the Unit Ownership (as set forth in Paragraph 9.10) of the Owner involved when payable and may be foreclosed by an action brought in the names of the Board as in the case of foreclosure of liens against real estate. Said lien shall take effect and be in force when and as provided in the "Condominium Property Act" of Illinois; provided, however, that mortgage encumbrances owned or held by any one, including but not limited to, any bank, insurance company or savings and loan association shall be subject as to priority after written notice to said encumbrancer of unpaid common expenses only to the lien of all common expenses on the encumbered Unit Ownership which become due and payable subsequent to the date said encumbrancer either takes possession of the Unit, accepts a conveyance of any interest in the Unit Ownership, or has a receiver appointed in a suit to foreclose his lien. Any encumbrancer may from time to time request in writing a written statement from the Board setting forth the unpaid common expenses with respect to the Unit Ownership covered by such encumbrance and unless the request shall be complied with within twenty (20) days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien of such encumbrance.

**9.13 Funds and Titles For The Owners:** All funds and the titles of all properties acquired by the Association or the Board and the proceeds thereof after deducting therefrom the costs incurred by the Association or the Board in acquiring the same shall be held for the benefit of the Owners for the purposes herein stated.

## SECTION 10 – INSURANCE

**10.1 Insurance Coverage:** The Board shall have the authority to and shall obtain insurance for the Property as follows:

(a) A policy or policies of insurance insuring the Common Elements and the Units against loss or damage by the perils of fire, lighting and those contained in the special form or "all risk" form (or equivalent or as required by law, as selected by the Board), for the full insurable replacement value of the Common Elements and the Units written in the name of and the proceeds thereof shall be payable to the members of the Board, as trustees for each of the Owners in the percentages established in Exhibit "B". Prior to obtaining any such policy or policies of insurance, or any renewal thereof, the Board may obtain an appraisal from a qualified appraiser for the purpose of determining the full replacement value of the Common Elements and the Units for the amount of insurance to be effected pursuant hereto. The cost of any and all such appraisals shall be common expenses. Each Owner shall be responsible for any additions, alterations, improvements or betterments to his Unit. "Additions" or "alterations" shall mean property attached to the unit and not readily removable without damage to the Unit, which property shall not have been originally installed by the Developer. The Association shall not be responsible for obtaining insurance on any floor, ceiling or wall coverings in any Unit. The Association shall obtain insurance for partition walls located within a Unit,

provided that such coverage shall be limited to replacement of such walls and existing internal components (including, but not limited to, wiring, plumbing and conduits) installed by the Developer, the barewall surfaces of such walls, and any Developer-installed fixtures on such walls; provided further that, if the Owner alters the partition wall in location or composition, then the Owner shall be responsible for all insurance coverage for said wall and related fixtures. The insurance coverage described in this paragraph shall not be deemed to include personal property owned by the Owner and not attached to the Unit. No policy of insurance shall be issued or delivered to the Association, and no policy of insurance issued to the Association shall be renewed, unless the insurance coverage under the policy includes property insurance (i) on the Common Elements and the Units, including the Limited Common Elements and except as otherwise determined by the Board, the bare walls, floors, and ceilings of the Unit, (ii) providing coverage for special form causes of loss, and (iii) in a total amount of not less than the full insurable replacement cost of the insured property, less deductibles, but including coverage for the increased costs of construction due to building code requirements, at the time the insurance is purchased and at each renewal date. The insurance maintained under this subsection must include the Units, the Limited Common Elements except as otherwise determined by the Board, and the Common Elements. The insurance need not cover improvements and betterments to the Units installed by Owners, but if improvements and betterments are covered, any increased cost may be assessed by the Association against the Units affected. Common Elements include fixtures located within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual Units initially installed by the developer. Common Elements exclude floor, wall, and ceiling coverings. "Improvements and betterments" means all decorating, fixtures, and furnishings installed or added to and located within the boundaries of the Unit, including electrical fixtures, appliances, air conditioning and heating equipment, water heaters, or built-in cabinets installed by Owners.

(b) Comprehensive public liability and property damage insurance in such limits as the Board shall deem desirable insuring the members of the Board, the managing agent, if any, their agents and employees and the Owners including the Trustee individually and as Trustee as aforesaid from any liability in connection with the Common Elements or the streets, sidewalks, and public spaces adjoining the Property. Such insurance coverage shall also cover cross liability claims of one insured against another. No policy of insurance shall be issued or delivered to the Association, and no policy of insurance issued to the Association shall be renewed, unless the insurance coverage under the policy includes commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the property in a minimum amount of \$1,000,000, or a greater amount deemed sufficient in the judgment of the Board, insuring the Board, the Association, the management agent, and their respective employees and agents and all persons acting as agents. The Owners must be included as additional insured parties

but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements.

(c) Such workmen's compensation insurance and employer's liability insurance as may be necessary to comply with applicable laws.

(d) Such other insurance in such reasonable amounts as the Board shall deem desirable.

(e) Property and general liability insurance policies required to be carried by the Association must include each of the following provisions:

(i) Each Owner and secured party is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association.

(ii) The insurer waives its right to subrogation under the policy against any Owner of the condominium or members of the Owner's household and against the Association and members of the Board.

(iii) The Owner waives his or her right to subrogation under the Association policy against the Association and the Board.

(f) Fidelity bond.

(i) The Association must obtain and maintain a fidelity bond covering persons, including the managing agent and its employees who control or disburse funds of the Association, for the maximum amount of coverage available to protect funds in the custody or control of the Association, plus the Association reserve fund.

(ii) All management companies that are responsible for the funds held or administered by the Association must be covered by a fidelity bond for the maximum amount of coverage available to protect those funds. The Association has standing to make a loss claim against the bond of the managing agent as a party covered under the bond.

(iii) For purposes of above paragraphs (i) and (ii), the fidelity bond must be in the full amount of Association funds and reserves in the custody of the Association or the management company.

**10.2 Premiums as Common Expenses:** The premiums for the above-described insurance shall be Common Expenses.

**10.3 Policies:**

(a) All insurance provided in this Section 10 shall be effected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of Illinois.

(b) All policies of insurance of the character described in clauses (a) and (b) of Paragraph 10.1 of this Section 10, (i) shall be carried in the name of the Board as trustees for the Unit Owners (but in the name of the Developer as trustees for the Unit Owners until the first Board of Managers is elected); (ii) shall contain standard mortgage clause endorsements in favor of the mortgagee or mortgagees of each Unit, if any, as their respective interests may appear; (iii) shall provide that the insurance as to the interest of the Board shall not be invalidated by any act or neglect of any Owner; (iv) shall be without contribution as respects other such policies of insurance carried individually by the Unit Owners, whether such other insurance covers their respective Units and/or the additions and alterations made by the Unit Owners to their respective Units; (v) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefore, such option shall not be exercisable in the event the Unit Owners elect to sell the Property or remove the Property from the provisions of the Act, and (vi) shall contain an endorsement to the effect that such policy shall not be terminated for any reason without at least ten (10) days prior written notice to the mortgagee of each Unit. Notwithstanding the issuance of standard mortgage clause endorsements under the policies of insurance of the character described in clauses (a) and (b) of the first paragraph of this Section 10, any losses under such policies shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed, in accordance with the provisions of this Declaration.

(c) All policies of insurance of the character described in clauses (b), (c) and (d) of the first paragraph of this Section 10 shall include as assureds the Unit Owners and the Association, Board of Managers, managing agent and other agents of the Board; and all policies of insurance of the character described in clause ~~(e)~~ (b) of the first paragraph of this Section 10 shall contain cross liability endorsements with respect to the liability of the Unit Owners as a group to a Unit Owner.

**10.4 Payment of Premiums:** The Board, for the benefit of the Unit Owners and the mortgagee of each Unit shall pay the premiums on the policies of insurance described in this Section 10.

**10.5 Losses:** The loss, if any, under any policies of insurance described in Paragraph 10.1 of this Section 10 shall be adjusted with the insurance company or companies by the Board. Any loss covered by the property policy required to be

maintained by the Association must be adjusted by and with the Association. The insurance proceeds for that loss must be payable to the Association, or to an insurance trustee designated by the Association for that purpose. The insurance trustee or the Association must hold any insurance proceeds in trust for the Owners and secured parties as their interests may appear. The proceeds must be disbursed first for the repair or restoration of the damaged Common Elements, the bare walls, ceilings, and floors of the Units, and then to any improvements and betterments the Association may insure. Owners are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Units have been completely repaired or restored or the Association has been terminated as trustee. The loss, if any, under any policies of insurance of the character described in clauses (a) and (b) of Paragraph 10.1 of this Section 10 shall be payable and the insurance proceeds paid on account of any such loss shall be applied and disbursed, as follows:

(a) To the Board, as trustee for each of the Unit Owners in their respective percentages of ownership in the Common Elements as established in the Declaration, in the case of any one loss of \$50,000 or less in the aggregate, which insurance proceeds, less the actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, shall be applied to the payment of the cost of restoring the Property to substantially the same condition in which it existed immediately prior to such damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before, free from mechanic's, materialman's and other similar liens; or

(b) In case of any one loss exceeding \$50,000 in the aggregate, then the insurance proceeds shall be paid to a bank or trust company (the "Insurance Trustee") authorized to do trust business in Illinois and having a capital of not less than \$5,000,000, and such proceeds, less the actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, shall be applied by the Insurance Trustee to the payment of the cost of restoring the Property to substantially the same condition in which it existed immediately prior to such damage or destruction, with each Unit and the Common Elements and Limited Common Elements having the same vertical and horizontal boundaries as before, and shall be paid to or for the account of the Board from time to time as the work progresses, but not more frequently than once in any calendar month. Said Insurance Trustee shall make such payments upon the written request of the Board, accompanied by a certificate, dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Board and by the architect or contractor in charge of the work, who shall be selected by the Board, setting forth (i) that the sum then requested either has been paid by the Board or is justly due to contractors, subcontractors, materialmen, architects or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials and the several amounts so paid or due, and stating that no part thereof has been made the basis for withdrawal of insurance proceeds in any previous request, or has

been paid out of any proceeds of insurance received by the Board, and that the sum requested does not exceed the value of the services and materials described in the certificate, (ii) that except for the amount stated in such certificate to be due as aforesaid, there is no outstanding indebtedness known to the person signing such certificate after due inquiry, which might become the basis of a vendor's, mechanic's, materialman's or similar lien upon such work, the Common Elements or any Unit, and (iii) that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of insurance proceeds remaining in the hands of the Insurance Trustee after the payment of the sum so requested; provided, however, that if the net insurance proceeds are insufficient to pay for the cost of restoring the Property as aforesaid (as evidenced by the above-described certificate) and the Unit Owners do not voluntarily make provision for the payment of such excess cost within one hundred eighty (180) days from the date of such damage or destruction, said net insurance proceeds shall be paid to or retained by the Insurance Trustee and disposition of the Property, together with the net insurance proceeds, shall be made as provided in the Act.

**10.6 Insurance on Unit Contents:** Each Unit Owner shall be responsible for his own insurance on the contents of his Unit and furnishings and personal property therein, and his personal property stored elsewhere on the Property, and his personal liability to the extent not covered by the policies of liability insurance obtained by the Board for the benefit of all of the Unit Owners as above provided.

**10.7 Mortgagees:** In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interest may appear but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of reconstruction or repair.

**10.8 Distribution of Proceeds:** Proceeds of insurance policies received by the Board or the Insurance Trustee shall be distributed to or for the benefit of the beneficial Owners after first paying making provision for the payment of the expense of the Board, in the following manner:

(a) **Reconstruction or Repair.** If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof, as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Unit Owners, all remittances to Unit Owners and their mortgagees being payable jointly to them. This provision is for the benefit of any mortgagee of a Unit and may be enforced by him.

(b) **Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall, subject to the provisions of the Act,

be distributed to the beneficial Unit Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This provision is for the benefit of any mortgagee of a Unit and may be enforced by him.

**10.9 Primary Insurance.** If at the time of a loss under the Association's policy there is other insurance in the name of an Owner covering the same property covered by the policy, the Association's policy is primary insurance.

**10.10 Deductibles.** The Board of the Association may, in the case of a claim for damage to a Unit or the Common Elements, (i) pay the deductible amount as a common expense, (ii) after notice and an opportunity for a hearing, assess the deductible amount against the Owners who caused the damage or from whose Units the damage or cause of loss originated, or (iii) require the Owners of the Units affected to pay the deductible amount.

**10.11 Directors and Officers Coverage.** The Board must obtain directors and officers liability coverage at a level deemed reasonable by the Board, if not otherwise established by this Declaration or By-Laws. Directors and officers liability coverage must extend to all contracts and other actions taken by the Board in their official capacity as directors and officers, but this coverage shall exclude actions for which the directors are not entitled to indemnification under the General Not For Profit Corporation Act of 1986 or this Declaration and By-Laws of the Association.

**10.12 Mandatory Unit Owner Coverage.** The Board may, if permitted under the Declaration and By-Laws or by rule, require Owners to obtain insurance covering their personal liability and compensatory (but not consequential) damages to another Unit caused by the negligence of the Owner or his or her guests, residents, or invitees, or regardless of any negligence originating from the unit. The personal liability of an Owner must include the deductible of the Owner whose Unit was damaged, any damage not covered by insurance required by this Section, as well as the decorating, painting, wall and floor coverings, trim, appliances, equipment, and other furnishings. If the Owner does not purchase or produce evidence of insurance requested by the Board, the Board may purchase the insurance coverage and charge the premium cost back to the Owner. In no event is the Board liable to any person either with regard to its decision not to purchase the insurance, or with regard to the timing of its purchase of the insurance or the amounts or types of coverages obtained.

**10.13 Certificates of Insurance.** Contractors and vendors (except public utilities) doing business with the Association under contracts exceeding \$10,000 per year must provide certificates of insurance naming the Association, the Board, and the managing agent as additional insured parties.

## SECTION 11 -- OAK BROOK CLUB COMMUNITY AREA TRUST

**11.1 The Community Area.** The Developer intends to develop all of The Oak Brook Club Area (exclusive of: the Property, buildings containing residential units which

may be constructed in The Oak Brook Club Area, and the premises now being used by the Developer for office purposes), as a community recreation area (herein called "Community Area"), with roads, lawns, walks, lakes, swimming pool, recreation building, and designated recreational facilities and a gatehouse for security (herein called "Facilities"). The Developer declares that it will at its sole cost and expense construct such Facilities, together with such other amenities as the Developer shall determine to be appropriate (if such construction has not been completed prior to the recording hereof). The Facilities shall be located substantially in accordance with the Developer's Development Plan, identified as "Phase 1". However, the Developer reserves the right to modify said Development Plan.

**11.2 Execution of the Oak Brook Club Community Area Trust:** Simultaneously with the execution of this Declaration, the Developer will cause to be executed a Declaration of Trust (herein called the "The Oak Brook Club Community Area Trust" or "Declaration of Trust") whereby the Community Area shall be held for the benefit of Owners of residential units, occupants and residents (herein called "Member" or "Members") of The Oak Brook Club Area. The Declaration of Trust shall provide for all matters relating to the establishment, management, operation and administration of the Community Area, including but not limited to the designation of a Board of Trustees, the duties and powers of the Board of Trustees, assessments for maintenance and repair, insurance, Developer's rights, conversion of the Community Area Trust to a General Not-for-Profit Corporation, compliance, breach of covenants and default by Owners, amendment and termination of the Declaration of Trust, resignation of trustee and appointment of successor Trustees, and the matters set forth in paragraphs 11.3, 11.4, 11.5 and 11.6 below, of this Declaration. Each purchaser of a Unit shall be deemed to be bound by the provisions of said Declaration of Trust.

**11.3 Ownership of Community Area:** On or before the completion of the Development of The Oak Brook Club Area, and the sale of all residential units therein, the Developer shall cause to be transferred title to the Community Area, together with all improvements to be constructed thereon, to an irrevocable not-for-profit trust to be known as the "Oak Brook Club Community Area Trust", in which all Owners of residential units in The Oak Brook Club Area shall have undivided beneficial interests. Such Owner, occupants and residents of The Oak Brook Club Area shall have rights and privileges of use thereof in accordance with the rules and regulations to be promulgated by the trustees of the Community Area Trust (called "Board of Trustees"). The beneficial interest of an Owner of a residential unit shall exist only so long as he shall continue to be an Owner and shall automatically pass to such Owner's successor in title. Such beneficial ownership may not be sold or transferred other than in conjunction with sale or transfer of a Unit.

**11.4 Owner's Easements of Enjoyment:** Subject to the provisions of this Section 11, Owners of Units, occupants or residents in The Oak Brook Club Area shall have a right and easement of enjoyment in and to the Community Area.

**11.5 Extent of Owner's Easements:** The rights and easements of enjoyment

created hereby shall be subject to the following and such other matters as may be promulgated from time to time by the Board of Trustees:

(a) the right of the Board of Trustees to borrow money for the purpose of improving the Community Area and in aid thereof to mortgage said properties;

(b) the right of the Board of Trustees, as provided in the Declaration of Trust, to suspend the enjoyment rights of any Member, except as to ingress and egress, for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its rules and regulations; and

(c) the right of the Board of Trustees to dedicate or transfer all or any part of the Community Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Owners entitled to cast four-fifths (4/5ths) of the votes has been recorded agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Owner at least sixty (60) days in advance of any action taken.

## SECTION 12 – SALE, LEASING, OR OTHER ALIENATION OF UNITS

**12.1 Sale or Lease:** Any Owner other than the Developer and the Trustee, who wishes to sell or lease his Unit Ownership (or any lessee of any Unit wishing to assign or sublease such Unit) shall give to the Board not less than thirty (30) days' prior written notice of the terms of any contemplated sale or lease, together with the name, address and financial and character references of the proposed purchaser or lessee and such other information concerning the proposed purchaser or lessee as the Board may reasonably require. The members of the Board acting on behalf of the other Owners shall at all times have the first right and option to purchase or lease such Unit Ownership upon the same terms, which option shall be exercisable for a period of thirty (30) days following the date of receipt of such notice. If said option is not exercised by the Board within said thirty (30) days, the Owner (or lessee) may contract, at the expiration of said thirty day period and at any time within ninety (90) days after the expiration of said period, to sell or lease (or sublease or assign) such Unit Ownership to the proposed purchaser or lessee named in such notice upon the terms specified therein. If the Owner (or lessee) fails to close said proposed sale or lease transaction within said ninety (90) days, the Unit Ownership shall again become subject to the Board's right of first refusal as herein provided.

**12.2 Gift:** Any Owner other than the Trustee who wishes to make a gift of his Unit Ownership or any interest therein shall give to the Board not less than ninety (90) days' written notice of his or her intent to make such gift prior to the contemplated date thereof, together with the name, address and financial and character references of the

intended donee and such other information concerning the intended donee as the Board may reasonably require. The members of the Board acting on behalf of the other Owners shall at all times have the first right and option to purchase such Unit Ownership or interest therein for cash at fair market value to be determined by arbitration as herein provided, which option shall be exercisable until the date of expiration as provided herein. Within fifteen (15) days after receipt of said written notice by the Board, the Board and the Owner desiring to make such gift shall each appoint a qualified real estate appraiser to act as arbitrators. The two arbitrators so appointed shall appoint, within ten (10) days after their appointment, another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days after the appointment of said third arbitrator, the three arbitrators shall determine, by majority vote, the fair market value of the Unit Ownership or interest therein which the Owner contemplates conveying by gift, and shall thereupon give written notice of such determination to the Owner and the Board. If either party shall fail to select an appraiser, then the appraiser designated by the other party shall make the appraisal. The Board's option to purchase the Unit Ownership or interest therein shall expire forty-five (45) days after the date of receipt by it of written notice of such determination of fair market value.

**12.3 Devise:** In the event any Owner dies leaving a will devising his Unit Ownership, or any interest therein, and said will is admitted to probate, the members of the Board acting on behalf of the other Owners shall have a like option (to be exercised in the manner hereinafter set forth) to purchase said Unit Ownership, or interest therein, either from the devisee or devisees thereof named in said will, or if a power of sale is conferred by said will upon the personal representative named therein, from the personal representative acting pursuant to said power, for cash at fair market value which is to be determined by arbitration as herein provided. Within sixty (60) days after the appointment of a personal representative for the estate of the deceased Owner, the Board shall appoint a qualified real estate appraiser to act as an arbitrator, and shall thereupon give written notice of such appointment to the said devisee or devisees or personal representative, as the case may be. Within fifteen (15) days thereafter said devisee or devisees, or personal representative, as the case may be, shall appoint a qualified real estate appraiser to act as an arbitrator, the two so appointed shall appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days thereafter, the three arbitrators shall determine, by majority vote, the fair market value of the Unit Ownership, or interest therein, devised by the deceased Owner, and shall thereupon give written notice of such determination to the Board and said devisee or devisees, or personal representative, as the case may be. If either party shall fail to select an appraiser, then the appraiser designated by the other party shall make the appraisal. The Board's right to purchase the Unit Ownership, or interest therein, at the price determined by the three arbitrators shall expire sixty (60) days after the date of receipt by it of such notice if the personal representative of the deceased Owner is empowered to sell, and shall expire eight (8) months after the appointment of a personal representative who is not so empowered to sell. The Board shall be deemed to have exercised its option if it tenders the required sum of money to said devisee or devisees or to said personal representative, as the case may be, within the said option periods.

#### 12.4 **Involuntary Sale:**

(a) In the event any Unit Ownership or interest therein is sold at a judicial or execution sale (other than a mortgage foreclosure sale) the person acquiring title through such sale shall give, before taking possession of the Unit so sold, thirty (30) days' written notice to the Board of his intention so to do, whereupon members of the Board acting on behalf of the other Owners shall have an irrevocable option to purchase such Unit Ownership or interest therein at the same price for which it was sold at said sale. If said option is not exercised, by the Board within said thirty (30) days after receipt of such notice, it shall thereupon expire and said purchaser may thereafter take possession of said Unit. The Board shall be deemed to have exercised its option if it tenders the required sum of money to the purchaser within said thirty (30) days' period.

(b) In the event any Owner shall default in the payment of any moneys required to be paid under the provisions of any mortgage or trust deed against his Unit Ownership, the Board shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefore against such Unit Ownership, which lien shall have the same force and effect and may be enforced in the same manner as provided in Paragraph 9.10, 9.11 and 9.12.

**12.5 Exercise of Option By Board of Managers – Consent of Voting Members:** The Board shall not exercise any option hereinabove set forth to purchase any Unit Ownership or interest therein without the prior written consent of the voting members having 75% of the total votes. The members of the Board or their duly authorized representatives, acting on behalf of the other Owners, may bid to purchase at any sale of a Unit Ownership or interest therein of any Owner living or deceased, which said sale is held pursuant to an order or direction of a court, upon the prior written consent of the voting members having 75% of the total votes, which said consent shall set forth a maximum price which the members of the Board or their duly authorized representatives are authorized to bid and pay for said Unit Ownership or interest therein.

**12.6 Release or Waiver of Option:** Upon the written consent of at least three-fourths (3/4) of the Board members, any of the options contained in this Section 12 may be released or waived and the Unit Ownership or interest therein which is subject to an option set forth in this Section may be sold, conveyed, leased, given or devised free and clear of the provisions of this Section.

**12.7 Proof of Termination of Option:** A certificate executed and acknowledged by the acting Secretary of the Board stating that the provisions of this Section 12 as hereinabove set forth have been met by an Owner, or duly waived by the Board, and that the rights of the Board hereunder have terminated, shall be conclusive upon the Board and the Owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner who has in fact complied with the

provisions of the Section 12 or in respect of whom the provisions of this Section have been waived, upon request at a reasonable fee, not to exceed Ten Dollars (\$10.00).

**12.8 Financing of Purchase Under Option:** Acquisition of Unit Ownerships or of any interest therein under the provisions of this Section 12 shall be made from the maintenance fund. If said fund is insufficient, the Board shall levy an assessment against each Owner in the ratio that his percentage of ownership in the Common Elements as set forth in Exhibit "B" bears to the total of all such percentages applicable to Units subject to said assessment, which assessment shall become a lien and be enforceable in the same manner as provided in Paragraph 9.10. In order to facilitate and finance the acquisition of a Unit Ownership or of any interest therein under the provisions of this Section 12, the Board shall have the power to mortgage such Unit Ownership, and the principal prepayments and interest on such mortgage shall be included in the assessment against each Owner as set forth above.

**12.9 Title to Acquired Interest:** Unit Ownerships or interests therein acquired pursuant to the terms of this Section shall be held of record in the name of the members of the Board of Managers and their successors in office, or such nominee as they shall designate, for the benefit of all the Owners. Said Unit Ownerships or interests therein shall be sold or leased by the members of the Board in such manner as the Board shall determine without complying with the foregoing provisions relating to the Board's right of first refusal. All proceeds of such sale and/or leasing shall be deposited in the maintenance fund and credited to each Owner in the same proportion in which the Board could levy a special assessment under Section 8.

**12.10 Exceptions to Board's Right of First Refusal:** The Board's right of first refusal as provided in Paragraphs 12.1, 12.2, 12.3 and 12.4 of this Section 12, shall not apply to any sale, lease, gift, devise or other transfer by the Trustee or Developer, or between Co-Owners of the same Unit, or to the spouse, or to any lawful children of the Owner, or any one or more of them, or to any trustee of a trust, the sole beneficiary or beneficiaries of which are the Owner, the spouse or lawful children of the Owner, or any or more of them.

**12.11 Leasing:**

(a) Notwithstanding any other provisions of the Declaration to the contrary, each Owner shall occupy and use his Unit as a residence for said Owner and Owner's family. Rental or leasing of Units except as hereinafter provided in Subparagraphs (b), (c) and (d) is prohibited.

(b) To meet special situations and to avoid undue hardship or practical difficulties, the Board may, but is not required to, grant permission to an Owner to lease or rent his Unit to a specified lessee for a period of not less than six (6) consecutive months nor more than twenty-four (24) consecutive months on such other reasonable terms as the Board may establish. Such permission may be granted by the Board only upon the written application by the Owner to

the Board. The Board shall respond to each application in writing within thirty (30) days of the submission thereof. All requests for extension of the original lease must also be submitted to the Board in the same manner as set forth for the original application. The Board has sole and complete discretion to approve or disapprove any Owner's application for a lease or extension of the lease; provided, however, that in no event shall any Owner be permitted to rent or lease such Unit for more than twenty-four (24) months. The Board's decision shall be final and binding.

(c) Any and all leases in force on the date of recording this Amendment are not affected by Subparagraphs (a) and (b); provided, however, that all such leases or leases permitted by this Section 12 must be terminated within two (2) years of the effective date of this Amendment [November 16, 1990]. In addition Subparagraphs (a) and (b) shall apply to all Owners from and after the second anniversary of the effective date of this Amendment regardless of the date on which an Owner acquired his Unit.

(d) The provisions of Subparagraphs (a) and (b) shall not apply to the rental or leasing of a Unit to a Owner's spouse, child, parent, brother or sister or to any one or more of them, nor shall Subparagraphs (a) and (b) apply to the rental or leasing of a Unit by the Association through the Board.

(e) Copies of all leases in effect must be submitted to the Board within thirty (30) days of the effective date of this Amendment [November 16, 1990]. All leases permitted by this Amendment shall be subject to the rules established by the Board.

(f) The Board reserves to itself the first right and option to lease any Unit in accordance with the provisions of this Section 12.

**12.12 Leases:** The provisions of the Condominium Property Act, the Declaration, By-Laws and rules and regulations that relate to the use of the individual Unit or the Common Elements shall be applicable to any person leasing a Unit and shall be deemed to be incorporated in any lease. With regard to any lease, the Owner leasing the Unit shall deliver a copy of the signed lease to the Board or if the lease is oral, a memorandum of the lease, not later than the date of occupancy or ten (10) days after the lease is signed, whichever occurs first. In addition to any other remedies, by filing an action jointly against the tenant and the Owner, the Association may seek to enjoin a tenant from occupying a Unit or seek to evict a tenant under the provisions of Article IX of the Code of Civil Procedure for failure of the lessor-owner to comply with the leasing requirements prescribed by the Act or by the Declaration, By-Laws, and rules and regulations. The Board of Managers 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 other breach by a tenant of any covenants, rules, regulations or By-Laws.

## SECTION 13 – SALE OF PROPERTY IN ITS ENTIRETY

**13.1 Sale of Property in its Entirety:** The Owners by affirmative vote of at least 75% of the total vote, at a meeting duly called for such purpose, may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale is approved, the Board shall give written notice of such action to the holder of any duly recorded mortgage or trust deed against any Unit Ownership entitled to notice under paragraph 4 of Section 20 of this Declaration. **[NOTE: ORIGINAL REFERENCE DOESN'T MAKE SENSE]** Such action shall be binding upon all Owners, and it shall thereupon become the duty of every Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect such sale, provided, however, that any Owner who did not vote in favor of such action and who has filed written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale is approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by a fair appraisal, less the amount of any unpaid assessments or charges due and owing from such Owner. If there is a disagreement as to the value of the interest of an Owner who did not vote in favor of the sale of the property, that Owner shall have a right to designate an expert in appraisal or property valuation to represent him, in which case, the prospective purchaser of the Property shall designate an expert in appraisal or property valuation to represent him, and both of these experts shall mutually designate a third expert in appraisal or property valuation. The 3 experts shall constitute a panel to determine by vote of at least 2 of the members of the panel, the value of that Owner's interest in the Property.

**13.2 Right of First Refusal:** In the event of a contemplated sale of the Property in its entirety pursuant to paragraph 13.1, the Developer, and successively the Board of Trustees of the Community Area Trust, shall have a right of first refusal to purchase the Property at the same price and on the same terms as are available to the assenting Owners under a firm and binding offer from others. The Developer shall exercise its right by written notice to the Board of Managers given within 45 days after the receipt of notice of intention to sell, and, in the event the Developer does not exercise such right, the Board of Trustees of the Community Area Trust shall have an additional 20 days to exercise such right.

#### SECTION 14 – PROPERTY REMOVED FROM CONDOMINIUM LAW

**14.1 Property Removed from Condominium Law – How, Effects:** All the Owners may remove the Property from the provisions of this Declaration by an instrument to the effect, duly recorded, if the holders of all liens affecting any of the Units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the undivided interests of the separate Owners. Upon such removal the Property shall be deemed to be owned in common by all the Owners. The undivided interest in the Property owned in common which shall appertain to each Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Elements as set forth in Exhibit B.

## SECTION 15 – ADDITIONS TO EXISTING PROPERTY

**15.1 Additions to Existing Property:** Additional land may be made subject to this Declaration in the manner provided in this Section 15.

**15.2 Additions in Accordance with a General Plan of Development:** The Developer, its successors and assigns, shall have the right to bring within the scope of this Declaration additional properties within The Oak Brook Club Area in future stages of development, provided that such additions are in accord with the general plan of development.

Such general plan of development shall show the proposed additions to the existing Property and contain: (a) a general indication of size and location of additional development sites and proposed land uses in each; (b) the general nature of proposed common elements and improvements; and (c) a statement that the proposed additions, if made, will become subject to assessment for their just share of Association expenses. Unless otherwise stated therein, such general plan shall not bind the Developer, its successors and assigns, to make the proposed additions or adhere to the plan in any subsequent development of the land shown thereon.

The additions authorized under this and the succeeding paragraphs shall be made by filing of record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property.

Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration with respect to the Property covered by this Declaration.

## SECTION 16 --DEVELOPER'S EXERCISE OF RIGHTS

**16.1 Developer's Exercise of Rights:** Until such time as the Association has been organized or incorporated, the Developer shall exercise the powers, rights, duties and functions granted to the Association.

**16.2 Developer's Rights After Formation of Association:** If the Association is formed or incorporated before all the Units have been sold by the Developer, then so long as the Developer has not sold more than 30% of the Units within the Property, a majority of the Board of Managers or Board of Directors of the Association as the case may be, shall be selected by the Developer and such members as may be selected by the Developer need not be residents in the Building. So long as the Developer owns 10% or more of the Units, not less than 40% of the Board of Managers shall be selected by the Developer and such members as may be selected by the Developer need not be

residents in the Building. As additional properties are added hereto by Supplemental Declaration, as provided in Section 15, the provisions with respect to ownership by the Developer specified in each instance shall be subject to revision as may be determined by the Developer.

**16.3 Developer's Disclaimer:** The Developer specifically disclaims any intent to have made any warranty or representation in connection with the Development or the Condominium documents except as specifically set forth therein and no person shall rely upon any warranty or representation not so specifically made therein. The expression by Developer of an intention, or Developer's reference to any plan of development, shall not be construed as a commitment on the part of the Developer. The estimates of Common Expenses are believed reasonably accurate, but no warranty or guaranty is made nor intended, nor may one be relied upon.

**16.4 Advertising by the Developer:** Notwithstanding any provision hereof to the contrary, at all times and from time to time prior to Developer conveying all units of this Condominium to third parties and the completion of the development of the entire Oak Brook Club Area, the Developer (and its successors and mortgagees) shall have the right and privilege (i) to erect and maintain advertising signs, sales flags, other sales devices and banners for the purpose of aiding the sale of units in this Condominium, and (ii) to maintain sales, business and construction offices in units of this Condominium to facilitate the completion of construction of the buildings and improvements comprising this Condominium and sale of units thereof. The construction of the buildings and improvements by Developer shall not be considered a nuisance and Developer hereby reserves the right and privilege for itself (and its successors and mortgagees) to conduct the activities enumerated in this paragraph.

## SECTION 17 -- COMPLIANCE, BREACH OF COVENANTS, AND DEFAULT

**17.1 Compliance and Default:** Each Owner shall be governed by and shall comply with the terms of the Act, the Condominium Documents and bylaws, rules and regulations adopted pursuant thereto and as they may be amended from time to time. A default shall entitle the Association, the Board or other Owners to the following relief:

(a) **Legal Proceeding.** Failure to comply with any of the terms of the Act or the Condominium Documents and bylaws, rules and regulations adopted pursuant thereto, shall be ground for relief which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Association, the Board, or if appropriate by an aggrieved Owner, as the case may be.

(b) **Liability for Expense, etc.** All Owners shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family or his or their guests, employees, agents, or lessees, but only to the extent that such expense

is not met by the proceeds of insurance carried by the Board. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances. Nothing herein contained however shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

(c) **Costs and Attorneys' Fees.** In any proceeding arising because of an alleged default by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the court.

(d) **No Waiver of Rights.** The failure of the Developer, Association, the Board or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Act or the Condominium Documents shall not constitute a waiver of the right or of a continuing right of the Developer, Association, the Board or Owner to enforce such right, provision, covenant or condition in the future irrespective of the number of violations, defaults or breaches which, may or may not have occurred.

(e) All rights, remedies and privileges granted to the Association, the Board, or an Owner pursuant to any terms, provisions, covenants or conditions of the Act or the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Act or the Condominium Documents or at law or in equity.

**17.2 Involuntary Sale:** If any Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall recur more than once after such notice, then the Board shall have the power to issue to the defaulting Owner a ten (10) day notice in writing to terminate the rights of said defaulting Owner to continue as an Owner and to continue to occupy, use or control his Unit and thereupon an action in equity may be filed by the members of the Board against the defaulting Owner for a decree of mandatory injunction against the Owner or Occupant or, in the alternative, a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant, and ordering that the right, title and interest of the Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Owner from re-acquiring his interest in the Property at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any

unpaid assessments hereunder or any liens, shall be paid to the Owner. Upon the confirmation of such sale, the purchaser thereat shall thereupon be entitled to a deed to the Unit Ownership and, subject to the Board's rights as provided in Section 12, to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall provide, that the purchaser shall take the interest in the Property sold subject to this Declaration.

### 17.3 Liens:

(a) **Protection of Property:** All liens against a Unit other than for mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days from the date the lien attaches. All taxes and special assessments upon a Unit shall be paid before becoming delinquent.

(b) **Notice of Lien:** An Owner shall give notice to the Association of every lien upon his Unit other than for mortgages, taxes and special assessments, within five (5) days after the attaching of the lien.

(c) **Notice of Suit:** Owners shall give notice to the Association of every suit or other proceeding which will or may affect the title to his Unit or any other part of the Property, such notice to be given within five (5) days after the Owner receives notice thereof.

(d) Failure to comply with this Section concerning liens will not affect the validity of any judicial sale.

(e) Failure to remove any lien shall constitute a default under Paragraph 9.12.

**17.4 Abatement and Enjoyment:** The violation of any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained shall give the Board the right, in addition to the rights set forth in the next succeeding section: (a) to enter upon that part of the property where such violation or breach exists and summarily abate and remove at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Trustee or Developer, or its beneficiaries, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of 8% per annum until paid, shall be charged or assessed against such defaulting Owner, and shall be added to and deemed part of his respective share of the common expenses, and the Board shall have a lien for all of the same upon the Unit Ownership or such defaulting Owner and upon all of his additions

and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

## SECTION 18 -- AMENDMENT OF DECLARATION

**18.1 Declaration May Be Amended:** The provisions of this Condominium Declaration relating to Common Elements (Paragraph 4.1), Limited Common Elements (Paragraph 4.2), ownership of Common and Limited Common Elements (Paragraph 4.3), maintenance and repairs (Paragraphs 9.4 through 9.13), and exercise of option by Board to purchase Units (Paragraph 12.5), may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, all of the Owners, all mortgagees having bona fide liens of record against any Unit Ownership, and the Developer so long as it owns any Units. The foregoing provision relating to change, modification, or rescission of this Declaration may be similarly amended. Other provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by a majority of the Board, and by the Owners having at least 3/4ths of the total vote, and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all mortgagees having bona fide liens of record against any Unit Ownership, no less than ten (10) days prior to the date of such affidavit. The change, modification or rescission shall be effective upon recordation of such instrument in the Office of the Recorder of Deeds of DuPage County, Illinois; provided, however, that no provision in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act.

**18.2 Notice of Amendment:** Notice of the subject matter of the proposed amendment in reasonably detailed form shall be included in the notice of any meeting at which a proposed amendment is to be considered.

## SECTION 19 -- TERMINATION OF DECLARATION

**19.1 Agreement of Owners and Lien Owners:** The termination of this Declaration may be effected by the agreement of all Owners and lienholders. The termination shall become effective when such agreement has been recorded in the Office of the Recorder of Deeds of Dupage County, Illinois.

**19.2 Destruction:** If it is determined in the manner elsewhere provided that a Condominium shall not be reconstructed after casualty, the Condominium Plan of Ownership will be terminated as to the Condominium so damaged. The determination not to reconstruct after casualty shall be evidenced by a certificate of an officer of the Association certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded in the public records of DuPage County, Illinois.

**19.3 Interest of Unit Owners After Termination:** After termination of this Condominium Declaration, the Owners thereof shall own the Property as tenants in common in undivided interests as provided by the Act, subject to the rights of holders of mortgages and liens against the Unit or Units formerly held by such Owners. All easements herein granted to the Owners in the Property and the Community Area shall

survive, and shall not be extinguished by the termination of this Declaration and shall continue to be possessed by the Owners as tenants in common. All funds held by the Association and insurance proceeds, if any, shall be and continue to be held for the Owners in proportion to the amount of the assessments paid by each. The costs incurred by the Association in connection with a termination shall be deemed a Common Expense.

**19.4 Sale of Property:** Upon the affirmative vote of Unit Owners who in the aggregate own not less than a 75% interest in the Common Elements, as set forth in Exhibit "B" hereof, the Development shall be sold in the manner provided by Section 15 of the Act, and as same may be amended from time to time. Each Owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such times and in such forms as the Board directs.

**19.5 Powers of Board After Termination:** The members of the Board acting collectively as agent for all Owners shall continue to have such powers as in this Section are granted, notwithstanding the fact that the Association itself may be dissolved upon a termination.

## SECTION 20 -- GENERAL PROVISIONS

**20.1 Unit Ownership In Trust:** In the event title to any Unit Ownership is conveyed to a land titleholding trust, under the terms of which all powers of management, operation and control of the Unit Ownership remain vested in the trust beneficiary or beneficiaries, then the Unit Ownership under such trust and 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 Unit Ownership. No claim shall be made against any such titleholding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation, except as determined, ordered or decreed in a judicial proceeding. The amount of such lien or obligation shall continue to be a charge or lien upon the Unit Ownership and the beneficiaries of such trust notwithstanding any transfer of the beneficial interest of any such trust or any transfers of title of such Unit Ownership.

**20.2 Notices -- In General:** Notices provided for in this Declaration and in the Condominium Property Act shall be in writing, and shall be addressed to the Board or Association, or any Owner, as the case may be, at Oak Brook Club Drive, Oak Brook, Illinois (60521), (indicating thereon the number of the respective Unit if addressed to an Owner), or at such other address as herein provided. The Association or Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Owners. Any Owner may also designate a different address for notices to him by giving written notice of his change of address to the Board or Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail or when delivered in person with

written acknowledgment of the receipt thereof, or, if addressed to an Owner, when deposited in his mailbox in the Building or at the door of his Unit in the Building.

**20.3 Notices -- Representatives of Deceased Owners:** Notices required to be given any devisee or personal representative of a deceased Owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased Owner is being administered.

**20.4 Notices -- To Mortgagees:** Upon written request to the Board of Managers the holder of any duly recorded mortgage or deed of trust against any Unit shall thereafter be given copies of any and all notices permitted or required by this Declaration to be given to the Owner, or Owners, whose Unit Ownership is subject to such mortgage or deed of trust.

**20.5 No Waiver:** No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**20.6 Liberal Interpretation -- Rule Against Perpetuities:** The provisions of this Declaration shall be liberally construed to effectuate its purposes of creating a uniform plan for the development and operation of a first class residential development and the efficient and orderly administration thereof. If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (b) the rule restricting restraints or alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one years after the death of the last survivor of the now living lawful descendants of Richard J. Daley, Mayor of Chicago on the date hereof, and Richard M. Nixon, President of the United States on the date hereof. If any provision is deemed to be invalid, then the elimination of such provisions shall not affect the remaining provisions.

**20.7 Invalidity of Any Covenant or Restriction:** The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

**20.8 Gender, Singular, Plural:** Whenever the context so permits or requires, the use of the plural shall include the singular, the singular the plural, and any gender shall be deemed to include all genders.

**20.9 Captions:** Captions used in the Condominium Documents are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of the Condominium Documents.

**20.10 Owner Non-Delegation:** An Owner may not assign, delegate, transfer, surrender, or avoid the duties, responsibilities, and liabilities of a Unit Owner under the Act, the condominium instruments, or rules and regulations of the Association; and such an attempted assignment, delegation, transfer, surrender, or avoidance shall be deemed void.

This Declaration is executed by CHICAGO TITLE AND TRUST COMPANY, as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and Chicago Title and Trust Company hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that Chicago Title and Trust Company, as Trustee as aforesaid, and not personally, has joined in the execution of this Declaration for the sole purpose of subjecting the titleholding interest and the trust estate under said Trust No. 53894 to the terms of this Declaration; that any and all obligations, duties, covenants and agreements of every nature herein set forth by Chicago Title and Trust Company, as Trustee as aforesaid, to be kept or performed, are intended to be kept, performed and discharged by the beneficiaries under said Trust No. 53894 or their successors, and not by Chicago Title and Trust Company personally; and further, that no duty shall rest upon Chicago Title and Trust Company, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation express or implied, arising under the terms of this Declaration, except where said Trustee is acting pursuant to direction as provided by the terms of said Trust No. 53894, and after the Trustee has first been supplied with funds required for the purpose. In event of conflict between the terms of this paragraph and of the remainder of the Declaration on any question of apparent liability or obligation resting upon said Trustee, the exculpatory provision hereof shall be controlling.



CONSENT OF MORTGAGEE

FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF CHICAGO, holder of a mortgage on the Property dated September 29, 1969, and recorded September 29, 1969 as Document No. R69-50691 hereby consents to the execution and recording of the within Declaration of Condominium Ownership and agrees that said mortgage is subject to the provisions of said Declaration and the Condominium Property Act of the State of Illinois.

IN WITNESS WHEREOF, the said FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF CHICAGO has caused this instrument to be signed by its duly authorized officers on its behalf; all done at Chicago, Illinois on this 15<sup>th</sup> day of September, 1970.

By: \_\_\_\_\_ /s/ \_\_\_\_\_  
Vice-President

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Assistant Secretary

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that the above-named Assistant Vice-President and Assistant Secretary, respectively, of FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF CHICAGO, personally known to me to be the same persons whom names are subscribed to the foregoing instrument as such Assistant Vice-President and Assistant Secretary, appeared before me this day in person and acknowledged that they signed, sealed 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.

Given under my hand and notarial seal this 15th day of September, 1970.

\_\_\_\_\_/s/\_\_\_\_\_  
Notary Public

LIST OF EXHIBITS

- A. Survey of Property.
- B. Percentage Interest of Unit Owners

EXHIBIT B  
to  
DECLARATION OF CONDOMINIUM OWNERSHIP  
and of  
EASEMENTS, RESTRICTIONS AND COVENANTS  
for  
OAK BROOK CLUBDOMINIUM WEST

| <u>#1 Oak Brook Club Drive</u> |  |          |  | <u>#2 Oak Brook Club Drive</u> |  |          |  |
|--------------------------------|--|----------|--|--------------------------------|--|----------|--|
| Unit No.                       | Percentage Interest In Common Elements | Unit No. | Percentage Interest In Common Elements | Unit No.                       | Percentage Interest In Common Elements | Unit No. | Percentage Interest In Common Elements |
| A101                           | .9250                                  | A210     | .8022                                  | B107                           | 1.0069                                 | C204     | .8350                                  |
| A102                           | .9250                                  | A211     | .9823                                  | B108                           | 1.0069                                 | C205     | .9987                                  |
| A103                           | .8268                                  | A212     | .9823                                  | B109                           | .8268                                  | C206     | .9987                                  |
| A104                           | .7940                                  | B201     | .9332                                  | B110                           | .8268                                  | C207     | .9987                                  |
| A105                           | .9741                                  | B202     | .9332                                  | B111                           | .9250                                  | C208     | .9987                                  |
| A106                           | .9741                                  | B203     | .8350                                  | B112                           | .9250                                  | C209     | .8022                                  |
| A107                           | .9905                                  | B204     | .8022                                  | C101                           | .9250                                  | C210     | .8350                                  |
| A108                           | .9905                                  | B205     | .9823                                  | C102                           | .9250                                  | C211     | .9823                                  |
| A109                           | .8268                                  | B206     | .9823                                  | C103                           | .8268                                  | C212     | .9823                                  |
| A110                           | .7941                                  | A301     | .9496                                  | C104                           | .8268                                  | B307     | 1.0314                                 |
| A111                           | .9741                                  | A302     | .9496                                  | C105                           | .9905                                  | B308     | 1.0314                                 |
| A112                           | .9741                                  | A303     | .8513                                  | C106                           | .9905                                  | B309     | .8513                                  |
| B101                           | .9250                                  | A304     | .8186                                  | C107                           | .9905                                  | B310     | .8513                                  |
| B102                           | .9250                                  | A305     | .9987                                  | C108                           | .9905                                  | B311     | .9496                                  |
| B103                           | .7940                                  | A306     | .9987                                  | C109                           | .7941                                  | B312     | .9496                                  |
| B104                           | .8268                                  | A307     | 1.0151                                 | C110                           | .8268                                  | C301     | .9496                                  |
| B105                           | .9741                                  | A308     | 1.0151                                 | C111                           | .9741                                  | C302     | .9496                                  |
| B106                           | .9741                                  | A309     | .8513                                  | C112                           | .9741                                  | C303     | .8513                                  |
| A201                           | .9332                                  | A310     | .8186                                  | B207                           | 1.0151                                 | C304     | .8513                                  |
| A202                           | .9332                                  | A311     | .9987                                  | B208                           | 1.0151                                 | C305     | 1.0151                                 |
| A203                           | .8350                                  | A312     | .9987                                  | B209                           | .8350                                  | C306     | 1.0151                                 |
| A204                           | .8022                                  | B301     | .9496                                  | B210                           | .8350                                  | C307     | 1.0151                                 |
| A205                           | .9823                                  | B302     | .9496                                  | B211                           | .9332                                  | C308     | 1.0151                                 |
| A206                           | .9823                                  | B303     | .8513                                  | B212                           | .9332                                  | C309     | .8186                                  |
| A207                           | .9987                                  | B304     | .8186                                  | C201                           | .9332                                  | C310     | .8513                                  |
| A208                           | .9987                                  | B305     | .9987                                  | C202                           | .9332                                  | C311     | .9987                                  |
| A209                           | .8350                                  | B306     | .9987                                  | C203                           | .8350                                  | C312     | .9987                                  |

**THIS DOCUMENT HAS BEEN  
PREPARED BY, AND AFTER  
RECORDATION SHOULD BE  
RETURNED TO:**

**Michael C. Kim & Associates  
19 South LaSalle Street  
Suite 303  
Chicago, Illinois 60603  
Attention: Michael C. Kim, Esq.**

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FIFTH AMENDMENT TO  
THE DECLARATION OF CONDOMINIUM OWNERSHIP  
AND OF EASEMENTS, RESTRICTIONS AND COVENANTS  
FOR  
THE OAK BROOK CLUBDOMINIUM WEST

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This document is recorded for the purpose of amending the Declaration of Condominium Ownership and of Easements, Restrictions and Covenants (hereafter the "Declaration"), for the Oak Brook Clubdominium West Association (hereafter referred to as "Association") which Declaration was originally recorded on September 16, 1970, as Document No. 70-33423 in the Office of the Recorder of Deeds of DuPage County, Illinois, against the property (hereafter referred to as "Property") legally described in Exhibit "A" attached hereto.

This Amendment is adopted pursuant to the provisions of Section 18 of the aforesaid Declaration and Section 17 of the Illinois Condominium Property Act (the "Act"). Said provisions provide that this amendment, the text of which is set forth below, shall become effective upon recordation in the Office of the Recorder of Deeds of DuPage County, Illinois, of an instrument in writing setting forth the change, provided the same is executed by the President of the Association or such other officer authorized by the Board of Managers of the Association (the "Board"), signed and acknowledged by a majority of the members of the Board and by Unit Owners having at least three-fourths (3/4) of the total vote and provided further that it contains an affidavit by an officer of the Board, certifying that a copy of the change has been sent by certified

mail to all mortgagees, having bonafide liens of record against any unit ownership, not less than ten (10) days prior to the date of such affidavit.

## RECITALS

WHEREAS, by the Declaration recorded in the Office of the Recorder of Deeds of DuPage County, Illinois, the Property has been submitted to the provisions of the Act; and

WHEREAS, the Board and the Owners desire to amend the Declaration in order to clarify and specify the respective responsibilities of the Association and the individual Owner as to certain doors and windows; and

WHEREAS, the amendment has been executed by the President of the Association or such other officer authorized by the Board, signed and acknowledged by a majority of the Board members and by Unit Owners having at least three-fourths (3/4) of the total vote, and due notice have been provided to all mortgagees holding liens of record against any unit ownership, all in compliance with Section 18 of the Declaration and Section 17 of the Act.

NOW THEREFORE, Sections 9.1(e) and 9.3 (f) of the Declaration of Condominium Ownership and of Easements, Restrictions and Covenants for The Oak Brook Clubdominium West, a condominium association, is hereby amended in accordance with the text which follows (additions in text are indicated by underline; deletions by ~~strike-outs~~):

### SECTION 9 – MAINTENANCE AND REPAIR

“9.1 **Board of Managers’ Responsibilities:** The Board shall be responsible for the maintenance, repair and replacement of:

\* \* \*

(e) All perimeter windows, sliding glass doors and sidelights (including the painting of the exterior surfaces thereof, provided however that the Board shall have complete and absolute discretion as to whether any such painting shall be performed by the Board as a Common Expense or performed by the Owner of the Unit at the Owner’s expense or performed by the Board at the expense of the Owner of the Unit), subject to Paragraph 9.3(f), (g) and (i) herein.”

\* \* \*

“9.3 **Responsibility of Unit Owner:** The responsibility of the Owner shall be as follows:

(a) to maintain, repair and replace at his expense, all portions of the Unit except the portions of each to be maintained, repaired and replaced by the Board;

(b) to perform his responsibilities in such manner so as not unreasonably to disturb other persons residing within the Buildings;

(c) not to paint or otherwise decorate or change the appearance of any portion of the Buildings not within the walls of the Unit, unless the written consent of the Board is obtained;

(d) to report promptly to the Board or its agent any defect or need for repairs, the responsibility for the remedying of which is with the Board;

(e) not to make any alterations in the portions of the Unit or the Buildings which are to be maintained by the Board or remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety or soundness of the Buildings without first obtaining the written consent of the Board, nor shall any Owner impair any easement without first obtaining the written consents of the Board and of the Owner or Owners for whose benefit such easement exists;

(f) to maintain, repair and replace window assembly, sliding glass door assembly, and sidelights (including but not limited to glass, weatherstripping and the mechanical components for the opening and closing of perimeter windows, sliding glass doors, and sidelights) serving the Unit, subject to such specifications, conditions and terms as may be established by the Board; provided, however, that if the Owner fails to perform such maintenance, repair or replacement within fourteen (14) days after issuance of written notice from the Board, the Board may (but in no manner is obligated to) perform such maintenance, repair and replacement, in which case the Owner shall be responsible for all expenses related thereto (including but not limited to, any attorney's or other professional fees incurred in connection therewith);

(g) to wash the exterior surfaces of perimeter windows, sliding glass doors and sidelights serving the Unit, except as otherwise determined by the Board;

(h) to paint, clean, decorate, maintain and repair the interior surfaces of the Unit and doors appurtenant thereto; and

(i) to paint, clean and decorate the interior surfaces of the perimeter windows, sliding glass doors and sidelights."

EXCEPT TO THE EXTENT EXPRESSLY SET FORTH HEREINABOVE, THE REMAINING PROVISIONS OF THE DECLARATION SHALL CONTINUE IN EFFECT WITHOUT CHANGE.

END OF TEXT OF AMENDMENT