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**THIS DOCUMENT
PREPARED BY AND
AFTER RECORDING
RETURN TO:**

David L. Reifman, Esq.
RUDNICK & WOLFE
203 North LaSalle Street
Chicago, Illinois 60601

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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND OF CERTAIN RECIPROCAL RIGHTS AND EASEMENTS**

**BUTTERFIELD
AURORA, ILLINOIS**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND OF CERTAIN RECIPROCAL RIGHTS AND EASEMENTS** (this "Declaration") is
made as of this 5 day of Sept, 1996, by **LASALLE NATIONAL TRUST** (Successor
Trustee) under Trust Agreement dated ~~November~~ 8, 1971 and known as ^{and not personally} Trust No. 43123/
("Trustee") and **DUPAGE PROPERTIES VENTURE**, an Illinois general partnership
("Developer") (Trustee and Developer are hereinafter collectively referred to as "Declarant").

WITNESSETH:

WHEREAS, Trustee is the owner and legal titleholder, and Developer (as sole
beneficiary of Trustee) is the Developer, of approximately 160 acres of real estate situated in
the City of Aurora, County of DuPage, State of Illinois, as legally described on Exhibit A
attached hereto and incorporated herein (hereinafter referred to as the "Property"); and

WHEREAS, Declarant has developed, or may hereafter develop, the Property (and any
Annexed Properties, as defined in Section 2.1) as an office, research and industrial park pursuant

to this Declaration and applicable ordinances of the City, which office, research and industrial park is to be known as Butterfield (hereinafter referred to as the "Complex"); and

WHEREAS, Declarant may hereinafter sell, convey, lease, mortgage or otherwise transfer the Property or various portions thereof and it is Declarant's desire that said sales, conveyances, leases, mortgages and other transfers be at all times subject to certain covenants, conditions, restrictions, easements, benefits, duties and obligations as herein set forth; and

WHEREAS, Declarant desires to establish and to impose upon the Property, and upon each and every portion thereof, and upon the use, occupancy and enjoyment thereof, the aforesaid covenants, conditions and restrictions for the purpose of ensuring the orderly, proper and attractive improvement, development and use of the Complex and for the purpose of enhancing and protecting the value and desirability of the Complex, all for the general welfare and common benefit of the present and future purchasers, owners, mortgagees, lessees and grantees of the Property, their respective successors and assigns; and

WHEREAS, Declarant further desires to grant, declare and establish certain easements, reciprocal rights and benefits for and to impose certain duties and obligations upon, the present and future purchasers, owners, mortgagees, lessees and grantees of the Property, and upon all persons acquiring any interest therein; and

NOW, THEREFORE, Declarant does hereby declare that the Property shall be held, sold, leased, occupied, mortgaged and conveyed subject to the covenants, conditions, restrictions, easements, uses, privileges, duties and obligations hereinafter set forth.

ARTICLE I

INCORPORATION OF PREAMBLE

The recitals set forth in the foregoing preamble are specifically incorporated into and made a part of this Declaration as though the same were fully set forth in this Article I.

ARTICLE II

DEFINITIONS

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

Section 2.1 "Annexation Area": that area (not including the Property as constituted as of the date hereof) generally located between the Illinois Tollway (I-88), Illinois Route 59, Butterfield Road (Illinois Route 56) and the areas east and west of Eola Road containing approximately 750 acres and owned by Declarant or adjacent to or in the vicinity of such real property owned by Declarant within said area.

Section 2.2 "Annexed Property" or "Annexed Properties": as defined in Section 3.2(a).

Section 2.3 "Architectural Control Committee": as defined in Section 12.10.

Section 2.4 "Association": an Illinois not-for-profit corporation to be known as BUTTERFIELD OWNER'S ASSOCIATION, or by such other name as Declarant may elect, formed for the purpose of owning and/or maintaining the Common Areas and for such other purposes as are hereinafter set forth.

Section 2.5 "Building": any structure permanently affixed to the real estate comprising the Property designed or built for the enclosure, shelter, protection or occupancy of persons, chattels or other property of any kind or nature.

Section 2.6 "By-Laws": as defined in Section 12.12.

Section 2.7 "City": the City of Aurora and its successors and the various departments and agencies thereof; provided, however, that in the event any portion of the Property is located within the corporate boundaries of a municipality other than the City of Aurora, the term "City" shall be deemed to refer to said municipality (e.g., the City of Warrenville).

Section 2.8 "Common Areas": those portions of the Property, facilities in, on or under the Property and areas adjacent to the Property with respect to which rights, obligations and easements have been established for the use and benefit of the Property to be for the common use, benefit and enjoyment of the Owners and Occupants of the Property, their invitees, agents, and employees. Declarant reserves the right to designate, from time to time, the specific matters constituting the "Common Areas" (which such designation shall be deemed effective from and after the date Declarant records one or more supplements hereto setting forth such matters) which may include, without limitation, retention and detention ponds; rail tracks; landscaping located in or around retention and detention ponds, in public rights-of-way generally within the boundaries of the Property and elsewhere; the Rights-of-Way; and the Utility Easements. Declarant's right to so designate the "Common Areas" shall continue until the Termination Date. Certain portions of the Common Areas may be conveyed to the Association.

Section 2.9 "Common Maintenance Areas": as defined in Section 8.1.

Section 2.10 "Complex": as defined in the second preamble above.

Section 2.11 "Cost of Maintenance": as defined in Section 8.2.B.

Section 2.12 "Declarant": Trustee or Developer, or either of them, as the context may require, and their respective successors and assigns; provided, however, that any rights specifically reserved herein to Declarant or to Developer or Trustee shall not inure to the benefit of their respective successors and assigns unless specifically assigned in a recorded instrument or conveyed by operation of law.

Section 2.13 "Declaration": this Declaration of Covenants, Conditions and Restrictions and of Certain Easements and Reciprocal Rights for the Complex, as amended from time to time.

Section 2.14 "Improvements": all structures or other improvements built or made on or to the Property, or any portions thereof, of any kind whatsoever, whether above or below grade, including, without limitation, Buildings, utility installations, storage, loading and parking facilities, roadways, walkways, driveways, landscaping, signs, site lighting, site grading and earth movement and any exterior additions, changes or alterations thereto.

Section 2.15 "Member": every Person holding membership in the Association.

Section 2.16 "Occupant": any Person legally entitled to occupy and use any part or portion of the Property.

Section 2.17 "Owner": the record owner of fee simple title to any part or portion of the Property, whether such owner shall be one or more Persons, including, without limitation, contract (articles of agreement for a deed) purchasers and beneficiaries of land trusts holding record title to any part or portion of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.18 "Parcel": any contiguous portion of the Property, which may or may not include portions of the Common Areas, to which record title is held by a single Owner, the size and dimension of which shall be established by the deed to said Owner conveying the same, provided that the term "Parcel" shall not include any portion of the Property dedicated to the City or any other governmental authority.

Section 2.19 "Person": a natural person, or a firm, corporation, partnership, land trust or any legal entity, public or private.

Section 2.20 "Property": as defined in the first preamble above. The term "Property" shall also be deemed to mean any Annexed Properties, as set forth in Section 3.2.

Section 2.21 "**Rights-of-Way**": the easements for ingress and egress of pedestrian, vehicular and rail traffic created by Section 9.1 of this Declarant.

Section 2.22 "**Sign Specifications**": as defined in Section 5.2.

Section 2.23 "**Termination Date**": the date as of which Declarant has no further interest of record in the Property as an Owner, mortgagee or contract purchaser.

Section 2.24 "**Transfer Date**": the date as of which Declarant has conveyed 75% of the total acreage of both (i) the Property (as constituted as of the date hereof) and (ii) the real property owned by Declarant (whether such property is currently owned by Declarant or hereafter acquired by Declarant) within the Annexation Area.

Section 2.25 "**Utility Easements**": storm drainage, sanitary sewer, gas, electric and other utility easements created by any plat of subdivision recorded against any portion of the Property.

ARTICLE III

SCOPE OF THE DECLARATION

Section 3.1 **The Property**. The Property is, and shall at all times be, subject to the terms and provisions of this Declaration.

Section 3.2 **Annexation of Other Properties**.

(a) Declarant (or subsequent to the Transfer Date, the Association) may, in its sole discretion, at any time and from time to time and without having to obtain the consent, approval or signature of any party (other than the title holder thereof), elect to bring additional real property (whether or not owned by Declarant) located generally within the Annexation Area within the jurisdiction of this Declaration (which real property located within the Annexation Area which Declarant hereafter brings within the jurisdiction of this Declaration is referred to herein as an "Annexed Property" or the "Annexed Properties"); provided, however, that the addition of any Annexed Property shall be consistent with the general purposes of this Declaration. Declarant shall not be obligated in any manner by this Declaration to annex additional real property to the Property or to annex any particular tract, or to annex tracts in any particular sequence, or to annex contiguous tracts, it being the intention hereof that Declarant may decline to exercise the rights granted in this Section or may elect to exercise such rights only to a

limited extent. Notwithstanding any language to the contrary contained herein, no such real property shall become Annexed Property or be included within the jurisdiction of this Declaration without the prior express written consent and approval of Declarant (or, subsequent to the Transfer Date, the prior written consent and approval of the Board).

(b) The additions authorized by the provisions of this Section 3.2 shall be made by recording in the Office of the Recorder of Deeds of DuPage County, Illinois, a Declaration of Inclusion with respect to any Annexed Property, which shall extend the jurisdiction of this Declaration to the real property to be so annexed (hereinafter sometimes referred to as the "Additional Property") and shall be executed by the fee title holder(s) of such Annexed Property, as well as by Declarant (or, if subsequent to the Transfer Date, by the Association). Each Declaration of Inclusion may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as are not inconsistent with the intent and purpose of this Declaration. The following shall apply to each Declaration of Inclusion:

(1) The provisions of this Declaration applicable to the Common Areas, and the rights of Declarant with respect thereto, and all other rights, easements, covenants, restrictions, burdens, uses and privileges appurtenant to the Common Areas shall include and apply to the Common Areas as extended by such annexation;

(2) Every person or entity who shall become an Owner in such Additional Property shall be and become a Member of the Association on the same terms and conditions and subject to the same qualifications and limitations, as are applicable to the Owners who are then Members;

(3) Declarant shall have and enjoy in such Additional Property all easements and exercise all rights, privileges and immunities reserved to it in this Declaration in the same manner and with the same force and effect as though the term "Property" as used in this Declaration included such Additional Property; and

(4) In all other respects, all the provisions of this Declaration shall include and apply to such Additional Property and to the Owners of the Parcels located therein and thereon in the same manner and with the same force and effect as though such Additional Property had originally been subjected to the provisions of this Declaration.

(c) In connection with any development thereof, Declarant shall have the right to subject any real property within the Annexation Area to one or more separate and distinct Declarations of Covenants, Conditions and Restrictions as Declarant may elect in its sole discretion and, as set forth in subsection (a) of this Section 3.2, Declarant shall

not be obligated to subject the real property within the Annexation Area to this Declaration. In the event Declarant elects to subject any such real property located within the Annexation Area to one or more separate and distinct Declarations of Covenants, Conditions and Restrictions and not to this Declaration, such real property shall thereafter be deemed deleted and removed from the Annexation Area and the term "Annexation Area" shall thereafter no longer be deemed to include such real property for all purposes hereunder.

ARTICLE IV

USE RESTRICTIONS

Section 4.1 Use of Property. In order to insure the orderly and peaceful occupancy of the Property and to protect the value and the attractiveness of the Complex, the use of the Property shall be limited by the following provisions:

(a) The Property shall not be used for any purpose inconsistent with the terms and provisions of this Declaration;

(b) The Common Areas shall be used only for ingress, egress, drainage, the furnishing of utility and other services, landscaping, entry monumentation and for such other uses and purposes as are approved by Declarant or the Association;

(c) The Property shall be used only for such purposes, and to such extent, as will not overload or interfere with the Common Areas or the use or enjoyment thereof by any Occupant;

(d) No nuisances shall be created, maintained or permitted to exist on the Property, or any portion thereof, and no noxious or offensive use or practice shall be conducted thereon which is a source of annoyance or which unreasonably interferes with the quiet and peaceful possession or use of the Property by the Owners and Occupants thereof or which is in violation of the By-Laws or the rules and regulations of Declarant or the Association;

(e) All laws, ordinances, and regulations of all governmental and quasi-governmental agencies or authorities having jurisdiction over the Property shall be observed, and violations of laws, orders, rules, regulations or requirements of any governmental or quasi-governmental agency or authority having jurisdiction over the Property shall be immediately corrected and/or removed by, and at the sole expense of, the Owner responsible for the same, or by Declarant or the Association if said violation concerns a portion of the Common Areas;

(f) No Owner or Occupant of the Property shall commit, suffer or fail to do any act in violation of insurance policies on the Common Areas which may be procured and maintained by Declarant or the Association (as hereinafter set forth), and no Owner or Occupant shall do or permit anything to be done, or keep or permit anything to be kept, or suffer any condition to exist, which might or which does (i) result in termination of any such policies; (ii) adversely affect any party's right of recovery thereunder; (iii) result in reputable insurable companies refusing to provide insurance as required hereunder; or (iv) result in an increase in the insurance rate or premium to be charged to Declarant or the Association, unless, in the case of such increase, the Owner or Occupant responsible for such increase shall immediately pay the same.

Section 4.2 **Animals**. Unless specifically authorized in writing to the contrary by Declarant or the Association, no Owner or Occupant shall keep, raise or breed any dogs, guard dogs, pets, livestock or other animals in, on or around the Property.

Section 4.3 **Television and Radio Antennae**. No Owner or Occupant shall install or maintain within or upon any Building or Improvement any radio, television, microwave or other communication antennae or other transmitting or receiving devices or any poles, wires, rods or other apparatus or devices associated therewith unless the installation and maintenance of such devices or apparatus is first approved, in writing, by Declarant or the Association, provided, however, that any approval which is given may be subject to such reasonable conditions and limitations as Declarant or the Association deems necessary.

Section 4.4 **Vehicles**. Except as herein provided, no Owner or Occupant shall permanently or temporarily park or store in the Common Areas, or in any other portion of the Property, any boat, airplane, helicopter, house trailer, camper or recreational vehicle. Parking in parking areas of the Complex shall be limited to conventional passenger automobiles, motorcycles, bicycles or other vehicles reasonably required for the transportation of the Owners and Occupants of the Property, their employees, agents and invitees, and all parking shall be subject to the rules and regulations of Declarant or the Association. Owners and Occupants shall be permitted to park Commercial Vehicles (as hereinafter defined) in such portions of the parking areas of the Complex or other Common Areas as may be designated by Declarant or the Association for the parking of such vehicles, subject to the rules and regulations of Declarant or the Association. Once the Declarant or Architectural Control Committee, as applicable, has approved the location of parking areas for Commercial Vehicles on a Parcel, neither Declarant nor the Association shall thereafter prohibit the parking of Commercial Vehicles in the areas having been approved therefor. "Commercial Vehicles" shall include all automobiles, rail cars, trucks, trailers, or other vehicular equipment which shall (i) have signs or other printed material on the body of said vehicles advertising or making other reference to any commercial undertaking and/or (ii) be used in connection with, and in the ordinary course of, a business conducted on the Property.

Section 4.5 **Exterior Trash Storage and Burning**. No Owner or Occupant of any Building shall accumulate, maintain, store or suffer to exist in, on or around the Property any trash, garbage, waste disposal containers or similar items unless said containers or similar items have first been approved in writing by Declarant or the Association and unless said waste disposal containers or similar items are surrounded by screens whose design, material and construction have been approved in writing by Declarant or the Association. Notwithstanding the foregoing, construction debris and waste disposal containers may be maintained or stored on a Parcel, if done in a safe and secure manner, for so long as there is ongoing and continuous construction on the Parcel which is being diligently pursued, or in the case of an Improvement, for so long as there is ongoing repair, restoration or remodelling being undertaken which is being diligently pursued. Notwithstanding the foregoing, no burning of rubbish or trash shall be permitted at any time on any portion of the Property.

ARTICLE V

RESTRICTIONS ON THE APPEARANCE AND LOCATION OF IMPROVEMENTS

Section 5.1 **Zoning**. All uses permitted in the zoning classification(s) established for the Property on the City's official map have been designated permitted uses within the Property. All uses which are special uses in the zoning classification(s) established for the Property on the City's official map shall, in addition to being approved by the City pursuant to the applicable provisions of the City's Zoning Ordinance as it may be amended from time to time (hereinafter referred to as the "Ordinance"), be approved by, as applicable, Declarant or the Association, which approval shall not be unreasonably withheld. The provisions of the City's Zoning Ordinance as it may be amended from time to time (hereinafter referred to as the "Ordinance") shall not limit or restrict Declarant and/or the Architectural Control Committee in the exercise of their respective powers and rights under the provisions of Articles V and VI of this Declaration. The terms of this Declaration shall govern the construction and addition of all Improvements on and to the Property and the use of the Property, provided, however, that where the enforcement of the aforesaid powers and rights or the terms of this Declaration would constitute a violation of the Ordinance, the Ordinance shall govern.

Section 5.2 **Signage**. Signs shall not be displayed in, on or around any Building or other Improvements, or in, on or around the Property, except as permitted by applicable City ordinances and in accordance with the specifications contained on Exhibit B attached hereto (the "Sign Specifications"), following restrictions and the rules and regulations imposed by Declarant or the Association:

- (a) Every Owner shall be permitted to install and maintain no more than one
 - (1) free-standing ground sign in the area immediately surrounding said Building,

provided, however, that the size, location, shape, design, height and illumination of said signs shall be consistent with the Sign Specifications and subject to the prior review and written approval of Declarant or the Architectural Control Committee, as the case may be, and shall be in compliance with the rules and regulations of Declarant or the Association and the requirements of law.

(b) Signs shall be used for identification purposes only and for no other purpose. Every sign shall identify only the name(s) of the business or Occupants occupying a given Building or the name of said Building. No advertising signs, billboards or displays of any kind, nature or description shall be erected, pasted, posted, painted, maintained or permitted on any part of a Building except as may be expressly approved in writing by Declarant or the Architectural Control Committee.

(c) Signs may be illuminated in conformance with the rules and regulations of Declarant or the Association and any and all designs for illumination shall be subject to the prior written approval of Declarant or the Architectural Control Committee, in such manner as will not create an unsightly appearance and as will prevent the direct rays of such illumination from being visible at the boundary line of the Property.

(d) All hanging, moving and paper signs and all streamers and banners of every kind, nature and description are expressly prohibited.

(e) Any sign(s) installed or maintained by an Owner in violation of the provisions of this Section 5.2 shall be removed by said Owner and at said Owner's sole expense, within thirty (30) days following notice from Declarant or the Architectural Control Committee demanding such removal. If said Owner fails to remove such sign(s) within the aforesaid thirty (30) day period, the Association and Declarant shall have the right, but not the obligation, to enter upon the Parcel owned by said Owner and remove such sign(s). In such event, the cost of removal shall be assessed against and paid by said Owner within thirty (30) days of the rendering of a statement therefor. Such statement may include a charge of ten percent (10%) of the direct costs of removal to defray the administrative expenses connected with performing such work. In order to insure the Owner's payment of said costs, Declarant and the Association shall have the right, in addition to all other legal and equitable rights and remedies, to record a lien against the Owner's Parcel and to foreclose upon the same in accordance with the provisions of Article XIII of this Declaration.

(f) Temporary signs shall be permitted during construction and when a Parcel or Building is offered for sale or lease provided that the Owner of said Parcel or Building has first secured the written approval of Declarant or of the Architectural Control Committee and provided further that (i) with respect to sale or lease signs, such approval shall be effective for only such period of time as shall be approved by Declarant or the

Association (including any extensions thereof) and (ii) all signs relating to construction shall be removed upon completion of such construction.

(g) The restrictive provisions of this Section 5.2 shall be inapplicable to (i) monuments, markers, and signs erected by Declarant or the Association for the purposes of decoration and/or identification of the whole of the Complex, (ii) traffic, directional and warning signs erected by Declarant or the Association, and (iii) Declarant's signs identifying the Property, or portions thereof, for sale or for lease.

Section 5.3 Drainage Ways.

(a) No Owner of any Parcel shall alter or build upon, or modify the topography of, said Parcel in such a way as to create puddles of free standing water on any portion of the Property or so as to otherwise impede the natural flow of storm water run-off; provided, however, that where a natural condition or accumulation of storm or surface water exists on any Parcel for an extended period of time, the Owner of such Parcel may take such steps, with the prior written approval of Declarant or the Association, as shall be necessary to remedy such condition provided that no alteration or diversion of such natural flow proposed by said Owner shall cause damage to other portions of the Property and provided further that the same is undertaken in conformance with the ordinances, rules and regulations of the City and of state and federal law.

(b) All puddles of free-standing water on a Parcel, whether created by natural conditions or otherwise, shall be immediately removed by, and at the expense of, the Owner of said Parcel. If an Owner fails or refuses to remove such puddles of free-standing water as herein provided, then Declarant or the Association, after thirty (30) days notice to said Owner and said Owner's continued failure to remove said puddles, may undertake to remove the same and assess the costs therefor against said Owner. The Owner shall reimburse Declarant or the Association for said costs within thirty (30) days of the date of the rendering of a statement therefor. In order to insure the Owner's payment of said costs, Declarant and the Association shall have the right, in addition to all other legal and equitable rights and remedies, to record a lien against the Owner's Parcel and to foreclose upon the same in the manner provided for in Article XIII of this Declaration.

Section 5.4 Limitation on Street Curb Cuts. All points of ingress and egress to and from the Property shall require the prior approval of Declarant or the Association. No Owner shall, without having first obtained the prior written consent of Declarant or the Association, seek permission from the City, the State of Illinois or any other governmental or quasi-governmental agency or authority, to construct points of ingress and egress to or from the Property (or portion thereof) and any adjacent road, street or highway.

Section 5.5 Landscaping.

(a) Every Parcel on which a Building or other Improvements is placed shall be landscaped and maintained in a park-like manner which conforms with this Declaration and with any requirements of the City and Declarant or the Architectural Control Committee.

(b) In order to maintain a continuity of aesthetically pleasing landscape, a landscape plan ("Landscape Plan") shall be developed for each Parcel by its Owner which conforms with the standards and specifications set forth on Exhibit C attached hereto and by this reference made a part hereof and stating and providing for (i) the type (biological and common name) of all plantings that will be used, along with size (approximate height) and number of all plant materials and their locations; (ii) the location and size of all shrubs, plantings, trees and bushes; (iii) the installation and location of an underground sprinkler system for watering of the landscape and (iv) all other matters reasonably requested for inclusion by Declarant or by the Architectural Control Committee. The Landscape Plan shall be submitted to Declarant or the Architectural Control Committee for review and approval in the manner and subject to the provisions for review and approval of Plans and Specifications set forth in Article VI hereof.

(c) The Owner of each Parcel shall landscape and maintain all unpaved areas between the property lines and any Building on said Parcel in accordance with the Landscape Plan for said Parcel, except to the extent that Declarant or the Association assumes direct responsibility for the maintenance of all or applicable portion thereof.

(d) All berm areas on the Property shall be erected and maintained by the Owners in accordance with the requirements of the City, Declarant and the Architectural Control Committee, except to the extent that Declarant or the Association assumes direct responsibility therefor.

(e) Landscaping shall be installed in accordance with an approved Landscape Plan within the first to occur of (1) ninety (90) days following substantial completion of the first Building constructed on each Parcel and (2) the receipt of the first occupancy permit (including any temporary occupancy permit) from the City for said Building. In the event weather or construction conditions do not permit the completion of landscaping as herein provided, then the same shall be completed as soon thereafter as such conditions permit. If an Owner fails or refuses to complete the landscaping to be undertaken pursuant to this Section 5.5 or to maintain the same as herein provided, then Declarant or the Association, after thirty (30) days notice to said Owner and said Owner's continued failure to undertake said landscaping or said maintenance, may undertake such landscaping and/or maintenance and assess the costs therefor against the Owner. The Owner shall reimburse Declarant or the Association for said costs within

thirty (30) days of the date of the rendering of a statement therefor which statement shall specify the details of the landscaping work performed and the costs thereof. Such statement may include a charge of ten percent (10%) of the direct costs of completing and/or maintaining said landscaping to defray the administrative expenses incurred by Declarant or the Association in connection with the performance of such landscaping. In order to insure the Owner's payment of said landscaping costs, Declarant and the Association shall have the right, in addition to all other legal and equitable rights and remedies, to record a lien against the Owner's Parcel and to foreclose upon the same in the manner provided for in Article XIII of this Declaration.

Section 5.6 **Exterior Appearance of Buildings**. All Improvements shall be compatible and in harmony with existing or approved Improvements with respect to matters of exterior design and materials used. No Owner of a Building shall alter, paint, or otherwise modify the exterior appearance of any Building as said appearance has been previously approved (other than for routine maintenance or repair) unless such alterations, paintings or modifications are first approved in writing by Declarant or the Architectural Control Committee. No metal paneling shall be used on the exterior of any building, with the sole exception of roof screening.

Section 5.7 **Utilities**. All electrical, telephone, water and other utility lines, and the connections thereto, shall be located underground; provided, however, that parking lot lights and electrical transformers may be located above ground subject to the prior written approval of Declarant or the Architectural Control Committee. Declarant and the Architectural Control Committee shall also have control over the design of said lights and transformers.

Section 5.8 **Yard Requirements — Restrictions**.

(a) Yard requirements with respect to each Parcel shall be established by the Owner of a Parcel and Declarant at the time of the approval of the Owner's site plan referred to in Article VI hereof, unless otherwise provided by a separate instrument executed by the Owner of a Parcel and Declarant or, if applicable, the Association and recorded in the Office of the Recorder of Deeds of DuPage County, Illinois, prior to or in conjunction with the recording of any deed of conveyance for that Parcel. Yard requirements established at the time of the approval of the aforesaid site plan under Article VI may be changed only in the manner provided for revisions of Plans and Specifications in Article VI. Yard requirements established by a recorded instrument may be changed only by an instrument specifically designating the change to be made and executed by both Declarant and the Owner of the affected Parcel and shall become effective upon the recording thereof in the Office of the Recorder of Deeds of DuPage County, Illinois.

(b) No Improvements may be located within a front or side yard other than such landscaping, signs, lighting, sidewalks, walkways, driveways and drives and handicapped and visitor parking areas as may be approved pursuant to Article VI.

Section 5.9 **Screening.** All storage, loading and unloading areas and all rooftop mechanical equipment or facilities shall be appropriately screened from view, in accordance with the rules and regulations of Declarant or the Association and as approved, in writing, by Declarant or the Architectural Control Committee. The screening on any given Building within the Complex shall be compatible with the architectural quality, coloring and design of said Building and with the architectural quality, coloring and design of all other screening within the Complex and with the terms and provisions of this Declaration (including Section 5.6).

Section 5.10 **Fences.** No fences shall be constructed, installed, erected, or maintained within any front yard established pursuant to Section 5.8. No fence in other areas of any portion of the Property shall be constructed, installed, erected, removed, altered, or maintained without the prior written approval of Declarant or the Architectural Control Committee.

Section 5.11 **Parking Areas.** Every Owner of any portion of the Property shall, prior to the use or occupancy of any Building constructed or placed thereon, provide and pay for such improved parking spaces in conjunction therewith as shall be required by then applicable zoning regulations and such other governmental requirements as shall then be in force and effect. Every Owner shall construct, use, maintain, repair and restore the parking areas located on such Owner's Parcel in a safe and secure condition and in compliance with all applicable federal, state and municipal laws and ordinances. All such parking areas shall be constructed and maintained in accordance with plans and specifications approved by Declarant or the Association. All paved areas shall be bordered by concrete curb and gutter and shall drain to an interior underground storm drainage system and shall meet all applicable City requirements. Maintenance, repair and restoration shall include without limitation cleaning, snow removal, striping, lighting, drainage, curb and gutter maintenance, resurfacing and landscaping, when and as required.

Section 5.12 **Lighting.** Any lighting (including fixtures) located anywhere on a Parcel, whether in parking areas (as described in Section 5.11) or otherwise, shall conform with applicable City ordinances and with the standards and specifications therefor set forth on Exhibit D attached hereto and by this reference made a part hereof.

ARTICLE VI

ALTERATION AND CONSTRUCTION OF IMPROVEMENTS

Section 6.1 **General.** No Building or other Improvement shall be constructed, erected, placed, altered, maintained or permitted on any Parcel, and no addition, change or alteration in

the exterior thereof shall be made, unless done in accordance with Article V hereof and unless the prior written approval of Declarant or the Architectural Control Committee is first obtained in the manner hereinafter set forth. The giving of an approval pursuant to this Article VI shall rest within the discretion of Declarant (or, as hereinafter provided, the Architectural Control Committee) but the same shall not be arbitrarily or unreasonably withheld or delayed.

Section 6.2 **Submissions to Declarant.** To secure Declarant's approval of the construction or alteration of any Improvement as above required, an Owner shall deliver to Declarant, in form reasonably satisfactory to Declarant, the following documents in the case of original construction of Improvements and such of the following documents Declarant may deem applicable in the case of alterations to existing Improvements:

- (a) a detailed site plan showing the location and dimension of all intended Improvements or alterations thereto, including (i) Building(s); (ii) other structures; (iii) motor vehicular or parking areas and facilities including the number and size of parking spaces; (iv) loading and storage facilities and areas; (v) areas to be landscaped; (vi) signs; (vii) lighting fixtures; (viii) means of ingress and egress; (ix) curb cuts sought within the limitations of this Declaration; (x) traffic patterns; (xi) drives and driveways; and (xii) setbacks and building lines;
- (b) drawings and specifications of all exterior surfaces, showing elevations, and including the color, quality and type of exterior construction materials;
- (c) grading and drainage plans including the invert elevation of all sanitary and storm sewer connections and the location of all utility connections;
- (d) the Landscape Plan;
- (e) a description of the type, style, size and candle power of all outdoor lighting fixtures;
- (f) drawings and design specifications of all proposed signs including the colors thereof and the quality and type of materials to be used and the manner of illumination;
- (g) a detailed description of the proposed use of Building(s) to be located on the Parcel; and
- (h) such other supporting or explanatory information as may be reasonably requested by Declarant to enable Declarant to determine the location, scale, design, character, style and appearance of Owner's intended Improvements or alterations.

All of the foregoing (hereinafter collectively called "Plans and Specifications") shall conform to the applicable provisions of this Declaration. The Owner, at the Owner's sole cost and expense, shall supply nine (9) sets of items (a) through (d) or, in the alternative, three (3) sets plus a mylar reproducible of such items, and three (3) sets of all other required items.

Section 6.3 Time for Review of Plans and Specifications. Not more than thirty (30) days after the Owner's submission to Declarant of the last item of documentation required to be submitted pursuant to the provisions of the foregoing Section 6.2, Declarant shall give notice to said Owner as to whether such Plans and Specifications are approved or disapproved. Any such notice of disapproval shall set forth the reason or reasons for such disapproval. Should Declarant fail to approve or disapprove the Plans and Specifications within the aforesaid thirty (30) day period, then Declarant's approval shall be conclusively presumed to have been granted, provided, however, that the aforesaid presumption shall not be deemed to be a waiver of the applicable provisions of Article V or to constitute the prior written approval of Declarant required under any specific provision of Article V. No construction of the Improvements or alterations described in the submitted Plans and Specifications shall be commenced until (i) Declarant gives notice to the Owner of the approval of said Plans and Specifications, or (ii) the expiration of the aforesaid thirty (30) day period during which time no notice of disapproval has been given by Declarant, whichever shall first occur.

Section 6.4 Time for Review of Revised Plans and Specifications. If Declarant shall disapprove any part of the Plans and Specifications submitted as aforesaid, the Owner may revise its Plans and Specifications to incorporate such changes and deliver to Declarant the number of complete sets of revised Plans and Specifications required by Declarant, and Declarant shall have fifteen (15) days from the date of delivery of the last item of requested documentation within which to review such revised Plans and Specifications so as to determine said Owner's compliance with Declarant's requested changes. Should Declarant fail to advise said Owner in writing of whether or not such revised Plans and Specifications are in compliance with such suggested changes within the aforesaid fifteen (15) day period, then Declarant's approval shall be conclusively presumed to have been granted, subject to the limitations on such presumption provided for in the foregoing Section 6.3.

Section 6.5 Changes in Approved Plans and Specifications. The Owner shall secure the approval of Declarant to any change or revision in approved Plans and Specifications in the manner provided in this Article VI for the initial approval of Plans and Specifications. Declarant or the Architectural Control Committee, as applicable, shall approve requests for changes that do not materially change or modify the matters initially approved and provided that such proposed changes or revisions are reasonably consistent with the initially approved Plans and Specifications. Declarant shall use its best efforts to review such changes or revisions within a shorter period of time than the thirty (30) day period provided in the foregoing Section 6.3 but shall not be required to do so.

Section 6.6 Rights of the Parties Upon Disapproval of Plans and Specifications.

(a) If an Owner believes that the disapproval or failure to consent of Declarant, the Association or the Architectural Control Committee of or to Plans and Specifications submitted by such Owner, or of or to any other matter as to which such approval or consent is required by Articles IV and V, is arbitrary or unreasonable, said Owner may, as its sole and exclusive remedy, submit the matter to arbitration pursuant to the provisions of the Illinois Uniform Arbitration Act and the rules of the American Arbitration Association to the extent that such rules are not inconsistent with said Act. The fees of such arbitrator and court reporter fees shall be divided equally between the Owner and Declarant, the Association or the Architectural Control Committee, as the case may be. All other costs shall be borne by the party incurring same. In determining any question, matter or dispute before such arbitrator, the arbitrator shall, to the fullest extent permitted by law, apply the provisions of this Declaration. The parties to the arbitration agree to fully cooperate and to obtain the cooperation of their respective employees, agents and contractors and to use their respective best efforts to supply as witnesses any former employee, agent or contractor and to produce relevant documents which may be requested by the other. The decision of the arbitrator shall be final and binding and specifically enforceable by a court of competent jurisdiction.

(b) If the Plans and Specifications of any Owner are disapproved by Declarant, and notwithstanding such disapproval, said Owner proceeds to construct, install, erect or maintain any Improvement on the portion of the Property owned by said Owner, then Declarant and the Association shall specifically have the right, in addition to and not in lieu of all other rights and remedies that may be available, to enjoin the construction, installation, erection or maintenance of such Improvement. All costs incurred by Declarant or the Association in preparing for, initiating and pursuing such action, including, without limitation, said party's attorney's fees, shall be paid for by the Owner proceeding to construct, install, erect or maintain any Improvement in violation of this Article VI. Such costs shall be deemed an assessment against said Owner and shall be collectible by Declarant or by the Association in the manner provided in Article XIII of this Declaration.

Section 6.7 Approvals — Responsibilities. Neither Declarant, the Association, the Architectural Control Committee nor their respective agents, employees, members, successors or assigns shall be liable in damages, direct, indirect or consequential, to any Owner or to any other Person submitting Plans and Specifications for approval, by reason of a mistake in judgment, negligence or nonfeasance arising out of, or in connection with, the approval, disapproval or failure to approve or disapprove any Plans and Specifications. Every Person who submits Plans and Specifications to Declarant, the Association or the Architectural Control Committee covenants and agrees, by submission of such Plans and Specifications, and every Owner or Person claiming by or through an Owner covenants and agrees, by acquiring title to any part of the Property or by acquiring any interest in the Property, that it will not bring an

action or suit against Declarant, the Association or the Architectural Control Committee, their respective beneficiaries, agents, employees, members, successors or assigns to recover any of the aforementioned damages.

Section 6.8 Declarant's Powers and Rights and Assignment to Architectural Control Committee. Declarant may, at any time prior to the Transfer Date, establish and then delegate and assign to the Architectural Control Committee its powers, rights and duties under Articles V and VI of this Declaration. Irrespective of whether or not Declarant has established the Architectural Control Committee prior to the Transfer Date, all submissions to be made pursuant to this Article VI and all review and approvals to be made to and by Declarant hereunder and under Article V shall be made to and by the Architectural Control Committee from and after the Transfer Date.

ARTICLE VII

PARCEL MAINTENANCE

Section 7.1 General.

A. Every Owner shall at all times maintain, repair, replace and renew or cause to be maintained, repaired, replaced or renewed all Improvements on its Parcel so as to keep the same in a clean, sightly, safe and first-class condition consistent with its originally approved appearance and condition. Each Owner's maintenance responsibilities with respect to its Parcel shall include, but not be limited to, the maintenance of all visible exterior surfaces of all Buildings and other Improvements and, except to the extent that responsibility for the following may be assumed by Declarant or the Association, (i) the prompt removal of all paper, debris and refuse from all areas of its Parcel; (ii) the maintenance, repair and restoration of parking areas in accordance with Section 5.11 hereof; (iii) the repair, replacement, cleaning and relamping of all exterior signs and lighting fixtures; and (iv) the mowing, watering, fertilizing, weeding, replanting and replacing of all landscaping.

B. If any Improvement is damaged or destroyed, the Owner of the Parcel containing such Improvement shall promptly restore the same to the condition existing prior to such damage or destruction or, in the alternative, raze and remove such Improvement and landscape the Parcel pursuant to a plan of landscaping approved by Declarant as provided in Articles V and VI of this Declaration.

C. In the event any Owner of a Parcel does not commence construction of Improvements thereon within twelve (12) months following the date of recording of the deed of conveyance to said Owner for said Parcel, then said Owner shall landscape the

Parcel with an appropriate ground cover, such as grass or sod, and thereafter maintain such ground cover in a clean, neat and safe condition keeping the same free of weeds and mowed until the commencement of construction of Improvements. The aforesaid twelve (12) month period may be extended with the written approval of Declarant or the Architectural Control Committee.

Section 7.2 **Declarant's/Association's Right to Perform Owner's Maintenance**. If any Owner shall fail to maintain its Parcel as aforesaid, Declarant or the Association may give notice to the Owner specifying the manner in which the Owner has failed to maintain its Parcel, and if said Owner refuses or fails to undertake, or to commence to undertake and thereafter diligently complete, said maintenance within thirty (30) days following such notice, Declarant or the Association may but shall not be obligated to enter upon the Parcel and perform such maintenance. In the event Declarant or the Association undertakes such maintenance, neither Declarant nor the Association shall be liable or responsible to the Owner for any losses or damage thereby sustained by the Owner or anyone claiming by, through or under the Owner except for gross negligence or wanton or willful misconduct. In the event Declarant or the Association undertakes the aforesaid maintenance, the cost therefor shall be assessed against and paid by the aforesaid Owner within thirty (30) days of the rendering of a statement therefor which statement shall specify the details of the work performed and the costs thereof. Such statement may include a charge of ten percent (10%) of the direct costs of undertaking and completing said maintenance in order to defray the administrative expenses incurred by Declarant or the Association in connection with performing such maintenance. In order to insure the Owner's payment of said maintenance assessments, Declarant and the Association shall have the right, in addition to all other legal and suitable rights and remedies, to record a lien against the Owner's Parcel and to foreclose upon the same in the manner provided for in Article XIII of this Declaration.

ARTICLE VIII

COMMON MAINTENANCE

Section 8.1 **Land to be Maintained**. All Common Areas and such open landscaped and parking areas within any Parcel as may be designated by mutual agreement of the Parcel Owner and Declarant or the Association for maintenance by Declarant or the Association (hereinafter called "Common Maintenance Areas") shall be maintained as hereinafter provided.

Section 8.2 Declarant's Maintenance Obligations.

A. Until Declarant shall have assigned its rights and obligations with respect to the Common Areas to the Association in accordance with Section 8.5 hereof, Declarant shall maintain, repair, replace and renew the Common Areas and Common

Maintenance Areas (if any), or cause the same to be maintained, repaired, replaced or renewed in a clean, sightly, safe and quality condition. Such obligation, to the extent not delegated by this Declaration or otherwise to the City or other governmental authority or public utility or to the Owners of the Property, shall include (i) the repair, replacement, renewal and cleaning of all exterior lighting fixtures, signs, entrance monuments and markers, traffic control signals and signs; (ii) the mowing, watering, fertilizing, weeding, replanting and replacing of landscaping; (iii) the operation, maintenance, repair, replacement and renewal of all facilities located in the Utility Easements and of the retention ponds, including, with respect to the retention ponds, spraying for insects, maintenance of water purifying equipment, and maintenance of the banks and the landscaped table lands; (iv) the repair, replacement, cleaning, clearing and maintenance of the parking areas and the Rights-of-Way within the Complex, including without limitation cleaning, snow removal, striping, lighting, drainage, curb and gutter maintenance, resurfacing and landscaping when and as required; and (v) all other maintenance necessary to keep the Complex in a safe, clean and sightly condition.

B. The costs and expenses of performing the aforesaid maintenance, repair, replacement and renewal shall include, but not be limited to, all costs of materials, labors and supplies, overhead and administrative expenses not to exceed ten percent (10%) of the cost of such materials, labor and supplies and the premiums for any policies of insurance on the Common Areas which Declarant shall deem necessary or appropriate (hereinafter collectively called the "Costs of Maintenance").

Section 8.3 Easements for Common Maintenance. Perpetual non-exclusive easements for ingress and egress over, under, across, in and upon those portions of the Property designated as Common Areas pursuant hereto are hereby declared, created and reserved by Declarant for the benefit and use of itself, the Association, the City and any utility company serving the Property, as the case may be, their respective successors and assigns, agents and employees, for the purposes of performing the maintenance required under the foregoing Section 8.2.

Section 8.4 Payment of the Costs of Maintenance.

A. Every Owner shall pay to Declarant its proportionate share of the Costs of Maintenance for so long as Declarant has the obligation to perform the maintenance required by this Article VIII. An Owner's proportionate share of the Costs of Maintenance shall be determined by multiplying the Costs of Maintenance by a fraction, the numerator of which is the total number of acres in such Owner's Parcel and the denominator of which is the total number of acres in the Property (provided, however, that solely for purposes of determining an Owner's proportionate share of the Costs of Maintenance pursuant to this paragraph 8.4A, the term "Property" shall not include the Common Areas). Every Owner shall pay all Costs of Maintenance attributable to Common Maintenance Areas located on such Owner's Parcel.

The obligation to pay Costs of Maintenance pursuant to the Section 8.4 shall commence with the date of delivery to an Owner of a deed of conveyance to a Parcel. Declarant shall be considered an Owner for the purposes of this Section 8.4 to the extent that it owns any Parcel(s).

B. All amounts payable by any Owner pursuant to Section 8.4(A) above shall be assessed to such Owner by Declarant no more frequently than monthly and shall be accompanied by an itemized statement of such costs and the manner in which such Owner's share was determined. Every Owner shall pay the amount shown on the statement within thirty (30) days after receipt. In order to insure the Owner's payment of said charges, Declarant shall have the right, in addition to all other legal rights and remedies, to record a lien against the Parcel owned by said Owner and to foreclose the same in accordance with the provisions of Article XIII of this Declaration.

Section 8.5 Transfer of the Common Areas to Association and the Assignment of Declarant's Rights and Obligations to Association. Declarant may at any time and from time to time: (i) convey to the Association all or any part of Declarant's right, title and interest (if any) in and to the Common Areas; and (ii) either separately or together with such conveyance, and at the same or a different time, assign to the Association all of its duties and obligations relating to maintenance of Common Areas and Common Maintenance Areas. From and after the Transfer Date, all of Declarant's duties and obligations relating to maintenance of Common Areas and Common Maintenance Areas shall terminate and vest in the Association, and Declarant shall forthwith convey to the Association the Common Areas not otherwise dedicated or contained within a Parcel. Notwithstanding that Declarant shall assign to the Association its duties and obligations relating to the Common Areas by the Transfer Date, Declarant shall reserve the right to designate additional Common Areas until the Termination Date, as provided in Section 2.8. Any Common Areas conveyed to the Association pursuant to this Paragraph 8.5 shall be free and clear of all mortgage liens or other similar liens evidencing a security interest in the Common Areas.

Section 8.6 Common Area Dedication. Notwithstanding anything contained in this Declaration to the contrary, Declarant, or the Association upon its succession to Declarant's rights as aforesaid, shall have the right, power and authority to dedicate to the City or other public or quasi-public authority, water lines, storm and sanitary sewer systems and all or portions of the Rights-of-Way. Such dedication and acceptance thereof shall not in and of itself relieve Declarant or the Association, as the case may be, from the obligation of maintaining the land and facilities located within such dedicated areas or relieve the Owners of the obligation to participate in the payment of the Costs of Maintenance as herein provided.

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ARTICLE IX

EASEMENTS FOR INGRESS AND EGRESS

Section 9.1 **Reservation of Easements**. Easements for ingress and egress of vehicular, pedestrian, and rail traffic are hereby declared, granted and reserved over and upon all roads, streets, sidewalks, walkways and other rights-of-way designed or intended for vehicular or pedestrian traffic which may now or hereafter be installed or constructed within any part of the Property designated pursuant hereto as Common Areas and which have not been dedicated to a public body or agency (all of said easement areas being herein collectively called the "Rights-of-Way"). The Rights-of-Way shall be for the common, non-exclusive use and benefit of all Owners and Occupants of the Property, their agents, employees and invitees, and all Persons now or hereafter acquiring any interest therein; provided, however, that the use of the Rights-of-Way shall at all times remain subject to such reasonable rules and regulations as Declarant or the Association may establish or impose. The Rights-of-Way shall be appurtenant to and run with the land, in perpetuity, and shall inure to the benefit of and be binding upon Declarant and all Owners, their grantees and successive grantees and the heirs, successors, personal representatives and assigns of all of them.

Section 9.2 **Maintenance of Rights-of-Way**. The Costs of Maintenance attributable to the Rights-of-Way shall be paid by the Owners of the various portions of the Property in accordance with Article VIII of this Declaration, provided that any maintenance, repair or restoration required due to damage caused by extraordinary use or misuse shall be paid for by the Owner responsible therefor. All Rights-of-Way intended for vehicular traffic shall be constructed and maintained in accordance with plans and specifications approved by Declarant or the Association.

ARTICLE X

**STORM DRAINAGE, SANTARY
SEWER AND UTILITY EASEMENTS**

Section 10.1 **Reservation of Easements**. The Utility Easements, together with the right of access thereto, are hereby declared, granted and reserved for the common non-exclusive use and benefit of all Owners and Occupants of the Property and all Persons now or hereafter acquiring any interest therein, for the construction, installation, use, maintenance, repair and replacement of such water and gas mains, sanitary sewer and storm sewer lines, laterals, feeders and basins, electrical conduits and transformers, and the accessory facilities relating to all of the foregoing, as shall be necessary or required by law to serve the Complex and the Property with water, sewer, gas, electrical, telephone and other utility services, provided, however, that all such facilities and conduits shall be located underground, except as provided in Section 5.7

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hereof, and shall not materially interfere with or disturb the use of the surface of the land under which such facilities are located, installed or constructed. The Utility Easements shall be appurtenant to and run with the land, in perpetuity, and shall inure to the benefit of and be binding upon Declarant and all Owners, their grantees and successive grantees, and the heirs, personal representatives, successors and assigns of all of them.

Section 10.2 **Connections to Utility Lines.** The Owner of any Parcel shall have the right at any time and from time to time to make and install water taps, sewer connections, stubs, laterals, feeders and other conduits connected to and extending from the water mains, sanitary sewer lines and storm sewer lines and other utilities installed and maintained within the Utility Easements, provided that the location or relocation of such connecting facilities and conduits shall be subject to the prior written approval (which shall not be unreasonably withheld or delayed) of Declarant or the Association and of any other Owner under or on whose Parcel such connecting facilities and conduits are to be located, and provided further that such connecting facilities and conduits comply with all laws, ordinances, rules and regulations of governmental authorities and public utilities with a certificate of convenience and necessity having jurisdiction or authority in respect thereto, and provided further that any such connecting facilities and conduits and the use of the same and the use of the Utility Easements shall be so arranged, constructed, used and maintained as to avoid any material interference with the use and enjoyment of the land under or on which such facilities and conduits shall be located, and provided further that any Owner installing such connecting facilities and conduits shall promptly repair any and all damage to the Property caused by such installation. Any Owner installing such connecting facilities and conduits shall maintain the same at its sole cost and expense.

Section 10.3 **Maintenance of Easements.** The Costs of Maintenance attributable to the Utility Easements shall be paid by the Owners of the various portions of the Property in accordance with Article VIII, provided that any maintenance, repair or restoration required as a result of damage caused by extra ordinary use or misuse shall be paid for by the Owner(s) responsible therefor.

ARTICLE XI

INSURANCE

Section 11.1. **Liability and "All Risk" Insurance.** Declarant or the Association shall be responsible for procuring and maintaining comprehensive public liability insurance, including general liability for injuries to and death of persons and for property damage, in such amounts, with such coverages and with such companies as are commercially reasonable insuring the Declarant or the Association from liability in connection with the ownership and/or use of the Common Areas. In addition, the Declarant or the Association shall be further responsible for maintaining such policies of insurance for the improvements from time to time located in the

Common Areas against loss or damage by fire and such other hazards contained in a customary "all risk" policy provided that such policies shall (i) state that such policies may not be cancelled or substantially modified without at least thirty (30) days written notice to the Association; and (ii) provide for coverage in the amount of one hundred percent (100%) of current full replacement value of said improvements. The aforesaid liability insurance policies shall also name as insureds the Directors (as hereinafter defined), agents, officers, employees, and all Owners.

Section 11.2. **Fidelity Insurance.** The Association shall be responsible for procuring and maintaining a fidelity bond insuring the Association and its Board and the Owners against loss of funds as a result of the fraudulent or dishonest acts of any employee of the Association or any director or trustee while performing acts coming within the scope of the usual duties of an employee, in such amounts as the Board shall deem necessary, but not less than 150% of the annual operating expenses of the Association, including amounts collected for reserves. Such bonds shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Such bonds shall provide that they may not be cancelled for non-payment of any premiums or otherwise substantially modified without thirty (30) days prior written notice to the Association.

Section 11.3. **Other Insurance.** The Association may also obtain or require such other kinds of insurance as the Board shall from time to time deem prudent or necessary, in such amounts as shall be deemed to be desirable, including, but not limited to, the following: flood risk; Directors and Officers Liability; Workman's Compensation and Employer Liability; and Non-Owned or Hired Automobile Insurance.

Section 11.4. **Owner's Liability Insurance.** Each Owner, by the acceptance of a deed to such Owner's Parcel, hereby agrees and covenants to procure and maintain in full force and effect at all times comprehensive public liability insurance, including liability for injuries to and death of persons, in connection with such Owner's use and development of its Parcel.

ARTICLE XII

ASSOCIATION

Section 12.1 **Incorporation.** Declarant shall incorporate the Association under the Not-for-Profit Business Corporation Act of the State of Illinois prior to the transfer to the Association of the Common Areas and of Declarant's maintenance obligations as provided in Section 8.5 hereof. Declarant shall have no obligation to incorporate the Association until the Transfer Date, but Declarant may, in Declarant's sole discretion, incorporate the Association at any time after the date hereof and, until the Transfer Date, assign to the Association such rights and obligations of Declarant hereunder as Declarant shall elect. From and after any such assignment to the Association, the Association shall thereafter assume such rights and

obligations. Declarant shall have the right to reserve and retain such rights and obligations of Declarant hereunder until the Transfer Date as Declarant shall elect and shall not be obligated to assign to the Association all of its rights and obligations hereunder prior to the Transfer Date at one time.

Section 12.2 **Membership**. Every Owner of a Parcel, including Declarant, shall be a Member of the Association. Membership shall be appurtenant to, and may not be separate from, the ownership of a Parcel. Ownership of a Parcel shall be the sole qualification for membership in the Association. Every Owner of a Parcel, by acceptance of a deed thereto, covenants and agrees to be a Member of the Association whether or not it shall be so expressed in any deed or other conveyance. In the event the Owner of a Parcel is a land trust, the rights, privileges and benefits of membership in the Association and the duties and obligations associated therewith shall inure to the benefit of and be binding upon the beneficiaries of said land trust.

Section 12.3 **Transfer**. Membership in the Association shall not be transferable in any way except upon the conveyance of a Parcel and then only to the successor in title to such Parcel. Any attempt to transfer a membership in the Association in violation of the provisions hereof shall be null and void and of no force or effect.

Section 12.4 **Powers and Duties of Board of Directors**. A board of directors (hereinafter referred to as the "Board") comprised of three (3) individuals (hereinafter referred to as the "Directors") shall exercise the powers and duties of the Association for the benefit of the Property and the Members and shall pay all costs required or permitted to be paid pursuant to this Declaration from assessments or charges levied in accordance with the terms hereof. The Directors shall be elected annually, to serve without compensation for services performed, by a majority vote of the votes being cast by the Members in any election held to elect Directors. If Declarant has then established the Association (as set forth in Section 12.1), Declarant shall have the right to designate and appoint each year not less than two (2) of the Directors that are to serve as members of the Board until such time as Declarant has conveyed two thirds (2/3) of the total acreage of the Parcels to be conveyed to Owners, and thereafter, until the Transfer Date, Declarant shall have the right to designate and appoint each year not less than one (1) of the aforementioned Directors. Vacancies in the Board shall be filled (x) by Declarant, with respect to Directors appointed by Declarant and (y) by a majority vote of the Members with respect to Directors elected by the Members. The Board shall meet from time to time as necessary but in no event shall the Board meet less than once a year. Notice of all meetings of the Board shall be in writing and delivered to each Director personally or by certified mail, return receipt requested, not less than four (4) business days prior to the date of any scheduled meeting. No action of the Board shall be effective or taken except by majority vote of the Directors. Notwithstanding any language to the contrary contained herein, nothing shall preclude the election of Directors by Members on a cumulative voting basis.

Section 12.5 Voting Rights. The total number of votes which may be cast on any matter requiring assent of Members of the Association shall be equal to 100. The Members representing a Parcel shall be entitled to collectively cast a number (or fraction thereof) of votes equal to 100 multiplied by a fraction the numerator of which is the total acreage of such Parcel and the denominator of which is the total acreage of those portions of the Property which are then subject to assessment hereunder. Such votes may be cast in such manner as the Members, acting in accordance with their rules of administration, deem advisable, and the Members shall not be required to cast all such votes as a group or block. Unless this Declaration, the Articles of Incorporation, the By-Laws, or any law shall specify a greater vote, all Association matters requiring action by Members shall be decided by a majority of the votes cast at a duly called meeting at which more than fifty (50) of the votes which could be cast at such meeting, determined as aforesaid, are represented, in person or by proxy. For purposes of this Article and Article VII of this Declaration, the acreage of such Parcel and the total acreage from time to time of those portions of the Property which are then subject to assessment hereunder shall be conclusively determined by the Board, in such manner as the Board may deem appropriate. Notwithstanding any language to the contrary contained herein, nothing shall preclude the election of Directors by Members on a cumulative voting basis.

Section 12.6 Powers and Duties of Officers. The Board shall elect from among its members, to serve, without compensation for services performed, for the term of one (1) year (i) a President who shall preside over its own and the Association's meetings, who shall be the chief executive officer of the Association and who shall be designated to mail and receive all notices and execute all documents as provided herein; (ii) a Secretary who shall keep the minutes of all meetings of the Board and of the Association and who shall, in general, perform all the duties incident to the office of the Secretary, (iii) a Treasurer who shall keep the financial records and books of account, and (iv) such additional officers as the Board shall see fit to elect from amongst its members. Vacancies in any office shall be filled by the Board by a majority vote of the members of the Board. Any officer elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds.

Section 12.7 Association's Common Area Maintenance Obligations. The Association shall perform such maintenance obligations as shall have been assigned to it by Declarant pursuant to Article VIII, Section 8.5 of this Declaration and shall exercise the powers and rights of Declarant with respect thereto. The Association shall perform all maintenance obligations from and after the assignment or termination of all of Declarant's responsibility for performing all maintenance obligations pursuant to the provisions of the aforesaid Section 8.5 and, with respect to such performance, the Association shall have all of the powers and rights of Declarant under Articles IV, VII, VIII and XIII of this Declaration.

Section 12.8 Additional Rights of Association as Successor to Declarant. The Association, acting by and through the Architectural Control Committee, shall exercise the powers and rights of Declarant which have been delegated and assigned to it as provided in

Article VI, Section 6.8 of this Declaration, including all rights of enforcement under Articles V and VI of this Declaration, or to which the Architectural Control Committee has succeeded, pursuant to the aforesaid Section 6.8, as of the Transfer Date.

Section 12.9 **Additional Powers of Association**. The Association, to the extent the Board deems necessary and appropriate, shall have the power to own real and personal property, to open bank accounts, to take such action, legal or otherwise, necessary to enforce this Declaration as herein provided, to obtain policies of insurance insuring the Association, its Members, the Board and the Common Areas, to contract for legal, accounting and similar professional services, to borrow funds, to employ the services of a manager, to employ employees directly or through the manager, to otherwise do that which it believes necessary to protect or defend the Common Areas, the Association and the Property from loss or damage by suit or otherwise and to pay the costs of the foregoing from assessments levied against the Owners.

Section 12.10 **Architectural Control Committee**. Provided that Declarant has not theretofore established the Architectural Control Committee as set forth in Section 6.8 above, the Association shall create and maintain an Architectural Control Committee with membership and rights, duties and obligations as follows and otherwise consistent with the provisions of this Declaration:

(a) **Number of Members**. The Architectural Control Committee shall consist of three (3) members. A member of the Architectural Control Committee need not be a Member of the Association or an employee or agent of a Member of the Association.

(b) **Appointment of Committee Members**. The members of the Architectural Control Committee, one of whom shall be designated as Chairman, shall be appointed by the Board. The members of the Architectural Control Committee shall serve without compensation for services performed pursuant to this Declaration. The Board, at its first meeting in each fiscal year, shall appoint the members of the Architectural Control Committee, who shall hold office for one (1) year or until their respective successors have been duly appointed. In the event of the death or resignation of a member of the Architectural Control Committee, the Board shall appoint a successor member to serve for the balance of the term of said deceased or resigning member. Until the Transfer Date, the Declarant shall have the right to appoint all members of the Architectural Control Committee.

(c) **Powers of the Architectural Control Committee**. The Architectural Control Committee shall exercise all of the powers and rights of Declarant under Articles V and VI from and after the earlier to occur of (i) the Transfer Date and (ii) the transfer of such powers and rights to said committee pursuant to Section 6.8 of this Declaration. The exercise of such powers and rights shall be in the manner provided in

Article VI hereof. All decisions made and actions taken by the Architectural Control Committee shall be made and taken only upon a majority vote of the voting members of the Architectural Control Committee in favor of such decision or action.

Section 12.11 **Director, Officer and Architectural Control Committee Member Liability.** Neither the Directors nor the officers of the Association nor the members of the Architectural Control Committee shall be personally liable to the Owners, the Declarant or the Association for any mistake of judgment or for any other acts or omissions of any nature whatsoever made, taken or omitted to be taken as such Directors, officers or committee members except for willful misconduct. The Association and its Members shall indemnify and hold harmless the aforesaid Directors' officers and committee members, their heirs, personal representatives, successors and assigns from and against all contractual and other liabilities to others arising out of contracts made by, or acts or omissions of, the said Directors, officers and committee members on behalf of the Owners or the Association or arising out of their status as Directors, officers or committee members and all costs and expenses (including, but not limited to, attorneys' fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director, officer or committee member may be involved by virtue of being or having been such Director, officer or committee member; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have finally been adjudged in such action, suit or proceeding to be liable for malicious, illegal or willful misconduct or fraud in the performance of his duties as such Director, officer or committee member; or (ii) any claim for malicious, illegal or willful misconduct or fraud that is settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is no reasonable ground for such person being adjudged liable for such malicious, illegal or willful misconduct or fraud in the performance of his duties as such director, officer or committee member. The foregoing provision shall be in addition to Article VI, Section 6.7 hereof and not in lieu thereof.

Section 12.12 **By-Laws.** The Board shall adopt By-Laws (the "By-Laws") which shall be consistent with the terms of this Declaration and which shall conform to the requirements of Illinois law.

Section 12.13 **Persons Subject to Declaration, By-Laws and Rules and Regulations.** Declarant or the Association may adopt such reasonable rules and regulations as it may determine from time to time and in conformance with the terms of this Declaration. All present and future Owners, tenants, invitees and Occupants of the Property shall be subject to, and shall comply with, the provisions of this Declaration, the By-Laws and the rules and regulations, if any, promulgated by Declarant or Association, as they may be amended from time to time. Acceptance of a deed of conveyance, or the entering into a lease, or the entering into occupancy of any Building on any Parcel shall constitute an agreement that the provisions of this

Declaration and of said By-Laws and of said rules and regulations, as the same may be amended from time to time, are accepted and ratified by such Owner, tenant or Occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any Person having at any time any interest or estate in such Parcel, as though such provision were recited and stipulated at length in each and every deed, conveyance or lease thereof.

Section 12.14 Person to Receive Process. The President of the Association is hereby designated to receive service of process in any action which may be brought against the Association.

ARTICLE XIII

ASSESSMENTS LEVIED BY THE ASSOCIATION

Section 13.1 Assessments. The Association may levy assessments against the Owners which shall be used to discharge the Costs of Maintenance and for such other purposes as are authorized by this Declaration or deemed necessary and appropriate by the Association for the general maintenance and welfare of the Complex, including, without limitation, discharging the costs incurred by the Association in exercising its rights and powers and in performing its obligations hereunder, discharging the costs incurred by the Architectural Control Committee, discharging the costs incurred by the Association in enforcing this Declaration and the By-Laws and rules and regulations of Declarant or the Association and discharging any and all general and special real estate taxes and assessments levied by any public authority with respect to the Common Areas. Notwithstanding any language to the contrary contained herein, no assessments shall be levied against any Owner to reimburse Declarant for the costs incurred in connection with the initial development of the Complex.

Section 13.2 Personal Obligation for Assessments and Creation of Lien. Every Owner of a Parcel, by the acceptance of a deed thereto, whether or not such obligation be so expressed in any such deed, for every Parcel owned by said Owner, hereby covenants and agrees, and shall be deemed to have covenanted and agreed, to pay to Declarant or the Association, all assessments and charges as are levied or charged by Declarant or the Association pursuant to the provisions of this Declaration. All assessments and charges, whether arising pursuant to the foregoing sentence or under any other provisions of this Declaration, together with interest thereon calculated at the annual rate of 200 basis points above the prime rate of interest, defined as the rate of interest announced from time to time in Chicago, Illinois by The First National Bank of Chicago as its prime rate, changing when and as such prime rate changes (hereinafter referred to as the "Default Rate of Interest"), together with the late payment and administrative expense charge hereinafter described and the costs of collection, if any, as herein provided, shall be charged as a continuing lien upon the Parcel against which every such assessment or charge is levied. Every such assessment and charge as aforesaid, together with

interest, late payment and administrative expense charges and costs thereon, shall, in addition, be the personal obligation of the Owner of such Parcel at the time the assessment or charge was levied. Declarant, to the extent that it owns any part of the Property at the time the Association becomes responsible for the performance of maintenance obligations, shall be deemed subject to the provisions of this Article. The provisions of this Section 13.2, as well as the provisions of Sections 13.3, 13.6 and 13.7, to the extent not inconsistent herewith, shall apply to Costs of Maintenance and charges payable by an Owner to Declarant under the applicable provisions of this Declaration and be for the benefit of and enforceable by Declarant.

Section 13.3 Liability of Beneficiaries of Land Trust. In the event title to a Parcel subject to assessment and charge is conveyed to a titleholding trust under the terms of which all powers of management, operation and control remain vested in the trust beneficiary or beneficiaries, then the beneficiary or beneficiaries thereunder shall be responsible for the payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created for the purpose of the payment of the costs assessed against such Parcel. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation created hereunder and such trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon such Parcel and the obligation of the beneficiaries of such trust, notwithstanding any transfer or attempted transfer of the beneficial interest in any such trust or any transfer or attempted transfer of title to such Parcel.

Section 13.4 Annual and Additional Assessment. The initial annual assessment payable to the Association shall be fixed by Declarant in its reasonable discretion, giving due consideration to the Costs of Maintenance for the prior twelve (12) month period. If required, such initial annual assessment shall be prorated for the period commencing with the date the Association becomes responsible for maintenance obligations to the end of its then current fiscal year. Commencing with the next fiscal year and for each year thereafter the Board shall estimate its costs of operation for the coming year and same shall be assessed and paid monthly in advance by every Owner or as the Board shall otherwise direct. Such assessment shall take into consideration the cost of, or reserves for, any contemplated repair, replacement or renewal of a specified Improvement upon the Common Areas or the personal property and facilities maintained by the Association. The Board shall have the power to levy additional assessments as may be provided in the By-Laws of the Association. All assessments shall be allocated in accordance with the provisions of Article VIII, Section 8.4(A) of this Declaration.

Section 13.5 Proration of Assessments. The assessments provided for in this Article shall commence on or be prorated as of the date each Owner acquires title to its Parcel and shall thereafter be due and payable as above provided.

Section 13.6 **Delinquent Assessments**. Any assessments or charges which are not paid when due shall be delinquent. If an Owner fails to pay any assessment or charge within thirty (30) days of its due date, said Owner, in addition to the Default Rate of Interest, shall be liable to the Association for a late payment and administrative expense charge equal to the greater of (x) \$150, or (y) fifteen percent (15%) of the amount of the unpaid assessment or charge. In addition to the foregoing and in addition to all other legal and equitable rights and remedies, Declarant or the Association, as the case may be, may (i) bring an action at law against the Owner personally obligated to pay the assessment or charge and (ii) in an appropriate judicial proceeding, foreclose the lien created in favor of the Association by the provisions of the foregoing Section 13.2 and (iii) collect in said action or through said proceeding the delinquent assessment or charge, together with the Default Rate of Interest thereon, the aforesaid late payment and administrative expense charge and the costs of collection and reasonable attorneys' fees of any such action or proceeding. The lien provided for under Section 13.2 shall secure the payment of the assessment or charge, the Default Rate of Interest thereon, the aforesaid late payment and administrative expense charge and the aforesaid costs and reasonable attorneys' fees. No Owner may waive or otherwise avoid liability for an assessment or charge as provided for herein by nonuse of the Common Areas and facilities or abandonment or transfer of its Parcel.

Section 13.7 **Subordination of Lien to Mortgage**. The lien for any assessment or charge provided for in this Declaration shall be subordinated to the lien of any bona fide security interest, including a mortgage, trust deed or sale and leaseback, created by the Owner of a Parcel for the purposes of the improvement thereof, provided, however, that such subordination shall apply only to the assessments and charges which have become due and payable prior to a sale or transfer of such Parcel pursuant to or in lieu of foreclosure by the holder of such security interest. Such sale or transfer shall not relieve the Parcel from the lien for any assessments or charges thereafter becoming due nor from the lien of any subsequent assessments or charges.

Section 13.8 **Property Not Subject to Assessment**. All parts of the Property dedicated to and accepted by the City or other public authority shall be exempt from the assessments, charges and liens created under this Declaration provided that the obligations for and costs of maintenance, repair, replacement, etc. thereof are borne by the City or such other public authority.

ARTICLE XIV

MISCELLANEOUS SECTIONS

Section 14.1 **Term**. This Declaration shall run for a term of thirty-five (35) years from the date this Declaration is recorded, after which time it shall be automatically extended for successive periods of five (5) years unless an instrument amending this Declaration to provide

otherwise is executed and recorded in accordance with the provisions of Section 14.2 hereof. Notwithstanding the foregoing, the easements created, reserved or declared by this Declaration shall, unless extinguished or terminated in accordance with law, be perpetual in duration.

Section 14.2 Amendment.

(a) Declarant hereby reserves to itself the right and power, to be exercised without the consent of any Owner (or any mortgagee of any such Owner) to record a special amendment ("Special Amendment") to this Declaration at any time and from to time (i) to correct clerical or typographical errors in this Declaration or any exhibit hereto or any supplement or amendment thereto; or (ii) to change, amend or modify any of the terms and conditions of this Declaration based upon Declarant's determination, made in good faith, that such change, amendment or modification is in the best interest of the Property and the Complex and is consistent with the intent and purposes of this Declaration. Notwithstanding the foregoing, Declarant shall not change or amend the manner of determining the allocation of the Costs of Maintenance to each Parcel under Article VIII, and the assessments allocable to each Parcel are under Article XIII, without the consent of the Owners of each Parcel so affected. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to vote in favor of, make or consent to a Special Amendment on behalf of each Owner as proxy or attorney in fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting the Property or any part or portion thereof, and the acceptance thereof, shall be deemed to be a grant and acknowledgement of, and the consent to the reservation of, the power of Declarant to vote in favor of, make, execute and record Special Amendments. The right of Declarant to act pursuant to the rights reserved or granted in this Section 14.2(a) shall terminate on the Termination Date.

(b) In addition to the matters contained in Section 14.2(a), this Declaration may be amended by an instrument executed by Owners having the right to cast at least fifty-one percent (51 %) of the votes in the Association pursuant to Section 12.5 (whether or not the Association has then been formed), provided that: (i) prior to the Termination Date, Declarant's written consent shall be required to any such amendment; (ii) no amendment shall in any manner affect any rights with respect to the Rights-of-Way and the Utility Easements established by this Declaration without the consent of the Owner of each Parcel affected by said amendment; (iii) the manner of determining the allocation of the Costs of Maintenance to each Parcel under Article VIII, and the assessments allocable to each Parcel under Article XIII, shall not be changed without the consent of the Owners of each Parcel so affected; and (iv) no amendment shall affect the rights of a holder of a security interest in a Parcel without such holder's consent.

(c) All Special Amendments and other amendments shall become effective when recorded in the Office of the Recorder of Deeds of DuPage County, Illinois.

Section 14.3 Enforcement — General. The covenants, conditions, restrictions, easements, uses, privileges, obligations (including, without limitation, the obligation to pay assessments), charges and liens of this Declaration shall run with the land and be binding upon and inure to the benefit of all Persons having or acquiring any right, title or interest in the Property, including Declarant, the Association and every Owner, purchaser, lessee, mortgagee and grantee of a Parcel, their respective heirs, personal representatives, successors and assigns. The enforcement of the provisions of this Declaration shall be vested in Declarant until the Termination Date, except with respect to provisions which relate to the powers and rights delegated or assigned to or vested in the Association as herein provided, the enforcement of which shall be vested in the Association as herein provided. After the Termination Date, all enforcement of the provisions of this Declaration shall be vested in the Association. Subject to the limitations of Article VI, Section 6.6, a breach of any of the provisions of this Declaration shall give to the party entitled to enforce such provision the right to bring a proceeding in law or equity against the party or parties breaching or attempting to breach the Declaration for damages resulting from such breach and for an injunction enjoining such breach or attempted breach or ordering the remedying of such breach. A breach of this Declaration by an Owner relating to the use or maintenance of a Parcel or part thereof is hereby declared to be and constitute a nuisance, and every public or private remedy allowed by law or equity for the abatement of a public or private nuisance shall be available to remedy such breach, including, without limitation, assessing said Owner for the costs of removing, correcting or abating said nuisance and securing the collection of said costs by the filing of a lien against the Parcel owned by said Owner and the foreclosure upon said lien in the manner provided for in Article XIII of this Declaration. In any legal or equitable proceedings for the enforcement of this Declaration or to restrain a breach thereof, the party or parties against whom judgment is entered shall pay the attorneys' fees and costs of the party or parties for whom judgment is entered in such amount as may be fixed by the Court in such proceedings. All remedies provided under this Declaration including those at law or in equity shall be cumulative and not exclusive. The failure of a party having a right to enforce this Declaration to so do shall not be deemed a waiver of the right of any other party having such right nor a waiver of the right to enforce this Declaration in the event of a subsequent breach or the right to enforce any other provision of this Declaration. No party having the right to enforce this Declaration shall be liable for failure to enforce this Declaration.

Section 14.4 Enforcement and Easement Rights of the City and Public Utilities. A perpetual, non-exclusive ingress and egress easement over the parking areas and the Rights-of-Way located in and on the Property is hereby granted to the City and any public utility serving the Property for the purposes of providing police and fire protection and other municipal services to the Property and for the purpose of performing the maintenance obligations herein described to the extent that the City or any such public utility undertakes the same.

Section 14.5 **Responsibility of Owner**. Every Owner shall be responsible for any breach of this Declaration which is a result of its own acts or omissions or the acts or omissions of an Occupant of its Parcel(s).

Section 14.6 **Compliance with Law**. Every Owner shall at all times comply with all terms and provisions of all applicable federal, state, county and municipal laws, ordinances, rules and regulations and with the applicable regulations of the local fire insurance rating organization having jurisdiction over the Property and of any other organization or board exercising a similar function with respect to the construction, maintenance, operation and use of such Owner's Parcel or the Improvements thereon. In the event of a conflict, ambiguity or inconsistency between the terms and provisions of this Declaration and the terms and provisions of federal, state or local law, the more restrictive terms and provisions shall govern. The terms and provisions of this Declaration shall, to the extent possible under the law, supersede any conflicting terms and provisions established by law.

Section 14.7 **Estoppel Certificates**. Upon the written request of an Owner or the holder of a security interest in a Parcel, the Declarant and/or the Association, as the case may be, shall, within ten (10) business days of the request therefor, issue a certificate setting forth the amount of any delinquent assessment or charge with respect to said Parcel or stating that all current obligations with respect to Costs of Maintenance or assessments allocable to such parcel have been paid in full. A reasonable charge not to exceed twenty-five dollars (\$25.00) may be made for issuance of said certificate.

Section 14.8 **Severability**. If any of the covenants, conditions or terms of this Declaration shall be found void or unenforceable for whatever reason by any court of law or of equity, then every other covenant, condition or term herein set forth shall remain valid and binding provided that in such event Declarant and all of the then Owners of the Property shall to the fullest extent possible modify such covenant, condition or term to the extent required to carry out the general intention of this Declaration and to impart validity to such covenant, condition or term.

Section 14.9 **Owner's Liability, Subsequent Sale, Successor's Obligation**. In the event that any Owner sells, transfers or otherwise conveys a Parcel, said Owner shall have no liability for obligations relating to such Parcel accruing after the date of the aforesaid sale, transfer or conveyance provided, however, that nothing herein contained shall affect the validity or enforceability of any lien theretofore recorded against a Parcel for previously incurred liabilities and nothing contained herein shall affect the liability of any Owner for any obligation incurred pursuant to this Declaration prior to the date of said sale, transfer or conveyance.

Section 14.10 **Delay in Performance — Force Majeure**. If the performance of any act or obligation under this Declaration is prevented or delayed by an act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, mob violence, sabotage,

malicious mischief, inability to procure or general shortage of labor, equipment or facilities, materials or supplies in the open market, failure of transportation, strike, lock-out, action of labor union, condemnation, threatened condemnation, requisitions, laws and orders of government or civil or military authorities or any other cause whether similar or dissimilar to the foregoing not within the reasonable control of the Person required to perform such act or obligation, then such Person shall be excused from the performance of such act or obligation for so long as such Person is so prevented or delayed by reason thereof. This force majeure provision shall apply only to the non-monetary obligations created by this Declaration and imposed on the Association (including the Architectural Control Committee), Declarant and every Owner of a Parcel.

Section 14.11 **Notice.** Any notice required or desired to be given under this Declaration shall be in writing and shall be deemed to have been properly served when (i) delivered in person and receipted for or (ii) deposited in the United States Mail, certified mail, return receipt requested, postage prepaid, addressed, if to an Owner, to said Owner's address at the Property or last known address as shown on the records of Declarant or the Association, as the case may be, at the time of such mailing or, if to the Association, to its President, Secretary or registered agent, or if to Declarant, addressed as follows:

DuPage Properties Venture
c/o Development Resources, Inc.
439 North Wells Street
2nd Floor
Chicago, Illinois 60610
Attn: James F. DeRose

or such other address as Declarant shall from time to time designate by notice to every Owner. Notices shall be deemed effective upon delivery, if personally delivered, or two (2) days after the date of postmarking, if mailed.

Section 14.12 **Captions — Singular, Plural, Gender.** The Article and Section headings herein are intended for convenience only and shall not be construed with any substantive effect in this Declaration. Words used herein shall be deemed to include singular and plural, and any gender as the context requires.

Section 14.13 **Reservation of Easements.** Reference to this Declaration in any deed of conveyance or any mortgage or trust deed or other evidence of obligation shall be sufficient to create and reserve all of the rights, benefits, burdens, duties and obligations contained herein to the respective grantees, mortgagees or trustees of all or any portion of the Property as fully and completely as if the same were fully recited and set forth in their entirety in such instrument.

Section 14.14 Right to Expand Easements and Declare Additional Easements.

Declarant hereby reserves the right to grant, reserve or declare additional easements in, on, or under the Property and to expand the easements created or reserved herein, for any purpose which, in the opinion of Declarant, is consistent with the purposes of this Declaration and necessary to the use and enjoyment of the Property, including, without limitation, easements necessary to the provision of gas, electric, telephone or other utility services and easements necessary to the provision of ingress and egress rights of way to, on and for the Property.

Section 14.15 Enforcement Rights of the City. In the event there is a failure to perform any maintenance required of Declarant or the Association or any Owner (including the Declarant if it is the record title holder of any portion of the Property) by this Declaration, then the City by its employees, contractors or duly authorized agents, upon thirty (30) days written notice to Declarant or the Association and to each Owner of the Parcel responsible for payment as hereinafter provided, shall have the right, but not the duty, to enter upon the Property to perform such maintenance and to correct the causes of and eliminate any nuisance or ordinance violation resulting from such failure (hereinafter called "City Work"); provided, however, in the event the failure to perform said maintenance constitutes an emergency substantially threatening injury to persons or property, the City shall be required only to give such notice as is practical under the circumstances before entry upon the Property and performing City Work. The reasonable costs and expenses of the City Work shall be charged to and paid by the Owner(s), including the Declarant and such costs shall be a lien upon the Owner(s) Parcel as provided in this Declaration. The Owner(s) responsible for paying the foregoing costs and expenses shall be the Owner of the Parcel on which the City Work is performed, or if the Property on which the City Work is performed is public property or in the nature of the common area, then the Owner(s) of the Parcels adjoining the property on which the City Work is performed shall be responsible for paying the foregoing costs and expenses. The City, in addition to any other rights it may have under this Declaration, shall have the right to file suit in any court of competent jurisdiction to enforce and require the performance of the obligations for maintenance under the provisions of this Declaration and to recover the reasonable costs and expenses of the City Work together with the reasonable attorney's fees and costs and expenses of litigation in the amounts as may be fixed by the court in such proceedings. The City shall also have the right to enforce, by any proceeding at law or in equity, all other restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Any Owner found to be in violation by a court of competent jurisdiction of any of the foregoing shall also be liable for reasonable attorney's fees and costs and expenses of litigation incurred by the City in prosecuting such action. The amount of such attorney's fees together with the costs and expenses of litigation, if unpaid, shall constitute an additional lien against the defaulting Owner's Parcel enforceable as other liens herein established. Failure by the City to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 14.16 **Owner's Association**. In the event the Association has been formed to maintain and administer any portion of the Property, the City shall have the right to require that any costs and expenses of the City Work described in Section 14.15 hereof be paid for by the Association and/or that the Association levy a special assessment against all of their members to pay for such work.

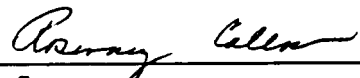
Section 14.17 **Trustee Exculpation**. This Declaration is executed by LaSalle National Trust, as Trustee as aforesaid, in exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein shall be construed as creating any individual liability on said LaSalle National Trust.

IN WITNESS WHEREOF, LaSalle National Trust, as Trustee as aforesaid, and DuPage Properties Venture have caused this Declaration to be signed as of the date first above written.

LASALLE NATIONAL TRUST, ^{N.A.} not
individually, but solely as Trustee as
aforesaid

By: 
Its: Vice President

ATTEST:

By: 
Assistant Secretary

DUPAGE PROPERTIES VENTURE, an
Illinois general partnership

By: **DUPAGE COUNTY
PROPERTIES, L.L.C.**, an Illinois
limited liability company

By: _____
Manager

By: **LAWRENCE F. LEVY
ENTERPRISES, INC.**, an Illinois
corporation

By: _____
Lawrence F. Levy, President

By: **DEROSE DPV, INC.**, an Illinois
corporation

By: _____
James DeRose, President

Section 14.16 Owner's Association. In the event the Association has been formed to maintain and administer any portion of the Property, the City shall have the right to require that any costs and expenses of the City Work described in Section 14.15 hereof be paid for by the Association and/or that the Association levy a special assessment against all of their members to pay for such work.

Section 14.17 Trustee Exculpation. This Declaration is executed by LaSalle National Trust, as Trustee as aforesaid, in exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein shall be construed as creating any individual liability on said LaSalle National Trust.

IN WITNESS WHEREOF, LaSalle National Trust, as Trustee as aforesaid, and DuPage Properties Venture have caused this Declaration to be signed as of the date first above written.

LASALLE NATIONAL TRUST, not individually, but solely as Trustee as aforesaid

By: _____
Its: _____

ATTEST:

By: _____
Assistant Secretary

DUPAGE PROPERTIES VENTURE, an Illinois general partnership

By: **DUPAGE COUNTY PROPERTIES, L.L.C.**, an Illinois limited liability company

By: *J. Kurt Freundlich*
Manager

By: **LAWRENCE F. LEVY ENTERPRISES, INC.**, an Illinois corporation

By: _____
Lawrence F. Levy, President

By: **DEROSE DPV, INC.**, an Illinois corporation

By: _____
James DeRose, President

R96-154465

Section 14.16 Owner's Association. In the event the Association has been formed to maintain and administer any portion of the Property, the City shall have the right to require that any costs and expenses of the City Work described in Section 14.15 hereof be paid for by the Association and/or that the Association levy a special assessment against all of their members to pay for such work.

Section 14.17 Trustee Exculpation. This Declaration is executed by LaSalle National Trust, as Trustee as aforesaid, in exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein shall be construed as creating any individual liability on said LaSalle National Trust.

IN WITNESS WHEREOF, LaSalle National Trust, as Trustee as aforesaid, and DuPage Properties Venture have caused this Declaration to be signed as of the date first above written.

LASALLE NATIONAL TRUST, not individually, but solely as Trustee as aforesaid

By: _____
Its: _____

ATTEST:

By: _____
Assistant Secretary

DUPAGE PROPERTIES VENTURE, an Illinois general partnership

By: **DUPAGE COUNTY PROPERTIES, L.L.C.**, an Illinois limited liability company

By: _____
Manager

By: **LAWRENCE F. LEVY ENTERPRISES, INC.**, an Illinois corporation

By: 
Lawrence F. Levy, President

By: **DEROSE DPV, INC.**, an Illinois corporation

By: _____
James DeRose, President

Section 14.16 Owner's Association. In the event the Association has been formed to maintain and administer any portion of the Property, the City shall have the right to require that any costs and expenses of the City Work described in Section 14.15 hereof be paid for by the Association and/or that the Association levy a special assessment against all of their members to pay for such work.

Section 14.17 Trustee Exculpation. This Declaration is executed by LaSalle National Trust, as Trustee as aforesaid, in exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein shall be construed as creating any individual liability on said LaSalle National Trust.

IN WITNESS WHEREOF, LaSalle National Trust, as Trustee as aforesaid, and DuPage Properties Venture have caused this Declaration to be signed as of the date first above written.

LASALLE NATIONAL TRUST, not individually, but solely as Trustee as aforesaid.

By: _____
Its: _____

ATTEST:

By: _____
Assistant Secretary

DUPAGE PROPERTIES VENTURE, an Illinois general partnership

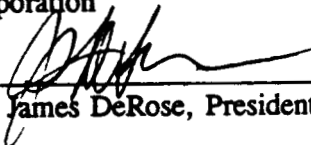
By: **DUPAGE COUNTY PROPERTIES, L.L.C.**, an Illinois limited liability company

By: _____
Manager

By: **LAWRENCE F. LEVY ENTERPRISES, INC.**, an Illinois corporation

By: _____
Lawrence F. Levy, President

By: **DEROSE DPV, INC.**, an Illinois corporation

By: 
James DeRose, President

R96-151465

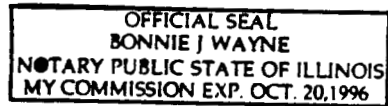
STATE OF ILLINOIS)
)
) SS.
COUNTY OF COOK)

I, BONNIE J. WAYNE, a Notary Public in and for the county and state aforesaid, do hereby certify that J. Kurt Freundlich, the Manager of DuPage County Properties, L.L.C. an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said limited liability company, appeared before me in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of SEPTEMBER, 1996.

Bonnie J. Wayne
Notary Public

My Commission Expires:
OCT. 20, 1996



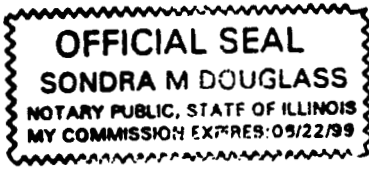
STATE OF ILLINOIS)
)
) SS.
COUNTY OF COOK)

I, Sandra M. Douglass, a Notary Public in and for the county and state aforesaid, do hereby certify that Lawrence F. Levy, the President of Lawrence F. Levy Enterprises, Inc., an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said corporation, appeared before me in person and acknowledged that he signed and delivered the said instrument as his 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 6th day of September, 1996.

Sandra M. Douglass
Notary Public

My Commission Expires:
6.22.99



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 James DeRose, the President of DeRose DPV, Inc., an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said corporation appeared before me in person and acknowledged that he signed and delivered the said instrument as his 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 5th day of September, 1996.

Joan Ailsworth
Notary Public

My Commission Expires:
1/24/97



EXHIBIT A

LEGAL DESCRIPTION

Commencing at the northeast corner of Lot 2, Gorecki - Brummel Assessment Plat of part of Section 5, Township 38 North, Range 9 East of the Third Principal Meridian, DuPage County, Illinois recorded as Document 500296; thence southerly along the east line of said Lot 2, 181.59 feet; thence westerly along a line forming an angle of 89°33'32" with said east line (measured clockwise therefrom) 2117.61 feet to the easterly line of Eola Road as established by Document R92-231189 for a point of beginning; thence easterly along the last described course 2117.61 feet to said east line; thence southerly along said east line forming an angle of 89°33'32" with the last described course (measured counter-clockwise therefrom) 152.0 feet to the southeast corner of said Lot 2; thence southwesterly along the southeasterly line of said Lot 2 forming an angle of 149°31'59" with the last described course (measured counter-clockwise therefrom) 1017.40 feet to the east line of Lot 1 of said Gorecki - Brummel Assessment Plat; thence southerly along the east line of said Lot 1 and along the east line of Lot 9 of Assessment Plat of Lands of James L. Nichols Estate in Sections 4, 5, 8 and 9, Township 38 North, Range 9 East of the Third Principal Meridian, Town of Naperville, DuPage County, Illinois recorded as Document 563662, 2075.08 feet to the northerly line of a tract of land conveyed to Northern Illinois Gas Company by Documents 938938 and 938939; thence westerly along the northerly line of said Gas Company tract forming an angle of 101°26'00" with the last described course (measured counter-clockwise therefrom) 122.10 feet to an angle in said northerly line; thence westerly along the northerly line of said Gas Company tract and said northerly line extended forming an angle of 177°08' with the last described course (measured counter-clockwise therefrom) 1174.79 feet to an easterly line of a tract of land conveyed to said Northern Illinois Gas Company by Document 956155; thence northerly along said easterly line forming an angle of 79°43'25" with the last described course (measured counter-clockwise therefrom) 198.52 feet to an angle in said easterly line; thence westerly along a northerly line of said Gas Company tract forming an angle of 79°44'07" with the last described course (measured clockwise therefrom) 1043.83 feet to an easterly line, as monumented, of a tract of land conveyed to County of DuPage by said Document R92-231189; thence northerly along an easterly line, as monumented, of said County of DuPage tract forming an angle of 92°55'56" with the last described course (measured counter-clockwise therefrom) 3.91 feet to an angle in said easterly line; thence northerly along an easterly line, as monumented, of said County of DuPage tract forming an angle of 175°55'40" with the last described course (measured counter-clockwise therefrom) 126.64 feet to an easterly line of said Gas Company tract; thence northerly along an easterly line of said County of DuPage tract, as monumented, forming an angle of 168°34'48" with the last described course (measured counter-clockwise therefrom) 328.11 feet to an angle in said easterly line, being also a northeasterly corner of said Northern Illinois Gas Company tract; thence northwesterly along a northeasterly line of said County of DuPage tract forming an angle of 211°42'51" with the last described course

(measured counter-clockwise therefrom) 27.87 feet to the easterly line of Eola Road as established by said Document R92-231189; thence northerly along the easterly line of said Eola Road, being a curve to the right having a radius of 8534.37 feet, 435.18 feet to the most westerly corner of a tract of land conveyed for South Detention Pond to County of DuPage by said Document R92-231189; thence southeasterly along the southwesterly line of said Detention Pond tract 299.80 feet to the most southerly corner thereof; thence northeasterly along the southeasterly line of said Detention Pond tract at right angles to the last described course 145.20 feet to the most easterly corner thereof; thence northwesterly along the northeasterly line of said Detention Pond tract at right angles to the last described course 299.80 feet to the easterly line of Eola Road as established by said Document R92-231189; thence northerly along the easterly line of said Eola Road, being a curve to the right having a radius of 8534.37 feet, 424.32 feet to a point of tangency in said easterly line; thence continuing northerly along the easterly line of said Eola Road tangent to the last described curve at the last described point 925.63 feet to a point of curvature in said easterly line; thence continuing northerly along the easterly line of said Eola Road, being a curve to the right having a radius of 2804.79 feet tangent to the last described course 1019.77 feet to the point of beginning, in the City of Aurora, DuPage County, Illinois and containing 159.725 acres.

Property Address: Vacant land located east of Eola Road, south of Ferry Road, west of the land owned by the Elgin Joliet and Eastern Railroad Company and north of the land owned by the Illinois State Toll Highway Authority.

PIN Numbers: 07 05 101 006
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07 05 201 013
07 05 301 006
07 05 400 001
07 05 400 002
07 05 400 004

Aurora, IL 60504

EXHIBIT B
SIGN SPECIFICATIONS

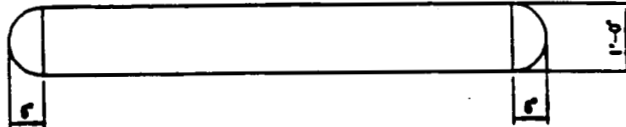
See Attached

**SIGNAGE
EXHIBIT B**

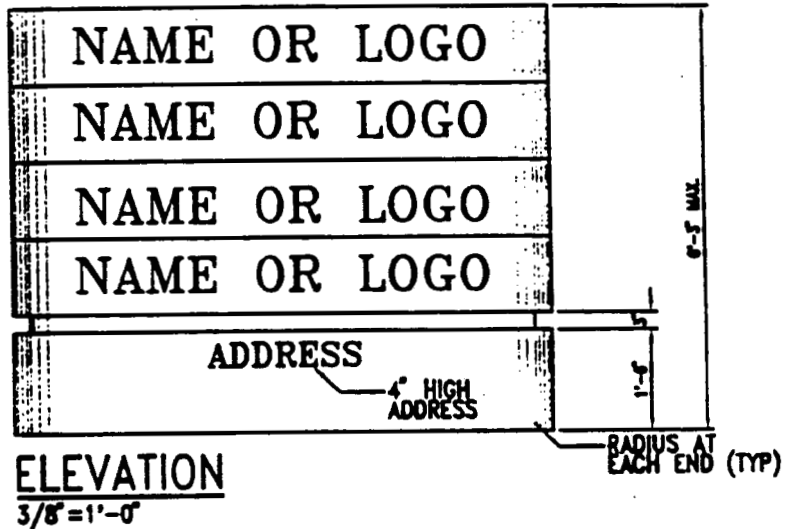
- A. General:** All signs visible from the exterior shall comply with the following provisions. Signs shall be maintained in a safe and presentable manner at all times, including replacement of defective or broken parts, cleaning, and any other necessary maintenance.
- B. Ground Signs:** A maximum of two ground signs are permitted if the building fronts on two or more streets, with no more than one sign on any street. In cases where the site fronts on only one street and the frontage exceeds one thousand (1000) feet, a maximum of two signs are permitted. A maximum of fifty two (52) square feet per sign face is allowed, with the maximum number of sign faces being two. The overall sign height shall not exceed six feet, six inches (6'-6). Signs shall be set back from the property line a distance equal to the height of the sign, unless the sign is less than five (5) feet in height. In this case, the minimum setback shall be five (5) feet. The sign(s) shall be constructed of metal or an approved equal quality material, in colors which compliment the building design. Refer to page B2, for more specific information on the sign layout and design intent. Although lighting is optional, if the sign is to be lit, it shall be internally illuminated.
- C. Wall Signs:** In addition to a ground sign as specified in B above, a maximum of one wall sign per street frontage is permitted. The maximum sign surface area permitted on a wall is five percent (5%) of the area of the wall, up to a maximum of three hundred fifty (350) square feet. Signs can be located on the exterior face of the wall or on rooftop mechanical screens. In no case shall signs cover a window, and no roof signs are permitted. Although lighting is optional, spotlights are not permitted. The sign shall be comprised of backlit or internally illuminated individual letters.
- D. Directional Signs:** Internal directional and address ground mounted signs with a maximum area of eight (8) square feet per face are permitted.

**SIGNAGE
EXHIBIT B**

The following are examples of the design intent for ground signs. Although the dimensions may vary as specified on page B-1, the overall appearance of the sign shall follow the parameters specified in these drawings. These signs may be for one occupant up to a maximum of four. If more than one firm name or logo is to be on a sign, the layout of the sign face may be done horizontally, vertically, or in quadrants, as shown in the following drawings. Note, however, that this layout shall be consistent with all the firm names or logos on one sign, and a combination of layouts is not permitted.

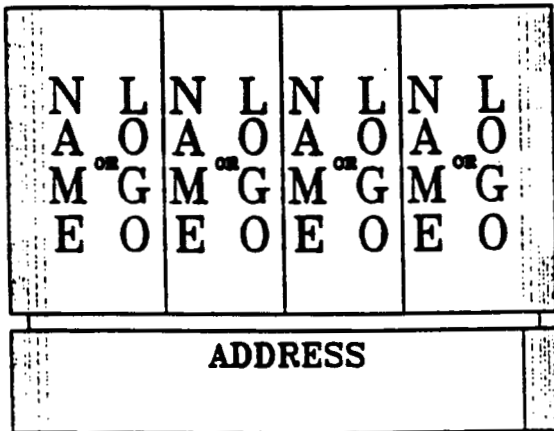


PLAN
3/8" = 1'-0"

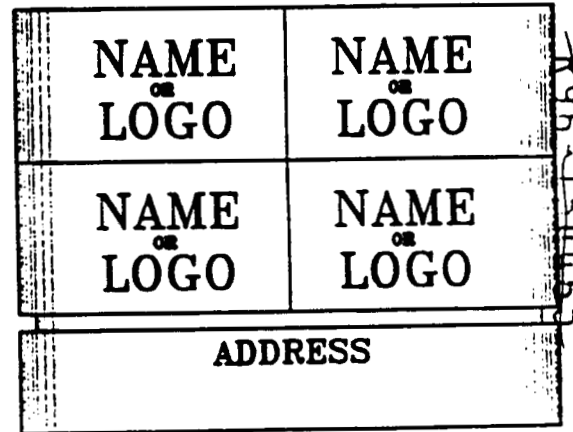


ELEVATION
3/8" = 1'-0"

R96-154465



ELEVATION
3/8" = 1'-0"



ELEVATION
3/8" = 1'-0"

R96-154465

EXHIBIT C
LANDSCAPING STANDARDS AND SPECIFICATIONS

See Attached

LANDSCAPE GUIDELINES

PURPOSE

The purpose of the following set of guidelines is to promote high quality landscapes, consistent and compatible with landscape treatments throughout Butterfield Center for Business and Industry, while encouraging creative, individualistic landscapes on each parcel.

LANDSCAPE AREA DESIGNATIONS

The installation and maintenance responsibilities for landscape improvements have been designated as common area and site area. They are defined as follows:

1. Common Landscape Area - Association
 - a. Eola and Bilter Roads -
Medians, parkways and area from R.O.W. line to 30' parking setback
 - b. Collector and Local Streets -
Parkway street trees 30' on center and lawns to R.O.W. line
 - c. Entry Features and Landscape Easements
 - d. Detention Facilities and Preserved Wetlands
2. Site Landscape Area - Owner
 - a. All landscape within individual parcels including perimeter, parking lot and foundation landscaping excluding areas described in common landscape area.

REQUIRED SUBMITTAL AND APPROVALS

A landscape plan, prepared in conformance with the guidelines set forth below, shall be submitted to Butterfield Center for Business and Industry Architectural Control Committee for review and approval. In addition to these guidelines, developers of individual outlots shall comply with all plantings, which may be required by the City of Aurora. The plan shall be prepared by a registered landscape architect and shall:

1. Show actual proposed, finished grades. All structures, pavements, walkways, exterior mechanical/electrical equipment, lighting and other site improvements.
2. Identify the type, size and specific location of each plant material.
3. Show the limits of proposed seed and/or sod.
4. Include a detailed plant list for proposed trees, shrubs, groundcovers, perennials, etc.
5. Include landscape specifications and details.

Landscape Design Guidelines

The following guidelines have been designed to promote consistency along entrance drives and public rights-of-way. They establish uniform criteria for the intensity and placement of landscaping within designated areas, but permit each property user flexibility so that resultant landscaping complements the architecture of the building and particular use of the site.

1. Parking Lot Buffer

- a.) A minimum of thirty feet shall be provided between all parking lots and adjacent street rights-of-way and/or public access drives. Mass plantings of medium height flowering shrubs and groupings of evergreen and ornamental trees shall be installed within buffer yards to soften the view of parked cars from public rights-of-way. Buffer yards shall also be bermed to height of 3' wherever grades permit with a maximum slope of 4:1. Minimum planting requirements are 600 points per 100 linear feet of street frontage (excluding drives and 30' sight line setbacks).
- b.) Evergreen shrubs shall be substituted for deciduous shrubs where access drives and streets intersect. Areas around individual identification signs shall also be landscaped. These accent plantings will provide year round color and interest.

2. Parking Lot Islands

- a.) Parking lot islands and peninsulas, not less than nine feet wide by eighteen feet deep, shall be provided at a ratio not less than one per 25 parking spaces.
- b.) All islands shall be planted with a minimum of one shade tree and low shrubs or groundcover.

3. Interior Side and Rear Yards

- a.) Canopy clump form trees, not less than 8' tall, shall be installed along all interior side and rear lot yards, informally placed, averaging one tree per 50 linear feet.

4. Foundation Plantings and Other Site Landscaping

- a.) Massings of deciduous and/or evergreen trees and shrubs shall be installed as foundation plantings and in other open areas, which are in view from public rights-of-way, to complement the scale and architecture of each building. Special attention should be given to office entrances.

5. Screening

- a.) Exterior truck docks facing public rights-of-way shall be landscaped within buffer yards so that loading and unloading activities are buffered from view. Minimum planting requirements are 1,200 points* per 100 linear feet (excluding drives and 30' sight line setbacks) and shall include mass plantings of evergreen trees, large evergreen shrubs and deciduous shrubs.

Buffer yards shall also include continuous berming to a height of 5' wherever grades permit at a maximum slope of 4:1

- b.) Exterior mechanical and electrical equipment and trash enclosures shall be screened from adjacent parcels and street rights-of-way. Plant materials, screen walls matching building materials and berming shall be used independently or in combination.

MAINTENANCE

All plant materials shall be maintained in vigorous, healthy growing condition. Watering, fertilizing, spraying, weeding, pruning and mulching shall be carried out on a regular basis as required. Dead or deformed plants shall be removed and replaced immediately.

All lawns shall be kept neatly mowed to a maximum height of three inches and shall be fertilized and kept weed-free. Automatic sprinkler systems shall be installed at all areas of high visibility, including entrance drives and areas adjacent to the building.

If minimum maintenance standards are not met by the Owner, the Association shall issue a letter to the Owner requesting action. If the maintenance deficiency is not remedied within ten (10) days, the Association shall have the maintenance work performed and shall charge the Owner all costs incurred.

PLANT MATERIALS

All landscape installation shall meet the applicable requirements of "American Standard for Nursery Stock". American Association of Nurserymen", latest edition.

PLANT TYPE	MINIMUM SIZE	REMARKS	*POINTS
Shade Trees	3" Caliper	Single Stem	100
Canopy Clump Form Trees	8' Tall	Multiple Stem	75
Evergreen Trees	8' Tall		100
Ornamental Trees	6' Tall	Multiple Stem	100
	3" Caliper	Single Stem	75
Deciduous Shrubs	24" Wide	Medium Shrubs	10
	36" Tall	Large Shrubs	15
Evergreen Shrubs	24" Tall/Wide	Low Shrubs	10
	36" Tall/Wide	Large Shrubs	15

EXHIBIT D

LIGHTING STANDARDS and SPECIFICATIONS

Parking lots shall be illuminated to an average maintained level of 2 footcandles with a uniformity ratio of 4 to 1 (average to minimum). The light level at property line shall not exceed .25 footcandles. This shall be achieved by the utilization of metal halide lamps (maximum 400 watt) in cut-off type luminaries with no visible light above 65° from the vertical in all directions. Poles shall be a maximum of 30' high and the pole bases shall conform to I.D.O.T. Type E standards.

Section 14.16 **Owner's Association**. In the event the Association has been formed to maintain and administer any portion of the Property, the City shall have the right to require that any costs and expenses of the City Work described in Section 14.15 hereof be paid for by the Association and/or that the Association levy a special assessment against all of their members to pay for such work.

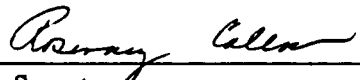
Section 14.17 **Trustee Exculpation**. This Declaration is executed by LaSalle National Trust, as Trustee as aforesaid, in exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein shall be construed as creating any individual liability on said LaSalle National Trust.

IN WITNESS WHEREOF, LaSalle National Trust, as Trustee as aforesaid, and DuPage Properties Venture have caused this Declaration to be signed as of the date first above written.

LASALLE NATIONAL TRUST^{N.A.} / not
individually, but solely as Trustee as
aforesaid

By: 
Its: vice President

ATTEST:

By: 
Assistant Secretary

DUPAGE PROPERTIES VENTURE, an
Illinois general partnership

By: **DUPAGE COUNTY
PROPERTIES, L.L.C.**, an Illinois
limited liability company

By: _____
Manager

By: **LAWRENCE F. LEVY
ENTERPRISES, INC.**, an Illinois
corporation

By: _____
Lawrence F. Levy, President

By: **DEROSE DPV, INC.**, an Illinois
corporation

By: _____
James DeRose, President

Section 14.16 Owner's Association. In the event the Association has been formed to maintain and administer any portion of the Property, the City shall have the right to require that any costs and expenses of the City Work described in Section 14.15 hereof be paid for by the Association and/or that the Association levy a special assessment against all of their members to pay for such work.

Section 14.17 Trustee Exculpation. This Declaration is executed by LaSalle National Trust, as Trustee as aforesaid, in exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein shall be construed as creating any individual liability on said LaSalle National Trust.

IN WITNESS WHEREOF, LaSalle National Trust, as Trustee as aforesaid, and DuPage Properties Venture have caused this Declaration to be signed as of the date first above written.

LASALLE NATIONAL TRUST, not individually, but solely as Trustee as aforesaid

By: _____
Its: _____

ATTEST:

By: _____
Assistant Secretary

DUPAGE PROPERTIES VENTURE, an Illinois general partnership

By: **DUPAGE COUNTY PROPERTIES, L.L.C.**, an Illinois limited liability company

By: *J. Kurt Freundlich*
Manager

By: **LAWRENCE F. LEVY ENTERPRISES, INC.**, an Illinois corporation

By: _____
Lawrence F. Levy, President

By: **DEROSE DPV, INC.**, an Illinois corporation

By: _____
James DeRose, President

R96-154465

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IN WITNESS WHEREOF, LaSalle National Trust, as Trustee as aforesaid, and DuPage Properties Venture have caused this Declaration to be signed as of the date first above written.

LASALLE NATIONAL TRUST, not individually, but solely as Trustee as aforesaid

By: _____
Its: _____

ATTEST:

By: _____
Assistant Secretary

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By: **DUPAGE COUNTY PROPERTIES, L.L.C.**, an Illinois limited liability company

By: _____
Manager

By: **LAWRENCE F. LEVY ENTERPRISES, INC.**, an Illinois corporation

By:  _____
Lawrence F. Levy, President

By: **DEROSE DPV, INC.**, an Illinois corporation

By: _____
James DeRose, President

R96-151465

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IN WITNESS WHEREOF, LaSalle National Trust, as Trustee as aforesaid, and DuPage Properties Venture have caused this Declaration to be signed as of the date first above written.

LASALLE NATIONAL TRUST, not individually, but solely as Trustee as aforesaid

By: _____
Its: _____

ATTEST:

By: _____
Assistant Secretary

DUPAGE PROPERTIES VENTURE, an Illinois general partnership

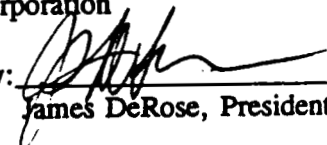
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By: _____
Manager

By: **LAWRENCE F. LEVY ENTERPRISES, INC.**, an Illinois corporation

By: _____
Lawrence F. Levy, President

By: **DEROSE DPV, INC.**, an Illinois corporation

By: 
James DeRose, President

R 96-151465

STATE OF ILLINOIS)
)
) SS.
COUNTY OF COOK)

I, BONNIE J. WAYNE, a Notary Public in and for the county and state aforesaid, do hereby certify that J. Kurt Freundlich, the Manager of DuPage County Properties, L.L.C. an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said limited liability company, appeared before me in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of SEPTEMBER, 1996.

Bonnie J. Wayne
Notary Public

My Commission Expires:
OCT. 20, 1996



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

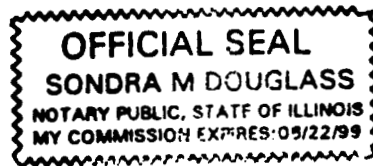
I, Sandra M. Douglass, a Notary Public in and for the county and state aforesaid, do hereby certify that Lawrence F. Levy, the President of Lawrence F. Levy Enterprises, Inc., an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said corporation, appeared before me in person and acknowledged that he signed and delivered the said instrument as his 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 6th day of September, 1996.

Sandra M. Douglass
Notary Public

My Commission Expires:

6.22.99



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 James DeRose, the President of DeRose DPV, Inc., an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of said corporation appeared before me in person and acknowledged that he signed and delivered the said instrument as his 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 5th day of September, 1996.

Joan Ailsworth
Notary Public

My Commission Expires:
1/24/97



EXHIBIT A

LEGAL DESCRIPTION

Commencing at the northeast corner of Lot 2, Gorecki - Brummel Assessment Plat of part of Section 5, Township 38 North, Range 9 East of the Third Principal Meridian, DuPage County, Illinois recorded as Document 500296; thence southerly along the east line of said Lot 2, 181.59 feet; thence westerly along a line forming an angle of 89°33'32" with said east line (measured clockwise therefrom) 2117.61 feet to the easterly line of Eola Road as established by Document R92-231189 for a point of beginning; thence easterly along the last described course 2117.61 feet to said east line; thence southerly along said east line forming an angle of 89°33'32" with the last described course (measured counter-clockwise therefrom) 152.0 feet to the southeast corner of said Lot 2; thence southwesterly along the southeasterly line of said Lot 2 forming an angle of 149°31'59" with the last described course (measured counter-clockwise therefrom) 1017.40 feet to the east line of Lot 1 of said Gorecki - Brummel Assessment Plat; thence southerly along the east line of said Lot 1 and along the east line of Lot 9 of Assessment Plat of Lands of James L. Nichols Estate in Sections 4, 5, 8 and 9, Township 38 North, Range 9 East of the Third Principal Meridian, Town of Naperville, DuPage County, Illinois recorded as Document 563662, 2075.08 feet to the northerly line of a tract of land conveyed to Northern Illinois Gas Company by Documents 938938 and 938939; thence westerly along the northerly line of said Gas Company tract forming an angle of 101°26'00" with the last described course (measured counter-clockwise therefrom) 122.10 feet to an angle in said northerly line; thence westerly along the northerly line of said Gas Company tract and said northerly line extended forming an angle of 177°08' with the last described course (measured counter-clockwise therefrom) 1174.79 feet to an easterly line of a tract of land conveyed to said Northern Illinois Gas Company by Document 956155; thence northerly along said easterly line forming an angle of 79°43'25" with the last described course (measured counter-clockwise therefrom) 198.52 feet to an angle in said easterly line; thence westerly along a northerly line of said Gas Company tract forming an angle of 79°44'07" with the last described course (measured clockwise therefrom) 1043.83 feet to an easterly line, as monumented, of a tract of land conveyed to County of DuPage by said Document R92-231189; thence northerly along an easterly line, as monumented, of said County of DuPage tract forming an angle of 92°55'56" with the last described course (measured counter-clockwise therefrom) 3.91 feet to an angle in said easterly line; thence northerly along an easterly line, as monumented, of said County of DuPage tract forming an angle of 175°55'40" with the last described course (measured counter-clockwise therefrom) 126.64 feet to an easterly line of said Gas Company tract; thence northerly along an easterly line of said County of DuPage tract, as monumented, forming an angle of 168°34'48" with the last described course (measured counter-clockwise therefrom) 328.11 feet to an angle in said easterly line, being also a northeasterly corner of said Northern Illinois Gas Company tract; thence northwesterly along a northeasterly line of said County of DuPage tract forming an angle of 211°42'51" with the last described course

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07 05 400 002
07 05 400 004

Aurora, IL 60504

EXHIBIT B
SIGN SPECIFICATIONS

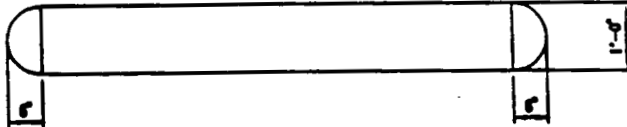
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SIGNAGE
EXHIBIT B

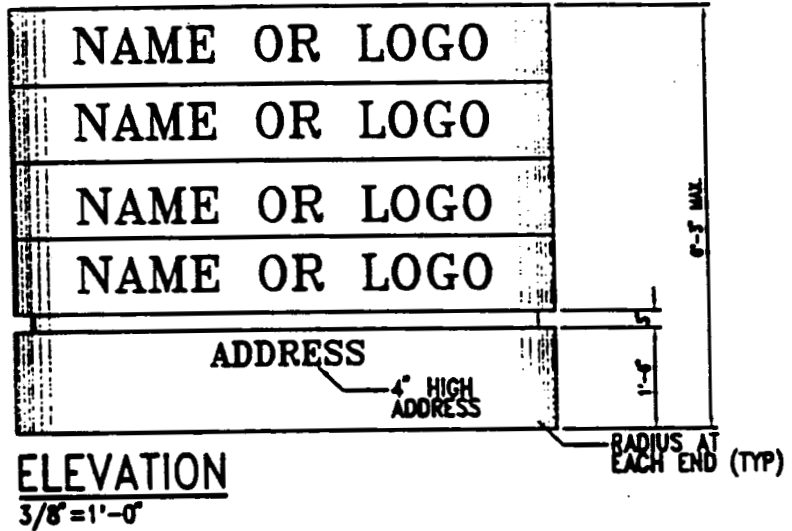
- A. General:** All signs visible from the exterior shall comply with the following provisions. Signs shall be maintained in a safe and presentable manner at all times, including replacement of defective or broken parts, cleaning, and any other necessary maintenance.
- B. Ground Signs:** A maximum of two ground signs are permitted if the building fronts on two or more streets, with no more than one sign on any street. In cases where the site fronts on only one street and the frontage exceeds one thousand (1000) feet, a maximum of two signs are permitted. A maximum of fifty two (52) square feet per sign face is allowed, with the maximum number of sign faces being two. The overall sign height shall not exceed six feet, six inches (6'-6). Signs shall be set back from the property line a distance equal to the height of the sign, unless the sign is less than five (5) feet in height. In this case, the minimum setback shall be five (5) feet. The sign(s) shall be constructed of metal or an approved equal quality material, in colors which compliment the building design. Refer to page B2, for more specific information on the sign layout and design intent. Although lighting is optional, if the sign is to be lit, it shall be internally illuminated.
- C. Wall Signs:** In addition to a ground sign as specified in B above, a maximum of one wall sign per street frontage is permitted. The maximum sign surface area permitted on a wall is five percent (5%) of the area of the wall, up to a maximum of three hundred fifty (350) square feet. Signs can be located on the exterior face of the wall or on rooftop mechanical screens. In no case shall signs cover a window, and no roof signs are permitted. Although lighting is optional, spotlights are not permitted. The sign shall be comprised of backlit or internally illuminated individual letters.
- D. Directional Signs:** Internal directional and address ground mounted signs with a maximum area of eight (8) square feet per face are permitted.

**SIGNAGE
EXHIBIT B**

The following are examples of the design intent for ground signs. Although the dimensions may vary as specified on page B-1, the overall appearance of the sign shall follow the parameters specified in these drawings. These signs may be for one occupant up to a maximum of four. If more than one firm name or logo is to be on a sign, the layout of the sign face may be done horizontally, vertically, or in quadrants, as shown in the following drawings. Note, however, that this layout shall be consistent with all the firm names or logos on one sign, and a combination of layouts is not permitted.

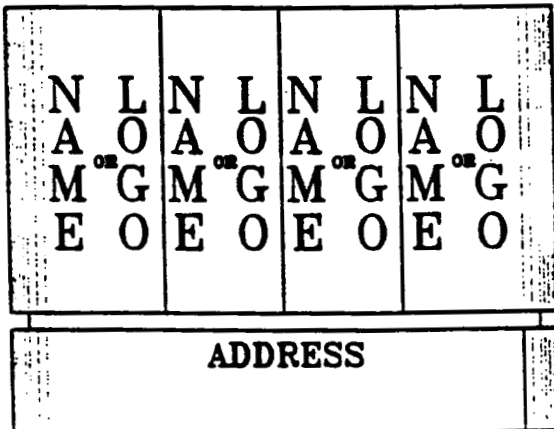


PLAN
 $3/8" = 1'-0"$

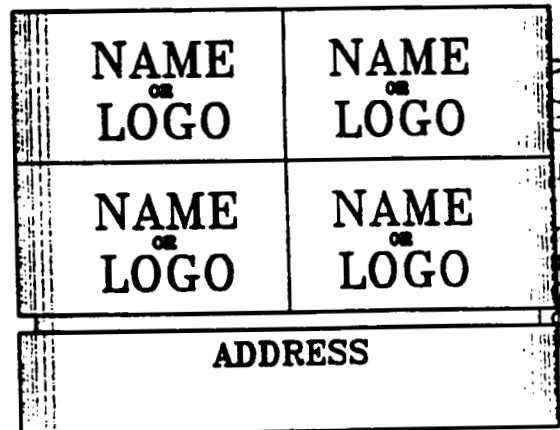


ELEVATION
 $3/8" = 1'-0"$

K96-157465



ELEVATION
 $3/8" = 1'-0"$



ELEVATION
 $3/8" = 1'-0"$

EXHIBIT C

LANDSCAPING STANDARDS AND SPECIFICATIONS

See Attached

LANDSCAPE GUIDELINES

PURPOSE

The purpose of the following set of guidelines is to promote high quality landscapes, consistent and compatible with landscape treatments throughout Butterfield Center for Business and Industry, while encouraging creative, individualistic landscapes on each parcel.

LANDSCAPE AREA DESIGNATIONS

The installation and maintenance responsibilities for landscape improvements have been designated as common area and site area. They are defined as follows:

1. Common Landscape Area - Association
 - a. Eola and Bilter Roads -
Medians, parkways and area from R.O.W. line to 30' parking setback
 - b. Collector and Local Streets -
Parkway street trees 30' on center and lawns to R.O.W. line
 - c. Entry Features and Landscape Easements
 - d. Detention Facilities and Preserved Wetlands
2. Site Landscape Area - Owner
 - a. All landscape within individual parcels including perimeter, parking lot and foundation landscaping excluding areas described in common landscape area.

REQUIRED SUBMITTAL AND APPROVALS

A landscape plan, prepared in conformance with the guidelines set forth below, shall be submitted to Butterfield Center for Business and Industry Architectural Control Committee for review and approval. In addition to these guidelines, developers of individual outlots shall comply with all plantings, which may be required by the City of Aurora. The plan shall be prepared by a registered landscape architect and shall:

1. Show actual proposed, finished grades. All structures, pavements, walkways, exterior mechanical/electrical equipment, lighting and other site improvements.
2. Identify the type, size and specific location of each plant material.
3. Show the limits of proposed seed and/or sod.
4. Include a detailed plant list for proposed trees, shrubs, groundcovers, perennials, etc.
5. Include landscape specifications and details.

Landscape Design Guidelines

The following guidelines have been designed to promote consistency along entrance drives and public rights-of-way. They establish uniform criteria for the intensity and placement of landscaping within designated areas, but permit each property user flexibility so that resultant landscaping complements the architecture of the building and particular use of the site.

1. Parking Lot Buffer

- a.) A minimum of thirty feet shall be provided between all parking lots and adjacent street rights-of-way and/or public access drives. Mass plantings of medium height flowering shrubs and groupings of evergreen and ornamental trees shall be installed within buffer yards to soften the view of parked cars from public rights-of-way. Buffer yards shall also be bermed to height of 3' wherever grades permit with a maximum slope of 4:1. Minimum planting requirements are 600 points per 100 linear feet of street frontage (excluding drives and 30' sight line setbacks).
- b.) Evergreen shrubs shall be substituted for deciduous shrubs where access drives and streets intersect. Areas around individual identification signs shall also be landscaped. These accent plantings will provide year round color and interest.

2. Parking Lot Islands

- a.) Parking lot islands and peninsulas, not less than nine feet wide by eighteen feet deep, shall be provided at a ratio not less than one per 25 parking spaces.
- b.) All islands shall be planted with a minimum of one shade tree and low shrubs or groundcover.

3. Interior Side and Rear Yards

- a.) Canopy clump form trees, not less than 8' tall, shall be installed along all interior side and rear lot yards, informally placed, averaging one tree per 50 linear feet.

4. Foundation Plantings and Other Site Landscaping

- a.) Massings of deciduous and/or evergreen trees and shrubs shall be installed as foundation plantings and in other open areas, which are in view from public rights-of-way, to complement the scale and architecture of each building. Special attention should be given to office entrances.

5. Screening

- a.) Exterior truck docks facing public rights-of-way shall be landscaped within buffer yards so that loading and unloading activities are buffered from view. Minimum planting requirements are 1,200 points* per 100 linear feet (excluding drives and 30' sight line setbacks) and shall include mass plantings of evergreen trees, large evergreen shrubs and deciduous shrubs.

Buffer yards shall also include continuous berming to a height of 5' wherever grades permit at a maximum slope of 4:1

- b.) Exterior mechanical and electrical equipment and trash enclosures shall be screened from adjacent parcels and street rights-of-way. Plant materials, screen walls matching building materials and berming shall be used independently or in combination.

MAINTENANCE

All plant materials shall be maintained in vigorous, healthy growing condition. Watering, fertilizing, spraying, weeding, pruning and mulching shall be carried out on a regular basis as required. Dead or deformed plants shall be removed and replaced immediately.

All lawns shall be kept neatly mowed to a maximum height of three inches and shall be fertilized and kept weed-free. Automatic sprinkler systems shall be installed at all areas of high visibility, including entrance drives and areas adjacent to the building.

If minimum maintenance standards are not met by the Owner, the Association shall issue a letter to the Owner requesting action. If the maintenance deficiency is not remedied within ten (10) days, the Association shall have the maintenance work performed and shall charge the Owner all costs incurred.

PLANT MATERIALS

All landscape installation shall meet the applicable requirements of "American Standard for Nursery Stock". American Association of Nurserymen", latest edition.

PLANT TYPE	MINIMUM SIZE	REMARKS	*POINTS
Shade Trees	3" Caliper	Single Stem	100
Canopy Clump Form Trees	8' Tall	Multiple Stem	75
Evergreen Trees	8' Tall		100
Ornamental Trees	6' Tall	Multiple Stem	100
	3" Caliper	Single Stem	75
Deciduous Shrubs	24" Wide	Medium Shrubs	10
	36" Tall	Large Shrubs	15
Evergreen Shrubs	24" Tall/Wide	Low Shrubs	10
	36" Tall/Wide	Large Shrubs	15

EXHIBIT D

LIGHTING STANDARDS and SPECIFICATIONS

Parking lots shall be illuminated to an average maintained level of 2 footcandles with a uniformity ratio of 4 to 1 (average to minimum). The light level at property line shall not exceed .25 footcandles. This shall be achieved by the utilization of metal halide lamps (maximum 400 watt) in cut-off type luminaries with no visible light above 65° from the vertical in all directions. Poles shall be a maximum of 30' high and the pole bases shall conform to I.D.O.T. Type E standards.