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Angela M. Rhoades
RECORDER

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DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS

LOTS 1-13 OF ORCHARD ROAD BUSINESS PARK

AURORA, ILLINOIS

August 25, 2000

LD

Prepared By:

Stephen J. Rhoades
Dommermuth, Brestal, Cobine & West, Ltd.
123 Water Street
P.O. Box 565
Naperville, IL 60566-0565

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CHICAGO TITLE INSURANCE CO.
Kane County Office
Geneva, Illinois 60134
Phone 232-2750

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**DECLARATION OF DEVELOPMENT STANDARDS,
COVENANTS AND RESTRICTIONS**

The Old Second National Bank as Trustee under Trust Agreement dated October 26, 1995 and known as Trust No. 5934; the Old Second National Bank as Trustee under Trust Agreement dated October 17, 1990 and known as Trust No. 5196; and Downers Grove National Bank as Trustee under a Trust Agreement dated May 7, 1999, also known as Trust No. 99-018 (hereinafter the "Covenantors") hereby declare and establish the following standards, covenants, conditions and restrictions which shall be binding upon and run with the land herein described and shall inure to the benefit of and be binding upon the Owners and occupants thereof.

WITNESSETH:

WHEREAS, the Covenantors are the record title holders of that certain real property which is legally described in Exhibit "A" attached hereto and made a part hereof, (hereinafter the "Subject Property") and which is depicted on the Plat of Subdivision of Orchard Road Business Park, recorded as Document Number 2000K057115 in the Kane County Recorder's office on July 19, 2000, which is attached hereto and made a part hereof as Exhibit "B" (hereinafter the "Plat"); and

WHEREAS, the Covenantors contemplate that the Subject Property will subsequently be sold to third parties who will assume the rights and obligations set forth in this Declaration; and

WHEREAS, the Covenantors desire to establish an association to own certain stormwater detention and wetland areas on the Subject Property, and to collect assessments for the maintenance thereof; and

WHEREAS, the Covenantors desire to maintain and implement minimum standards pertaining to the development, use and maintenance of the Subject Property, insure the stability and enhancement of the values of the Subject Property and improvements contained thereon, further development and improvement of the Subject Property in an aesthetic and architecturally harmonious manner and otherwise in accordance with applicable zoning ordinances, and establish and apportion rights and responsibilities with regard to private roads, access driveways, utility lines and landscaping in and required for the use and operation of the Subject Property.

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions and restrictions herein contained, the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Covenantors declare as follows:

ARTICLE I
DEFINITIONS

Section 1.01. Definitions. As used herein, the following terms shall have the meaning indicated:

A. "Access Driveways" shall mean that portion of the paved access from the parking areas of each Lot onto the Shared Roadway or public right of way.

B. "ARB" shall mean and refer to the Architectural Review Board.

C. "Association" shall mean and refer to the Orchard Road Business Park Association.

D. "Board" shall mean and refer to the Board of Directors.

E. "Covenantors" shall mean and refer to :The Old Second National Bank as Trustee under Trust Agreement dated October 26, 1995 and known as Trust No. 5934; the Old Second National Bank as Trustee under Trust Agreement dated October 17, 1990 and known as Trust No. 5196; and Downers Grove National Bank as Trustee under a Trust Agreement dated May 7, 1999, also known as Trust No. 99-018.

F. "Lot(s)" shall mean and refer to one or more of the thirteen numbered, subdivided portions of the Subject Property as shown on the Plat.

G. "Lot 1" shall mean a portion of the Subject Property consisting of approximately 1.5 acres, as shown on the Plat, which Lot shall be developed in accordance with the plan description for the Subject Property attached as Exhibit "B" to the First Amendment to the Annexation Agreement for C.K. Investments, Inc., recorded as document number 2000K011143 on February 14, 2000, in the Kane County Recorder's office (hereinafter the "Plan Description") and the terms of this Declaration.

H. "Lot 2" shall mean a portion of the Subject Property consisting of approximately 1.5 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

I. "Lot 3" shall mean a portion of the Subject Property consisting of approximately 1.5 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

J. "Lot 4" shall mean a portion of the Subject Property consisting of approximately 1.5

acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

K. "Lot 5" shall mean a portion of the Subject Property consisting of approximately 1.25 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

L. "Lot 6" shall mean a portion of the Subject Property consisting of approximately 1.05 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

M. "Lot 7" shall mean a portion of the Subject Property consisting of approximately 1.10 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

N. "Lot 8" shall mean a portion of the Subject Property consisting of approximately 1.00 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

O. "Lot 9" shall mean a portion of the Subject Property consisting of approximately 1.00 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

P. "Lot 10" shall mean a portion of the Subject Property consisting of approximately 1.00 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

Q. "Lot 11" shall mean a portion of the Subject Property consisting of approximately 1.10 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

R. "Lot 12" shall mean a portion of the Subject Property consisting of approximately 1.51 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

S. "Lot 13" shall mean a portion of the Subject Property consisting of approximately 3.31 acres, as shown on the Plat, which Lot shall be developed in accordance with the Plan Description and the terms of this Declaration.

T. "Owner(s)" shall mean each person or entity which is the record title holder of all or any portion of a Lot or Lots as referred to herein.

U. "Plat" shall mean and refer to the Plat of Subdivision of Orchard Road Business

Park, recorded as Document Number 2000K057115 in the Kane County Recorder's office on July 19, 2000, which is attached hereto and made a part hereof as Exhibit "B".

V. "Shared Roadway" shall mean that private roadway running in a generally north-south and east-west direction located along the common lot lines of lots 5, 6, 7, 8, 9, 10, and 11, and described as the "30' Ingress/Egress Easement" on the Plat.

W. "Subject Property" shall mean and refer to that certain real property which is legally described in Exhibit "A" attached hereto and made a part hereof.

Any other additional defined terms not set forth above are noted by being capitalized.

ARTICLE II CREATION OF A PROPERTY OWNERS ASSOCIATION

Section 2.01. Creation of the Property Owners Association. Within forty-five days of the recording of this Declaration, Covenantors shall cause to be incorporated under the laws of the State of Illinois a not-for-profit corporation to be named the Orchard Road Business Park Property Owners Association.

Section 2.02. Membership. Every person or entity who is a record owner of a lot in Orchard Road Business Park or who is the beneficiary of a land trust holding title to a lot in Orchard Road Business Park shall be a member of the Association irrespective of the inclusion, exclusion, incorporation by reference, or any specific expression or lack thereof to the effect in the deed or other documents of conveyance. Membership is appurtenant to and shall not be separated from ownership of a Lot. Thus, membership shall automatically terminate upon the sale, transfer, or other disposition by a member of its ownership of a Lot in Orchard Road Business Park at which time the new owner shall automatically become a member of the Association.

Such membership may not be sold or transferred other than in conjunction with the sale or transfer of the title interest in the Lot to which it is appurtenant.

If more than one person or entity is the record owner of or a beneficiary of a land trust holding title to a Lot in Orchard Road Business Park, all such persons or entities shall be considered collectively as one member.

Each member of the Property Owners Association shall be bound by and shall observe the terms and provisions of this Declaration, the Articles of Incorporation, the By-Laws of the Association, and the rules and regulations promulgated from time to time by the Association or its Board of Directors.

Any person or entity who holds an interest in a Lot in Orchard Road Business Park merely as a security for the performance of an obligation or any person in possession of a Lot under a contract to purchase such lot shall not be a member of the Association.

*Orchard Road
Business Park*

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No member shall have any right or power to disclaim, terminate or withdraw from its membership in the Association or from any of its obligations as such member by abandonment of its Lot or for any other reason.

Ownership of a Lot in the Subject Property shall be the sole qualification for membership and there shall be one membership for each Lot.

Section 2.03. Voting Rights. The Association shall have two classes of voting members:

a. Class A: Class A members shall be all record owners of Lots in Orchard Road Business Park with the exception of the Covenantor.

b. Class B: Class B member shall be Covenantor.

The Class A members shall be entitled to one vote for each one full gross acre (exclusive of right-of-way) of land owned by the owner within the Subject Property.

If more than one member is the record owner or beneficiary of the title-holding land trust of an acre of land in the Subject Property, than the vote for that acre of land shall be exercised as those members amongst themselves determine. No more than one vote shall be cast with respect to any single acre of land.

The Class B member shall be entitled to a number of votes equal to the combined number of votes of all Class A members, plus one additional vote.

Any person or entity who holds an interest in a Lot in the Subject Property merely as a security for the performance of an obligation or any person in possession of a Lot under a contract to purchase such Lot shall not be a member of the Association.

The Association shall have the right to suspend the voting rights of any member for any period during which an assessment levied by the Association against the member's Lot remains unpaid

Section 2.04. Powers, Duties and Responsibility. The Association is created to carry out the purpose of this Declaration of Covenants, Conditions and Restrictions. In order to carry out that purpose, the Association shall be the governing body for all of the owners and beneficiaries of title-holding land trusts of lots in Orchard Road Business Park. It shall exercise the following powers and shall assume the following duties and responsibilities:

- a. to provide for the highest standards of maintenance of the Subject Property and to make and promote the desired quality and character of Orchard Road Business Park;

- b. to receive property of every kind, whether real or personal, and to administer and apply such property and the income therefrom exclusively for the purposes of the Association;
- c. to receive any gift, bequest, or devise of any property for any purpose specified by the donor or testator or for any of the purposes of the Association;
- d. to maintain, repair, and replace the stormwater detention and all wetland areas, including all accompanying vegetation and grass thereon, in Orchard Road Business Park as shown on the Plat until such time as the ownership of said detention and wetland areas are transferred to the Kane County Forest Preserve District or to another entity other than Covenantor or the Association. In the event the said areas are not transferred, the Association shall permanently repair and maintain the stormwater detention and all wetland areas;
- e. to provide for a general fund to enable the Association to exercise its powers, duties, and responsibilities as delineated in this Declaration, its Articles of Incorporation, and its By-Laws by levying an annual assessment or special assessment;
- f. to enforce any lien for non-payment of any assessment;
- g. to take any action necessary to effectuate the purposes of this Declaration including, but not limited to transferring title to the stormwater detention and/or wetland areas to the Kane County Forest Preserve District or to another entity other than Covenantor

1st Monday in October after sale

3 Bd. of Dir. Members

Section 2.05. Board of Directors. The affairs of the Association shall be managed by a Board.

The initial control and management of the Association shall be entrusted to an initial Board which shall consist of three directors. Said initial Board of Directors shall be selected by the Covenantor and the members need not be Lot owners in Orchard Road Business Park. The initial Board shall hold office until the first Monday in October of the year following Covenantor's sale of one hundred percent of the total number of lots in the entire Subject Property. Said meeting, hereinafter being known as the Annual Membership Meeting, may be held at such other reasonable time or date not more than thirty days before or after said date as may be designated by written notice of the Board delivered to the membership not less than ten days prior to the date fixed for said new meeting. Prior to the Covenantors' sale of one hundred percent of the total number of lots in the entire Subject Property, the initial Board reserves the right to transfer control and management of the Association to a successor Board at any time it so decides irrespective of the criteria set forth in this paragraph.

Prior to sale of land

When the initial Board of Directors shall cease to hold office as specified herein, there shall be a meeting of the members of the Association for the purpose of electing a successor Board. Said successor Board shall consist of three directors who shall hold office for two-year terms. However, in said successor Board, two of the three directors receiving the highest number of votes shall hold

office for two years and the remaining director shall hold office for one year only.

The By-Laws of the Association shall set forth the general powers of the Board, the number, tenure and qualifications, their term of office, manner of election and removal, and method of operation of the Board.

There shall be an annual election to fill the offices of the directors whose terms are expiring. Said election shall occur at the Annual Membership Meeting. Cumulative voting shall not apply in the election of the directors.

The Board shall have the power to fill any vacancy that may occur in their own number or in any office of the Association. The directors or officers so appointed shall serve for the unexpired term of the director replaced.

If any director fails to attend a majority of the number of meetings of the Board in any fiscal year, the Board may in its sole discretion declare his office vacant.

The regular meeting of the Board shall be held immediately after and at the same place as each Annual Membership Meeting. Special meetings may be called on the order of the president or on the motion in writing of a majority of the directors. At least five days notice of such special meeting, specifying its purpose, shall be given by mail or personal service to each director.

A majority of the Board shall constitute a quorum for the transaction of business and the action of a majority of such quorum shall be the action of the Board. If a quorum is not present, a less number may adjourn the meeting to another date.

The officers of the Association shall be president, vice president, and secretary/treasurer. They shall all be directors and elected by the directors at the regular meeting of the Board subsequent to the annual election and shall hold their respective office for one year and/or until their successors are elected and qualified. The officers shall be subject to the control of the Board and may be removed by the majority of the directors at any regular meeting or any special meeting called for that purpose. The Board may elect such other officers as it deems necessary. The officers shall exercise their functions according to the By-Laws of the Association.

The members of the Board (including the initial Board and the successor Boards) and the officers of the Association shall not be liable to the Owners and/or Association for any mistake of judgment or acts or omissions made in good faith while acting in their capacity as directors or officers. The Association shall indemnify and hold harmless the members of the Board and the officers thereof against all contractual liability to others arising out of contracts made by them, unless such contracts shall have been made in bad faith or with knowledge that same was contrary to the provisions of this Declaration. The liability of any Owner shall be limited to an amount determined by multiplying the total liability by a fraction, the numerator of which is the total amount of acres owned by said Owner and the denominator of which is 17.85 representing the total acreage of Lots

1-13, pursuant to the Plat, subject to the terms of this Declaration. All contracts and agreements entered into by the Board or officers shall be deemed executed by said parties as the case may be as agent for the Owners or the Association.

In the event of any disagreement between any member of the Association a) relating to the maintenance, repair, or replacement of improvements within the stormwater detention and wetland areas or b) any questions or interpretation or application of the provisions of this Declaration or the By-Laws of the Association, the determination thereof by the Board shall be final and binding on each and all such members of the Association.

Section 2.06. Responsibility for Maintenance, Repair, and Replacement. The Association shall be responsible for the maintenance, repair and replacement of the following:

- a. the stormwater detention and all wetland areas, including all accompanying vegetation and grass thereon, in Orchard Road Business Park as shown on the Plat until such time as the ownership of said detention and wetland areas are transferred to the Kane County Forest Preserve District or to another entity other than Covenantor or the Association. In the event the said areas are not transferred, the Association shall permanently repair and maintain the stormwater detention and all wetland areas;
- b. any property owned or leased by the Association.

Section 2.07. Meetings. The initial meeting of the voting members of the Association shall be held as specified in Article II Section 2.05 herein. The Covenantors or the initial Board shall notify the members of said initial meeting at least ten days prior to the date of the meeting. Thereafter, there shall be an Annual Membership Meeting of the voting members on the first Monday in October or at such other reasonable time or date no more than thirty days before or after said date as may be designated by written notice of the Board delivered to the membership of the Association not less than ten days prior to the date fixed for said meeting. The purpose of the initial Annual Membership Meeting and all subsequent Annual Membership Meetings shall be to elect directors and to conduct Association business. Special meetings of the voting members may be called at any time for the purpose of considering matters which by the terms of this Declaration require the approval of all or some of the voting members, or for any other reasonable purpose. Said meetings may be called by the president, the Board, or the voting members having, in the aggregate, not less than ten percent of the total votes of the Association. Special meetings shall be held as provided in the Association By-Laws.

The presence in person or by written proxy at any meeting of the voting members having fifty percent of the total votes of the Association shall constitute a quorum for the transaction of business. Unless otherwise expressly provided herein or required by the General Not-For-Profit Corporation Act or the Articles of Incorporation of the Association, any action may be taken at any meeting of the voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes present at such meeting.

*10 days prior notice
Elect Directors & A.*

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Section 2.08. Loan and Encumbrances. The Association, through the Board, may not obtain a loan, whether secured or unsecured, or encumber the assets of the Association without approval by the majority of the total votes of the Association present in person or by written proxy at a membership meeting called for this purpose. The presence in person or by proxy at said meeting of not less than fifty percent of the total membership shall constitute a quorum. However, said loan or encumbrance must be approved by not less than fifty percent of the total membership of the Association. This provision shall not restrict the power of the Board or the Association to contract for goods or services in the ordinary course of the Association's operations.

This provision may not be amended except by approval of not less than fifty percent of the total membership of the Association present either in person or by written proxy at a meeting called for this purpose, all in accordance with Article II Section 2.07 of this Declaration.

Section 2.09. Rules and Regulations. The Board shall have the authority from time to time to adopt rules and regulations governing the administration and operation of the Subject Property, subject to the terms of this Declaration.

ARTICLE III

MAINTENANCE ASSESSMENTS FOR ORCHARD ROAD BUSINESS PARK

Section 3.01. Creation of the Lien and Personal Obligation of Assessments. Each owner of a Lot in Orchard Road Business Park by acceptance of a deed or other document of conveyance therefore, whether or not it shall be so expressed in any deed or other document or conveyance, shall be deemed to covenant and agree to pay to the Association regular assessments of charges and special assessments for capital improvements and maintenance expenses as provided herein. Such assessments shall be fixed, established, and collected from time to time as hereafter provided. The regular and special assessments together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge against and a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the owner of such Lot at the time when the assessment fell due.

Section 3.02. Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of providing the highest standards of maintenance of the Subject Property and for any purpose of the Association as specified in this Declaration or the Articles of Incorporation. All funds collected (except for such special assessment as may be levied against less than all of the members and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held in trust for the benefit, use, and account of each of the members in the ratio that the number of acres owned by it bears to the total number of acres in the Subject Property as the same is constituted from time to time.

Section 3.03. Regular Assessments. The Association, through the Board, shall levy for each assessment year an assessment, applicable to that year only, for the purpose of enabling the Association to exercise its powers and duties and to fulfill its responsibilities as delineated herein.

Section 3.04. Procedure. The Board shall determine the amount of the assessment against each Lot for each assessment year. The assessment shall be allocated among each Owner on the basis of acreage by multiplying the total assessment by a fraction, the numerator of which is the total amount of acres owned by said Owner and the denominator of which is 17.85, representing the total acreage of Lots 1-13 pursuant to the Plat, subject to the terms of this Declaration. Those Lots owned by the Covenantors shall not be obligated to pay any such annual assessments. The Board shall notify in writing each member of the Association of the amount of the assessment against the member's Lot no later than December 31 of each year. On or before February 1 of the ensuing calendar year, or otherwise as provided by the Board, each owner, jointly and severally, shall be personally liable for and obligated to pay to the Association the annual assessment.

On or before April 1 of each calendar year, the Board shall supply all members an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any net shortage shall be billed to each Owner and each Owner shall be required to pay same within ten days from the receipt of the bill. The Board shall prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

The Association shall, within seven days of a written demand and the payment of a fee established from time to time by the Board, furnish to any owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 3.05. Change in Basis of Regular Assessments. The Board of the Association may change the amount of the regular assessment during any assessment year provided that any increase in the assessment shall be approved by a majority of the Board at a meeting duly called for this purpose with appropriate notice and information provided to the membership prior to said meeting.

Section 3.06. Special Assessment for Maintenance Expenses. In addition to the regular assessments authorized by Section 3.03 hereof, the Association, through the Board, may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any taxes or unexpected repair or replacement of any of the improvements which are the responsibility of the Association as specified herein; provided that any such assessments shall be approved by a majority of the Board, at a meeting duly called for this purpose with appropriate notice and information provided to the membership prior to said meeting.

The special assessment shall be allocated among each Owner on the basis of acreage by

multiplying the total assessment by a fraction, the numerator of which is the total amount of acres owned by said Owner and the denominator of which is 17.85, representing the total acreage of Lots 1-13 pursuant to the Plat, subject to the terms of this declaration.

Section 3.07. Special Assessment for Capital Improvements. In addition to the regular assessments authorized by Section 3.03 hereof, the Association, through the Board, may levy in any assessment year a special assessment, applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction of any improvements which are the responsibility of the Association as specified herein, provided that any such assessment shall be approved by not less than fifty percent of total membership of the Association. There shall be a membership meeting called for the purpose of discussing the proposed special assessment and the voting may be either in person or by written proxy.

This provision may not be amended except by approval of not less than fifty percent of the total membership of the Association. There shall be a membership meeting called for the purpose of discussing the proposed amendment and the voting may be either in person or by written proxy, all in accordance with Article II of this Declaration.

The special assessment shall be allocated among all Owners by multiplying the total assessment by a fraction, the numerator of which is the total amount of acres owned by said Owner and the denominator of which is 17.85 representing the total acreage of Lots 1-13 pursuant to the Plat, subject to the terms of this Declaration.

Section 3.08. Reserve and Contingency Fund. The Board shall build up and maintain a reasonable reserve for contingencies and replacements.

Section 3.09. Effect of Non-Payment of an Assessment. If any regular or special assessment is not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and costs of collection including reasonable attorneys' fees, become a continuing lien on the property and an equitable charge running with the land touching and concerning it, which shall bind upon property in the hands of the then owner, his grantees, heirs, administrators, executors, legal representatives, assigns and successors, and the limitation thereof shall coincide with the statutory limitation of the State of Illinois for the enforcement of oral agreements. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass as a personal obligation to his successors in title unless expressly assumed by them. If title to a lot is held by an Illinois Land Trust, the trustee shall not have any personal liability for the assessment, but all beneficiaries of the trust shall be jointly and severally so liable. In the event title to a lot is held by more than one owner, all owners shall be jointly and severally liable. The lien shall attach to rents due from parties in possession to the record owners provided that it shall be subordinate to an assignment of rent held by a mortgagee delivered in connection with a first mortgage loan to purchase the property.

If the assessment is not paid within thirty days after the delinquency date, the assessment shall bear interest from the date of delinquency at the maximum rate of interest per annum permitted by the usury laws of the State of Illinois and the Association may bring an action at law against the

Owner personally obligated to pay same or to foreclose the lien against the property and there shall be added to the amount of such assessment all the costs of preparing and filing the complaint and maintaining and concluding such action, including the cost of title reports, and in the event a personal judgment or decree of foreclosure is obtained, such judgment or decree shall include interest on the assessment as above provided and reasonable attorney's fees to be fixed by the court together with all costs of the action. The venue for all legal action shall be in Kane County. The persons in possession shall be authorized to accept the summons for the owners of the lot.

In the event that title to any lot is conveyed to a land trustee, upon the demand of the Association, the trustee shall furnish the Association with a certified copy of the trust agreement so that the Association shall be advised of the beneficiaries entitled to vote and who will be personally liable for the regular and special assessment.

Section 3.10. Continuing Obligation. The failure or delay of the Board to prepare or serve notice of the annual or adjusted assessment on the Owners shall not constitute a waiver or release in any manner of such Owner's obligation to pay the assessments herein described including the maintenance costs and necessary reserves for the Association as herein provided whenever the same shall be determined, and in the absence of notice of the annual or adjusted assessment each owner shall continue to pay the assessment at the then existing rate established for the previous period until such annual or adjusted assessment shall have been mailed or delivered.

Section 3.11. Accounting. The Board shall keep full and correct books of account of receipts and expenditures. Such records and the vouchers authorizing the payment therefor shall be available for inspection by any owner or any representative of any owner duly authorized in writing at such reasonable time or times during normal business hours as may be requested by the owner. Upon ten days' notice to the Board and payment of a reasonable fee, any owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or any other charges due and owing from such owner.

Section 3.12. Non-Escape from Obligation. No Owner may waive or otherwise escape liability for the assessments provided for herein for any reason.

Section 3.13. Subordination of the Lien to the Mortgage. The lien for the assessments provided for herein may for any reason be subordinated by the Association by written document executed by its duly authorized officers and shall without any writing be subordinated to the lien of any mortgage placed upon the properties subject to assessments for the purpose of purchasing the subject lot provided, however, that such automatic subordination shall apply only to the assessments which arise subsequent to the lien of the mortgage or mortgages; and provided further such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such property pursuant to the decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. The Owners agree upon accepting title that the lien of the assessments shall be prior to the homestead right, if any, of the

Owners since it runs with the land and is in existence before commencement of ownership interests.

ARTICLE IV
USE AND DEVELOPMENT RESTRICTIONS

Section 4.01. The Architectural Review Authority.

a. Purpose. Architectural Review Authority (hereinafter the "ARA") is hereby established to ensure that Orchard Road Business Park remains an attractive, harmonious commercial development having continuing appeal. In order to achieve this objective, architectural controls and maintenance standards shall be established. The purpose of the ARA is to maintain the aesthetic harmony within Orchard Road Business Park through assistance and review of various exterior improvements to the Lots.

b. Composition. The members of the ARA shall be appointed by the Board and shall serve until replaced by the Board, at its sole discretion. Until the election of the successor Board, Covenants, or their assignees, shall be deemed to be the ARA.

Section 4.02. Architectural Review. Any construction, reconstruction, alteration or addition to or of any building, signage, landscaping, lighting, improvement or other structure upon or to any Lot (whether initially or by way of addition to another building or structure) shall be approved by the ARA, in accordance with the development guidelines contained herein, the applicable zoning restrictions on the property, the Plan Description, and in accordance with the Plat

a. Any person or entity desiring any of the forgoing shall prepare and submit the following documents for review by the ARA: a written application, site plan, an architectural plan for all exterior elevations of the building, a landscape plan, site lighting plan, signage plan and civil engineering (if requested by the ARA). The plans shall show the nature, shape, kind, height, materials and color scheme of any such building, sign or structure, as well as the exterior elevations of said building, sign or structure. The landscape plan shall show the number, type and location of all proposed landscape material. The site lighting plan shall show size, location and type of all exterior lighting proposed. A plat of survey (drawn to scale) shall also be submitted showing the existing improvements, utility locations and the location of the proposed building, sign or structure on the Lot.

b. In reviewing submitted plans, the ARA may consider and take into account the following: (i) the suitability of the proposed building, sign, landscaping, lighting or structure with the surroundings; (ii) the effect of the building, sign, landscaping, lighting or structure on the outlook from adjacent lots; (iii) the overall scale and architectural features of the proposed plan; (iv) the functionality of the proposed plan, including, but not limited to ingress, egress, service, traffic flow, parking and building location; and (v) the amount of gross leasable building area proposed to be built. The ARA shall issue a report in writing within a reasonable time, but in no event later than

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30 days after receiving the complete submittal. In the event that the ARA fails to issue a report in writing within said 30 days, the plan shall be deemed approved as submitted. In the event that the ARA shall object to or disapprove all or any portion of the plans, the party submitting the plans shall cause the plans to be modified to the extent required by the ARA and resubmit revised plans to the ARA for approval. No construction, of any kind, including clearing or grading, shall be commenced upon any Lot without the ARA's prior written approval of the above referenced plans. All buildings, signs, improvements and other structures built on the Lots shall be constructed in accordance with the plans as finally approved by the ARA. The decision of the ARA shall be conclusive.

c. The ARA shall not be liable to any person or entity under any theory and under any circumstances including, without limitation, any liability based on soundness of construction, adequacy of drawings and specifications, or otherwise by reason of mistakes in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any such plans. Every person who submits plans to the ARA for approval agrees, by submission of such plans, and every Owner and tenant of every Lot agrees, by acquiring title thereto or an interest therein, that it will not bring any action, proceeding or suit against the ARA to recover any damages whatsoever. In case of conflict between the review of the plans and the covenants, conditions and restrictions herein contained, these covenants, conditions and restrictions shall govern the rights and obligations of the parties. The ARA's approval of any building plans, specifications, site, utility plans, landscape plans, lighting plans or architectural plans, or any other approvals or consents given by the ARA pursuant hereto or otherwise, is given solely to protect the aesthetics of the Subject Property and shall not be deemed a warranty, representation, or covenant that such building improvement, landscaping or other action taken pursuant thereto or in reliance thereon complies with, or is not in violation of any applicable laws, rules or regulations, and the ARA is expressly released and relieved of any and all liability in connection therewith.

d. In the event that the construction of said improvements does not commence within one year on a project for which plans have been approved by the ARA, said approval shall be considered null and void with no further action by the ARA and the Owner of said Lot shall resubmit plans to the ARA for a renewal of this approval.

Section 4.03. Exclusive Use. The Subject Property shall be used solely and exclusively for the development, construction, and operation of a high-quality business park (hereinafter the "Park"), consistent with this Declaration and the Plan Description.

Section 4.04. Prohibited Uses. The Subject Property shall be used solely and exclusively for the purposes stated in Section 4.03 above. The Subject Property shall not be used for any of the following purposes:

- A. Any business or operation which creates a public or private nuisance, noise, or causes emission of dust, odor, smoke or gases (provided, however, that construction activities may take place on each Lot, as long as commercially reasonable precautions are taken to prevent a nuisance to adjacent Lots);

- B. Any dwellings of a residential nature;
- C. The sale or display of pornographic or "adult" materials;
- D. Any building, improvement or use which violates the Plan Description, this Declaration, the applicable zoning ordinance or any other applicable law or regulation;
- E. Any use which generates outdoor music at a volume or at times that may pose a nuisance to adjacent Lots or to customers of the Center;

Section 4.05. Quiet Enjoyment. No unlawful, noxious, immoral, or offensive activity shall be carried on or in any Lot within the Subject Property, nor shall anything be done therein either willfully or negligently, which may become an annoyance or nuisance to any Lot Owner, its grantees or invitees. No Owner or occupant shall operate any machines, appliances, accessories, or equipment in such manner as to cause, in the judgment of the ARA, an unreasonable disturbance to others.

Section 4.06. General Architectural Standards. The following architectural standards shall apply to all buildings, improvements and structures developed on any of the Lots:

A. Exterior walls may not be faced with metal or plastics of any kind (other than as a component utilized in an EIFS finish system, such as Dryvit), concrete block (except for fluted or split-faced block which is painted or stained), or unpainted smooth concrete. This architectural standard shall not preclude the use of standing seam metal roofs (mansard style or otherwise), or architectural metal screens around rooftop mechanical equipment. Notwithstanding the foregoing, walls which are adjacent to service and loading areas and which are not visible to the general public or from adjacent Lots may be unpainted concrete block or pre-cast concrete.

B. Dumpsters and compactors shall be located within wood and/or masonry enclosures with opaque wooden or metal gates or doors.

C. All mechanical equipment (roof or ground-mounted) shall be screened from public view.

D. There shall be no outside storage or displays on the on the Lots except as specifically provided in Section 4.08 of this Declaration.

E. No chain link fencing shall be allowed.

F. No painted or flood-lit signs shall be permitted.

G. All parking lots shall be curbed, and on-site storm water maintenance systems shall be

installed if required by the City of Aurora approved engineering plans. No storm water shall be permitted to drain from one Lot to another, except as specifically provided in a recorded storm water drainage easement and as approved by the City of Aurora. Landscaping islands shall be installed in parking lots as required by the City of Aurora.

H All parking lot, decorative and structural lighting must be approved by the City of Aurora. All lighting will be installed so as to prevent glare or spillage onto adjacent Lots or rights-of-way.

I. All private utility lines servicing the Lots or any buildings, improvements and structures thereon shall be located underground.

Material deviations from these standards may be granted only with the approval of the ARA pursuant to the procedures established herein. Any such approvals shall be promptly documented and recorded by the Owner requesting the deviation, as an amendment to this Declaration.

The ARA hereby retains the authority to review said amendments prior to recording.

Section 4.07. Applicable Zoning Ordinance. The building lines, setbacks, and other matters relating to the construction, maintenance or use of improvements for the Lots shall be subject to the Plan Description, this Declaration, applicable zoning ordinances and building codes, as amended from time to time, and all other applicable laws, rules, regulations, agreements and ordinances, each of which shall remain fully enforceable by the proper governmental authority notwithstanding any provision of this Declaration. The validity and enforceability of any standard, restriction or condition under this Declaration which is more stringent than or is in addition to any standard or restriction imposed by the Plan Description or the applicable law, shall remain valid and fully enforceable in accordance with the terms of this Declaration.

Section 4.08. Outside Storage. Outside storage of raw materials, finished products, inventory, equipment and/or any other items shall be strictly prohibited except for outside sales and display areas (e.g., garden centers) as allowed in Section 4.07 herein. Outdoor dining seats are not prohibited by this section.

Section 4.09. Loading. Loading docks and service entrances shall be appropriately screened by the use by closely planted, high-growing plants or other suitable screening.

Section 4.10. Parking. The Owners shall provide a sufficient number of parking spaces on their respective Lots to meet the requirements of the Plan Description, all applicable governmental ordinances, and the provisions contained herein. Shared parking between the Lots shall not be permitted without the prior written approval of the ARA pursuant to the procedures established herein.

Section 4.11. Special Restrictions. The following special restrictions shall apply to the Subject

Property:

- a. There shall be no more than one freestanding building located on each Lot unless otherwise approved by the ARA pursuant to the procedures provided for herein.
- b. The only Lot in the Subject Property which shall contain a gas station and/or convenience store (similar to a Seven-Eleven) shall be Lot 1. No other Lot shall be developed or used for the purpose of operating a gas station and/or convenience store (similar to Seven-Eleven).

Section 4.12. Construction Work. In conducting any construction work undertaken upon a Lot, the Owner of said Lot shall take all necessary safety measures, including but not limited to the erection of barricades (which shall be kept free of offensive advertising materials) as shall be reasonably required to protect persons and property from injury or damage caused by, or resulting from any work or construction performed by or on behalf of the Owner. Outside storage and loading areas shall be permitted as reasonably necessary to accommodate the construction, as long as a reasonably clean and neat appearance is maintained. The Owner shall use reasonable efforts to avoid and minimize impairment of access and use of the Access Driveways (as such term is defined herein). The Owner shall use reasonable efforts not to unduly interfere, during the course of said working construction, with the business operations, if any, being conducted by the other Owners to this Declaration. In the performance of such work or construction, the Owner shall comply with all effective and applicable laws, ordinances and codes.

Section 4.13. Completion of Construction. After commencement of construction of any improvements upon a Lot, the Owner shall diligently prosecute the work thereon, to the end that the improvements shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. The Owner of the Lot on which improvements are being constructed shall at all times keep all public streets, Shared Roadways and Access Drives free from any dirt, garbage, trash or other debris which might be occasioned by construction of the improvement. Any improvements that are damaged as a result of construction shall be promptly repaired or replaced at the sole expense of the Owner of the Lot on which the improvements are being constructed.

Section 4.14. Signage. The location, size and construction of all signage on the Subject Property shall be subject to the provisions of the Special Sign District detailed in the Plan Description and shall comply with all ordinances of the City of Aurora as adopted from time to time as regards the Subject Property.

Section 4.15. Subdivision and Rezoning of Property. No Owner shall petition for subdivision, replatting or rezoning of any Lot without the prior written consent of the ARA. No Lot shall be subdivided, replatted or rezoned without the prior written consent of the ARA. If subdivided, replatted or rezoned, the lots created thereby shall be governed by this Declaration.

Section 4.16. Variation to and Modification from Zoning. No owner shall petition for a variation

or modification to the zoning on Owner's Lot without the prior written consent of the ARA. No modification or variation from the zoning established by the Plan Description shall be effective without prior approval of the ARA.

Section 4.17. Term of Declaration. The Lots, each portion thereof, and all improvements thereon shall be held, transferred, sold, conveyed, leased, mortgaged and occupied subject to the terms, provisions, covenants, conditions and restrictions contained in this Declaration. The provisions of Article 4, including the easements established thereby, and any easements established elsewhere in this Declaration, shall unless specifically stated otherwise, be perpetual; the balance of this Declaration shall, unless specifically stated otherwise, terminate on December 31, 2048; provided, however, that the ARA may, in its sole discretion, extend the provisions of this Declaration, in 10-year increments, for up to an additional 50 years by executing an appropriate amendment(s).

ARTICLE V **MAINTENANCE, LANDSCAPING AND GRADING**

Section 5.01. Maintenance Standards. The Owners shall be responsible for maintaining their respective Lots and the improvements thereon in good condition and state of repair to the standards of a high-quality business park, without any expense to other Owners. The exterior of all buildings shall be maintained in good condition and repair at all times. Each Lot shall be kept free of litter and weeds and the unpaved portion shall be mowed and maintained regularly. All parking areas and driveways shall be paved and maintained in good condition, order, and repair. The Owners shall at all times comply with governmental, health, safety, fire and policy requirements.

Section 5.02. Landscaping Requirements. Unpaved sections of the Lots shall be maintained in grass and landscaping, as approved by the ARA pursuant to Section 4.02 herein, including any portion of the Lot within a street or public right of way.

Section 5.03. Maintenance of Parking and Access Areas. During the term of this Declaration, the Owners shall operate, maintain, repair, replace, light and keep free of snow, ice and debris all Parking and Access Areas as exist from time to time on their respective Lots, excluding the Shared Roadway. The Owner of each Lot shall be responsible for the following costs and expenses of operating, maintaining, and repairing Parking and Access Areas on their respective Lots, including, without limitation: general liability and property damage insurance, lighting, striping, resealing, cleaning, sweeping, the costs and expenses of planting, replanting, and replacing landscaping, water and sewer charges, electrical charges, charges for other utilities, and security and reasonable professional management fees.

Section 5.04. Maintenance of Landscaped Areas. Lawns, trees and shrubs shall be maintained in a first class condition to the standards of a high-quality business park by the Owners of the respective Lots. No fence, wall, tree, hedge or shrub planting shall be maintained in such a manner as to create a hazard by obstructing sight lines for vehicular or pedestrian traffic.

Section 5.05. Public Liability Insurance. Each Owner shall purchase and maintain a commercial public liability insurance policy in an amount providing protection of not less than Three Million Five Hundred Thousand Dollars (\$3,500,000.00) combined single limit for bodily injury and property damage occurring on or about their respective Lots.

Section 5.06. Maintenance of Access Driveways. All Access Driveways shall be maintained in a first class condition and shall be repaired and replaced at the sole cost and expense of each Owner as part of the development of their respective Lot, and otherwise in such a manner that the use of the Access Driveways shall not be unreasonably impaired.

Notwithstanding, the foregoing, each Owner shall promptly perform, at its sole cost and expense, any maintenance, repair or replacement of the Access Driveways rendered necessary by its act or omission, whether negligent, reckless or intentional, or by that of such Owner's agents, employees or tenants.

Section 5.07. Maintenance of Shared Roadway. During the term of this Declaration, the Owner of the property legally described on Exhibit "C" attached hereto and made a part hereof and shown on the Plat as "not included" (hereinafter "Ameritech"), shall, at its sole cost and expense, operate, maintain, repair, replace, light and keep free of snow, ice, and debris, the Shared Roadway. The Owners of Lots 4, 5, 6, 7, 8, 9, 10, and 11 of the Subject Property shall pay to Ameritech their pro rata share of the costs to operate, maintain, repair, replace and keep the Shared Roadway free from snow, ice, potholes, and debris in accordance with the agreement attached hereto and made a part hereof as Exhibit "D".

ARTICLE VI **EASEMENTS**

Section 6.01. Easements for Utilities. All easements necessary for utilities to serve the Subject Property were established on the Plat. No further utility easements are contemplated nor created by this Declaration.

Section 6.02. Modification of Easement Areas. Prior to seeking any governmental or utility company approval for modifications to any of the easements created by the Plat or created pursuant to this Declaration, the party seeking such modification must first obtain the written approval of the ARA.

Section 6.03. Non-Dedication. It is agreed and understood that the grants contained in this Article are not intended and shall not be construed as a dedication of any portion of the respective Lots for public use.

Section 6.04. Creation of Cross Parking Easement Areas. No easement for shared parking is hereby reserved, contemplated or created by this Declaration. Each Lot shall contain parking sufficient for the use located thereon in conformance with Section 4.10 herein. The Owner of each Lot shall not direct or allow its tenants, grantees, licensees, agents, invitees or employees to make

use of the parking provided on any other Lot. Any cross parking easements between lot owners shall be subject to review and approval by the ARA.

Section 6.05. Non-Obstruction of Access. No Owner shall cause an obstruction in a manner which would prevent access, ingress or egress to a Lot either from a public right of way or from the shared roadway.

Section 6.06. Easements for Public and Quasi-Public Vehicles. Covenantor hereby establishes, for the general benefit of the Subject Property, a perpetual non-exclusive easement to all public and quasi-public vehicles including, but not limited to police, fire, ambulance and other emergency vehicles, trash and garbage collection, Post Office vehicles and privately owned delivery vehicles, to enter upon the Lots by private roadways and/or parking areas in performance of their official duties.

ARTICLE VII **MISCELLANEOUS**

Section 7.01. Notices. Notices to be sent pursuant to this Declaration shall be sent to the Owner(s) and/or Association by written notice mailed by registered or certified mail, return receipt requested, postage prepaid and addressed to the address on file with the Sugar Grove Township Tax Assessor's office for mailing of real estate tax bills. The Association and/ or Owner may specify a reasonable number of substitute or additional addresses, by notifying all parties

Section 7.02. Default. No Owner shall be deemed to be in default under this Declaration until such Owner; (i) has been given written notice describing the nature of such impending default; and (ii) after fifteen (15) days after the receipt of such notice (or such longer period of time as may otherwise be provided in this Declaration), shall have failed to commence to cure such impending default and to proceed diligently to complete the curing of such impending default as promptly as possible, utilizing reasonable means to effectuate and expedite the curing of such impending default.

A. In the event the Owner fails to cure a default after proper notice thereof, the Association may, at its sole discretion, elect to exercise any one or more of the following remedies, none of which shall be considered to be exclusive of any other remedy, but shall be cumulative.

B. The Association may make an ex parte application for temporary restraining orders or preliminary injunctions, or may sue for injunctive relief, or for specific performance;

C. The Association may initiate an arbitration proceeding;

D. The Association may place a lien upon the defaulting Owner's Parcel, to secure payment of any moneys owed by the defaulting Owner to the Association consistent with the

provisions of this Declaration;

E. The Association may bring suit for the collection of money, payment of damages, or foreclosure of a lien granted pursuant to this Declaration;

F. Any other remedy permitted by law or in equity.

Notwithstanding any other provision of this Declaration, no default or breach of this Declaration will entitle any Owner to cancel, rescind or otherwise terminate this Declaration. The foregoing limitation will not affect, in any manner, any other right or remedy which any Owner might have by reason of any default or breach of this Declaration by another Owner.

Section 7.03. Recording. A fully executed and acknowledged original of this Declaration shall be recorded in its entirety in the office of the Recorder of Kane County, Illinois, immediately following execution of this Declaration.

Section 7.04. Parties not Partners. Nothing contained in this Declaration shall be construed to make the Owners partners or joint venturers, or to render any of said Owners liable for the debts or obligations of the other(s).

Section 7.05. No Waiver. No delay or omission by any of the Owners in exercising any rights or powers accruing upon any noncompliance or failure or performance by any other Owner under the provisions of this Declaration shall impair any such right or power to be construed to be a waiver thereof. A waiver by any of the Owners of any covenant, condition, restriction, provision or performance of this Declaration shall not be construed to be a waiver of any succeeding breach thereof, or of any other covenant, condition, provision or performance of this Declaration.

Section 7.06. Captions. Captions and other similar designations contained herein are for convenience and reference only, and in no way define or limits the scope or contents of this Declaration, or in any way affect its provisions.

Section 7.07. Governing Law. This Declaration shall be governed by and construed in the laws of the State of Illinois.

Section 7.08. Severable Provisions. In the event any provision or any portion of this Declaration, or the application thereof to any person, entity, or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Declaration, and all of its other provisions and all portions thereof, and the application thereof, to any other person, entity or circumstances, shall be severed therefrom and shall not be effected thereby, any such revision and portion thereof, of this of Declaration shall be valid and enforceable to the fullest extent permitted by law.

Section 7.09. Modification. No modification of this Declaration shall be effective in whole or in part, unless such modification is in writing and signed by the ARA and the Board of Directors and

unless such modification is duly recorded in the office of the Kane County Recorder.

Section 7.10. Authority to Grant Easements. Covenantors, for themselves and their successors and assigns, covenant that they are the fee simple owners of the Subject Property and have good right to grant the easements provided herein, subject to all presently existing easements of record and rights-of-way established by the plat.

Section 7.11. No Third Party Beneficiary. Except as herein specifically provided, no rights, privileges or immunities of any Owner hereto shall inure to the benefit of their tenants, customers, employees or invitees or any other third party, nor shall any tenant, customer, employee or invitee of an Owner or any other third party be deemed to be a third part beneficiary under the provisions contained herein.

Section 7.12. Successors and Assigns. Except as herein otherwise expressly provided, the covenants, conditions and restrictions contained in this Declaration shall run with the land and shall bind and inure to the benefit of the Owners and their respective successors and assigns.

Section 7.13. Abatement and Suit. The rights and remedies of the Association and Owners provided herein and those provided at law or in equity shall be construed as cumulative and no one of them is exclusive of any other right or remedy hereunder or allowed by law or at equity and shall be continuing rights, none of which shall be exhausted by being exercised on one or more occasions. Any violation of this Declaration shall cause irreparable harm and damage therefrom may be difficult to ascertain; therefor, in addition to the other remedies available at law, the Association and the Owners shall be entitled to sue for and obtain a declaratory judgment, an injunction, either prohibitive or mandatory, to prevent the breach of or to mandate the enforcement or observance of the terms, conditions and restrictions set forth in this Declaration.

Section 7.14. Interest on Past Due Payments. Unless otherwise provided herein, interest shall accrue on all monies owing from any Owner to the Association and from one Owner to another, at an interest rate equal to the Prime Rate as listed in the Wall Street Journal on the date an invoice or demand for payment was presented plus four percent (4%) per annum, commencing 30 days after payment is due.

Section 7.15. Force Majeure. If performance of any action required hereunder by the Association and by any Owner is prevented or delayed by act of God, war, labor disputes or other causes beyond the reasonable control of the Association or such Owner, the time for the performance of such action will be extended for the period that such action is delayed or prevented by such cause.

Section 7.16. Estoppel Certificates. Any Owner may, at any time and from time to time, in connection with the sale or transfer of such Owner's Lot, or in connection with the financing or refinancing of such Owner's Lot by mortgage, deed of trust or sale-leaseback made in good faith and for value, deliver written notice to the other Owners requesting such Owners to certify in writing that, to the knowledge of the certifying Owner; (i) this Declaration is in full force and effect and

binding upon the Owners; (ii) this Declaration has not been amended or modified, either orally or in writing, or if so amended, identifying the amendments; and (iii) the requesting Owner is not in default in the performance of its obligations hereunder to the certifying Owner, or, if in default, specifying therein the nature and amount of any and all defaults. Each Owner receiving such request shall execute and return such certificate within thirty (30) days following the receipt thereof. Failure by an Owner to so execute and return such certificate within the specified period shall be deemed an admission on such Owner's part that the Owner requesting the certificate is not in default in the performance of its obligations under this Declaration. Any such certificate(s) so executed by the Owner of a Lot may be relied upon by transferees, mortgages, deed of trust beneficiaries and leaseback-lessors of any other Lot.

Section 7.17. Removal of Liens. If the Owner of a Lot against which a lien is claimed hereunder posts either (i) a bond executed by an approved corporate surety, or (ii) an irrevocable letter of credit executed by a federally insured national banking association, which bond or letter of credit names as the principal or payee the Association and/or Owner claiming the lien, and is in form satisfactory to the Association and/or such Owner in the amount equaling one hundred fifty percent (150%) of the amount of the lien, and unconditionally provides that it may be drawn upon by the Association and/or Owner claiming the lien upon the issuance of a final judgment entered by a court of competent jurisdiction in favor of the Association and/or such Owner, then the Association and/or such Owner claiming the lien shall record a notice extinguishing the lien or take such action as may be reasonably required by a title insurance company requested to furnish a policy of title insurance on such Lot deleting the lien as an exception thereto. The Owner of the Lot against which the lien is claimed shall post the bond or letter of credit by delivery to the Association and/or Owner claiming the lien.

Section 7.18. Exhibits. All exhibits referred to herein and attached hereto shall be deemed to be a part of this Declaration.

[SIGNATURE PAGES FOLLOW]

COVENANTOR:

THE OLD SECOND NATIONAL BANK AS TRUSTEE
UNDER TRUST AGREEMENT DATED OCTOBER 17, 1990
AND KNOWN AS TRUST NO. 5196

By: Constance A. Krug

Attest: Janet S. Dee

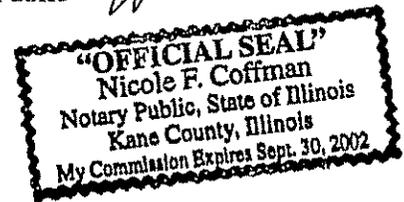
This instrument is executed by THE OLD SECOND NATIONAL BANK of Aurora, Illinois, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by THE OLD SECOND NATIONAL BANK are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be asserted or be enforceable against THE OLD SECOND NATIONAL BANK by reason of any of the the covenants, statements or representations contained in the instrument.

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Constance A. Krug, as Trust Officer of THE OLD SECOND NATIONAL BANK, and Janet S. Dee, as Assistant Trust Officer of said Company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer and Assistant Trust Officer, respectively, appeared before me this day in person and acknowledged that they swore to, signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

Given under my hand and official seal this 25th day of Aug., 2000.

Nicole F. Coffman
Notary Public



COVENANTOR:

DOWNERS GROVE NATIONAL BANK AS TRUSTEE
UNDER A TRUST AGREEMENT DATED MAY 7, 1999,
ALSO KNOWN AS TRUST NO. 99-018

This document is signed by Downers Grove National bank, not individually, but solely as Trustee under Trust Agreement mentioned in said document. Said Trust Agreement is hereby made a part hereof and any claims against said Trustee which may result from the signing of this Document shall be payable only out of any Trust property which may be held hereunder, except that no duty shall rest upon Downers Grove National Bank personally, or as Trustee, to request any of the earnings, avails, or proceeds of any real estate in said Trust. Said Trustee shall not be personally liable for performance of any of the terms and conditions of this Document or for the validity or condition of the title of said property or for any agreement with respect thereto. Any and all personal liability of the Downers Grove bank is hereby expressly waived by the parties hereto and their respective successors and assigns. All warranties, covenants, indemnities and representations of each kind are those of the Trustee's beneficiaries only and shall not in any way be considered the responsibility and liability of Downers Grove National Bank. This Trustee's exculpatory clause shall be controlling in the event of conflict of terms created by the documents executed by Downers Grove National Bank, as Trustee.

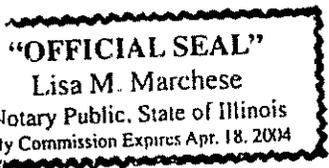
By: Steve H. Wilkey
Steve H. Wilkey, Trust Officer

Attest: Marion L. Somers
Marion L. Somers, Land Trust Officer

STATE OF ILLINOIS)
) SS.
COUNTY OF ~~KANE~~ DuPage)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Steve H. Wilkey, as Trust Officer of **DOWNERS GROVE NATIONAL BANK**, and Marion L. Somers, Land Trust Officer, ~~as Assistant~~ Trust Officer of said Company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer and Assistant Trust Officer, respectively, appeared before me this day in person and acknowledged that they swore to, signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

Given under my hand and official seal this 31st day of August, 2000.



Lisa M. Marchese
Notary Public

RETURN TO:

Prepared by:
Stephen J. Rhoades
DOMMERMUTH, BRESTAL, COBINE AND WEST, LTD.
123 Water Street
P.O. Box 565
Naperville, IL 60566-0565

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Recorder Not Responsible
For Reproductions

2000 K074247

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PARCEL 1

THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 12, 2880.13 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE WEST AT RIGHT ANGLES TO SAID EAST LINE 275.00 FEET; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 611.40 FEET TO THE CENTER LINE OF INDIAN TRAIL ROAD; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE 308.05 FEET TO THE EAST LINE OF SAID SECTION 12; THENCE SOUTH ALONG SAID EAST LINE, BEING ALONG THE CENTER LINE OF SAID INDIAN TRAIL ROAD, 472.59 FEET TO THE POINT OF BEGINNING;

AND

PARCEL 2

THE NORTH 4.96 CHAINS OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 12 AND THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 12, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE WEST ALONG THE QUARTER SECTION LINE 16.99 CHAINS TO THE EAST LINE OF A TRACT OF LAND CONVEYED TO WILLIAM S. NILES BY DEED DATED FEBRUARY 9, 1855 AND RECORDED FEBRUARY 12, 1855 IN BOOK 35, PAGE 611; THENCE NORTH 16 DEGREES 15 MINUTES EAST ALONG THE EASTERLY LINE OF SAID TRACT OF LAND TO THE SOUTH LINE OF LAND CONVEYED TO RICHARD SMITH BY DEED DATED NOVEMBER 24, 1849 AND RECORDED JANUARY 14, 1854 IN BOOK 24, PAGE 101; THENCE EAST 8.47 CHAINS TO THE SECTION LINE; THENCE SOUTH ALONG SAID SECTION LINE 30.12 CHAINS TO THE POINT OF BEGINNING, (EXCEPT THAT PART DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 12, 2630.13 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE WEST AT RIGHT ANGLE TO SAID EAST LINE 275.00 FEET; THENCE NORTH AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, 861.40 FEET TO THE CENTER LINE OF INDIAN TRAIL ROAD, THENCE SOUTHEASTERLY ALONG SAID CENTER LINE 308.05 FEET TO THE EAST LINE OF SAID SECTION 12, THENCE SOUTH ALONG SAID EAST LINE BEING ALONG THE CENTER LINE OF SAID INDIAN TRAIL ROAD, 722.59 FEET TO THE POINT OF BEGINNING AND ALSO EXCEPT THAT PART CONVEYED TO COUNTY OF KANE BY WARRANTY DEED RECORDED FEBRUARY 24, 1976 AS DOCUMENT 1354733);

EXCEPT:

THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTHERLY ALONG SAID SECTION LINE, A DISTANCE OF 703.76 FEET TO THE CENTER LINE OF INDIAN TRAIL ROAD; THENCE NORTHWESTERLY ALONG SAID CENTER LINE A DISTANCE OF 268.00 FEET TO A POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY ALONG SAID CENTER LINE, A DISTANCE OF 100.35 FEET; THENCE NORTHERLY PARALLEL WITH SAID SECTION LINE, A DISTANCE OF 313.44 FEET; THENCE NORTHEASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 28 DEGREES 37 MINUTES 20 SECONDS TO THE RIGHT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 430.07 FEET; THENCE NORTHEASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 30 DEGREES 56 MINUTES 22 SECONDS TO THE RIGHT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 143.00 FEET TO SAID SECTION LINE; THENCE SOUTHERLY ALONG SAID SECTION LINE A DISTANCE OF 490.00 FEET TO A POINT 438.44 FEET NORTHERLY OF THE CENTER LINE OF INDIAN TRAIL ROAD; THENCE WESTERLY AT RIGHT ANGLES TO SAID SECTION LINE, A DISTANCE OF 110.00 FEET; THENCE SOUTHWESTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 61 DEGREES 22 MINUTES 40 SECONDS TO THE LEFT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 270.54 FEET; THENCE SOUTHERLY PARALLEL WITH SAID SECTION LINE, A DISTANCE OF 80.88 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM THE SOUTHWESTERLY 33.0 FEET THEREOF AS MEASURED PERPENDICULAR TO AND ALONG THE CENTER LINE OF INDIAN TRAIL ROAD;

**EXHIBIT A
LEGAL DESCRIPTION
SUBJECT PROPERTY**

P10# 14-12-400-006

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AND ALSO EXCEPTING:

THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTHERLY ALONG SAID SECTION LINE, A DISTANCE OF 703.76 FEET TO THE CENTER LINE OF INDIAN TRAIL ROAD; THENCE NORTHWESTERLY ALONG SAID CENTER LINE A DISTANCE OF 268.00 FEET; THENCE NORTHERLY PARALLEL WITH SAID SECTION LINE, A DISTANCE OF 36.91 FEET TO A POINT 33.0 FEET NORTHEASTERLY OF THE CENTER LINE OF INDIAN TRAIL ROAD AS MEASURED PERPENDICULAR THERETO, FOR A POINT OF BEGINNING; THENCE SOUTHERLY PARALLEL WITH SAID SECTION LINE A DISTANCE OF 13.03 FEET; THENCE WESTERLY A DISTANCE OF 91.00 FEET ALONG A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 508.00 FEET AND A CENTRAL ANGLE OF 10 DEGREES 15 MINUTES 49 SECONDS, THE CHORD OF SAID CURVE DEFLECTS 99 DEGREES 11 MINUTES 36 SECONDS TO THE RIGHT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE; THENCE NORTHERLY PARALLEL WITH SAID SECTION LINE, A DISTANCE OF 43.47 FEET TO A POINT 33.0 FEET NORTHEASTERLY OF THE CENTER LINE OF INDIAN TRAIL ROAD AS MEASURED PERPENDICULAR THERETO; THENCE SOUTHEASTERLY ALONG A LINE 33.0 FEET NORTHERLY OF AND PARALLEL WITH THE CENTER LINE OF INDIAN TRAIL ROAD, A DISTANCE OF 100.35 FEET TO THE POINT OF BEGINNING;

PARCEL 3

THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTHERLY ALONG SAID SECTION LINE, A DISTANCE OF 703.76 FEET TO THE CENTER LINE OF INDIAN TRAIL ROAD; THENCE NORTHWESTERLY ALONG SAID CENTER LINE A DISTANCE OF 268.00 FEET TO A POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY ALONG SAID CENTER LINE, A DISTANCE OF 100.35 FEET; THENCE NORTHERLY PARALLEL WITH SAID SECTION LINE, A DISTANCE OF 313.44 FEET; THENCE NORTHEASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 28 DEGREES 37 MINUTES 20 SECONDS TO THE RIGHT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 430.07 FEET; THENCE NORTHEASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 30 DEGREES 56 MINUTES 22 SECONDS TO THE RIGHT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 143.00 FEET TO SAID SECTION LINE; THENCE SOUTHERLY ALONG SAID SECTION LINE A DISTANCE OF 490.00 FEET TO A POINT 438.44 FEET NORTHERLY OF THE CENTER LINE OF INDIAN TRAIL ROAD; THENCE WESTERLY AT RIGHT ANGLES TO SAID SECTION LINE, A DISTANCE OF 110.00 FEET; THENCE SOUTHWESTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 61 DEGREES 22 MINUTES 40 SECONDS TO THE LEFT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 270.54 FEET; THENCE SOUTHERLY PARALLEL WITH SAID SECTION LINE, A DISTANCE OF 80.88 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM THE SOUTHWESTERLY 33.0 FEET THEREOF AS MEASURED PERPENDICULAR TO AND ALONG THE CENTER LINE OF INDIAN TRAIL ROAD;

PARCEL 4

THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTHERLY ALONG SAID SECTION LINE, A DISTANCE OF 703.76 FEET TO THE CENTER LINE OF INDIAN TRAIL ROAD; THENCE NORTHWESTERLY ALONG SAID CENTER LINE A DISTANCE OF 268.00 FEET; THENCE NORTHERLY PARALLEL WITH SAID SECTION LINE, A DISTANCE OF 36.91 FEET TO A POINT 33.0 FEET NORTHEASTERLY OF THE CENTER LINE OF INDIAN TRAIL ROAD AS MEASURED PERPENDICULAR THERETO, FOR A POINT OF BEGINNING; THENCE SOUTHERLY PARALLEL WITH SAID SECTION LINE A DISTANCE OF 13.03 FEET; THENCE WESTERLY A DISTANCE OF 91.00 FEET ALONG A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 508.00 FEET AND A CENTRAL ANGLE OF 10 DEGREES 15 MINUTES 49 SECONDS, THE CHORD OF SAID CURVE DEFLECTS 99 DEGREES 11 MINUTES 36 SECONDS TO THE RIGHT OF THE PROLONGATION OF THE LAST DESCRIBED COURSE; THENCE NORTHERLY PARALLEL WITH SAID SECTION LINE, A DISTANCE OF 43.47 FEET TO A POINT 33.0 FEET NORTHEASTERLY OF THE CENTER LINE OF INDIAN TRAIL ROAD AS MEASURED PERPENDICULAR THERETO; THENCE SOUTHEASTERLY ALONG A LINE 33.0 FEET NORTHERLY OF AND PARALLEL WITH THE CENTER LINE OF INDIAN TRAIL ROAD, A DISTANCE OF 100.35 FEET TO THE POINT OF BEGINNING;

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ORCHARD ROAD BUSINESS PARK

BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS

SUPPLEMENTARY NOTES

THIS PLAN IS A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.

THE PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, WHICH IS BEING SUBDIVIDED BY THIS PLAN IS SHOWN BY THE SHADING AND IS DESCRIBED AS FOLLOWS:

SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.

SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.

SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.

SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.

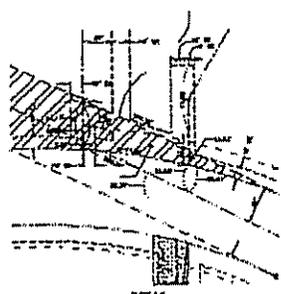
SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.

SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.

SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.

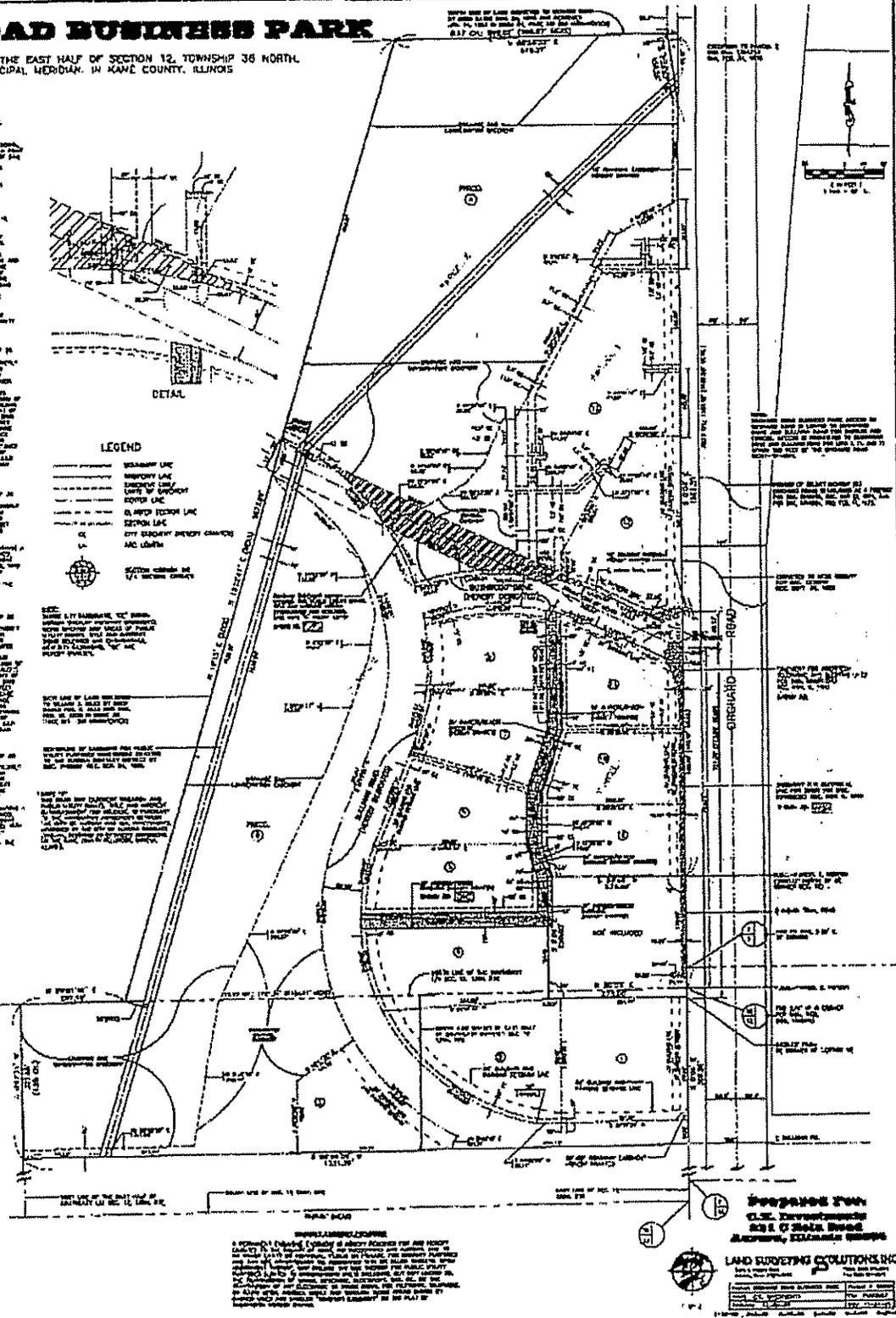
SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.

SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN HAWK COUNTY, ILLINOIS.



LEGEND

- BOUNDARY LINE
- PROPERTY LINE
- EASEMENT LINE
- EASEMENT RIGHT OF WAY LINE
- CITY STREET PROPERTY CHANGES
- CITY STREET
- CITY STREET PROPERTY CHANGES
- CITY STREET



Prepared For:
CLC Development
 838 S. Main Street
 Alton, Illinois 62426

LAND SURVEYING SOLUTIONS INC.
 1000 S. Main Street
 Alton, Illinois 62426
 Phone: 618-438-1111
 Fax: 618-438-1112
 E-mail: info@landsurveyingsolutions.com
 Website: www.landsurveyingsolutions.com

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THAT PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 12, 2630.13 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE NORTH ALONG THE EAST LINE OF SAID SECTION, 250 FEET; THENCE WEST AT RIGHT ANGLES TO SAID EAST LINE 275.00 FEET; THENCE SOUTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 250 FEET; THENCE EAST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 275 FEET TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

**EXHIBIT C
LEGAL DESCRIPTION
AMERITECH PARCEL**

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EXHIBIT D
MAINTENANCE AGREEMENT

2000K074247

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KANE COUNTY, ILL.

2001K109315

2001 OCT 18 PM 2:15

9/20/2001

Prephy & Mail to:
Dammernuth, Bristol,
Cobine, & W&A
Kevin Gensler
123 Water Street
PO Box 565
Naperville, IL 60566

Sandy Weyman
RECORDER

482375

FIRST AMENDMENT TO THE DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR LOTS 1-13 OF ORCHARD ROAD BUSINESS PARK,
AURORA, ILLINOIS

This Amendment to the Declaration of Covenants, Conditions and Restrictions for Orchard Road Business Park, Aurora, Illinois, is made this 26th day of September, 2001, by Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 26, 1995 and known as Trust No. 5934, and by Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 17, 1990 and known as Trust No. 5196 (hereinafter referred to as "Covenantors").

ORCHARD BPK

WITNESSETH:

WHEREAS, the Covenantors are the owners of Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the real property commonly known as Orchard Road Business Park and legally described in Exhibit A of this Amendment, which exhibit is attached hereto and incorporated herein by reference, (hereinafter referred to as "Subject Property"); and

47208/1

1

Oct 24⁰¹



CHICAGO TITLE INSURANCE CO.
Kane County Office
Geneva, Illinois 60134
Phone 232-2750

10

2001K109315

WHEREAS, the Covenantors caused to be recorded by the Recorder of Kane County on September 18, 2000 as Document No. 2000K074247 the Declaration of Covenants, Conditions and Restrictions for Lots 1-13 of Orchard Road Business Park dated August 25, 2000; and

WHEREAS, the aforesaid Declaration of Covenants, Conditions and Restrictions specifies the terms for maintenance of a shared roadway within the Subject Property; and

WHEREAS, the Covenantors have determined that it is necessary and reasonable to amend said terms for maintenance of the shared roadway; and

WHEREAS, in order to fulfill the purpose of the Declaration of Covenants, Conditions and Restrictions to maintain and implement minimum standards pertaining to the development, use and maintenance of the Subject Property, and to establish and apportion rights and responsibilities with regard to private roads in and required for the use and operation of the Subject Property, the Covenantors have determined that it is necessary to amend the aforesaid terms for maintenance of the shared roadway contained in the Declaration of Covenants, Conditions and Restrictions; and

WHEREAS, said amendment will benefit the property owners in Orchard Road Business Park, fulfill the purpose of the Orchard Road Business Park Property Owners Association, and further the objectives of the Covenantors; and

WHEREAS, Section 7.09 of the Declaration of Covenants, Conditions and Restrictions provides that the Declaration of Covenants, Conditions and Restrictions may be modified if such modification is in writing and signed by the Architectural Review Authority and the Board of Directors of the Orchard Road Business Park Property Owners Association; and

WHEREAS, the Covenantors are not yet required to transfer control of the Orchard Road Business Park Property Owners Association to the successor Board Directors pursuant to Section 2.05 of the Declaration of Covenants, Conditions and Restrictions; therefore, the Covenantors retain the right to amend the aforesaid Declaration of Covenants and Restrictions as pertain to Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12;

NOW, THEREFORE, Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 26, 1995 and known as Trust No. 5934, and Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 17, 1990 and known as Trust No. 5196 declare that the Declaration of Covenants, Conditions and Restrictions for Lots 1-13 of Orchard Road Business Park dated August 25, 2000 and recorded by the Recorder of Kane County, Illinois, on September 18, 2000 as Document No. 2000K074247 shall be amended as pertaining to Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, as hereinafter set forth.

Section 1. The provisions of Section 5.07, Maintenance of Shared Roadway, of the Declaration of Covenants, Conditions and Restrictions for Lots 1-13 of Orchard Road Business Park shall be amended as they pertain to Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 by deleting the original Section 5.07 in its entirety and by adding, in its place, the following amended Section 5.07:

Section 5.07. Maintenance of Shared Roadway. The development of the Orchard Road Business Park includes a shared roadway through a portion of the Subject Property denoted as "30' ingress/egress easement" on the Plat. Said shared roadway shall be operated, maintained, repaired, and replaced according to the terms of an Easement Maintenance Agreement between C.K. Investments and Illinois Bell Telephone Company d/b/a Ameritech Illinois, and recorded in Kane County on September 26, 2001 as Document No. 2001K099790.

The Association shall assume the responsibility for operation, maintenance, repair and replacement of the shared roadway, pursuant to said Easement Maintenance Agreement and upon action by the Board of Directors. In the event

that the Association assumes such responsibility, the Association shall be reimbursed for its costs annually by the Owners of Lots 4, 5, 6, 7, 8, 9, 10 and 11 and by the owner of the property denoted as "Exception" on the Plat. Owners of Lots 2, 3, and 12 within Orchard Road Business Park shall not pay any costs of operation, maintenance, repair or replacement of the shared roadway without each such Owner's consent and without the consent of the Board of Directors.

Section 2. The amended provision specified herein shall be incorporated into the Declaration of Covenants, Conditions and Restrictions for Lots 2-12 of Orchard Road Business Park and shall apply to and be binding upon the property of Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 in Orchard Road Business Park, as the property of Orchard Road Business Park is described in Exhibit A and to Owners of said Lots thereof with equal meaning and of like force and effect.

IN WITNESS WHEREOF, Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 26, 1995 and known as Trust No. 5934 and Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 17, 1990 and known as Trust No. 5196 have caused this First Amendment to the Declaration of Covenants, Conditions and Restrictions for Lots 1-13 of Orchard Road Business Park to be executed by their legally authorized officers, whose signatures are hereunto subscribed, and to affix their corporate seals on the day first above written.

[SIGNATURE PAGES FOLLOW]

DOWNERS GROVE NATIONAL BANK, not personally but as Trustee under a Trust Agreement dated May 7, 1999 and known as Trust No. 99-018

OLD SECOND NATIONAL BANK, not personally but as Trustee under a Trust Agreement dated October 26, 1995 and known as Trust No. 5934

By: _____

Title: _____

Attest: _____

Title: _____

STATE OF ILLINOIS)
) SS
COUNTY OF)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above-named _____ and _____ of Old Second National Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____ and _____ respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth; and the said _____ did also then and there acknowledge that he or she as custodian of the corporate seal of said Corporation, caused the corporate seal of said Corporation to be affixed to said instrument as his or her own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this _____ day of _____, 2001.

Notary Public

2001K109315

OLD SECOND NATIONAL BANK, not personally but as Trustee under a Trust Agreement dated October 17, 1990 and known as Trust No. 5196

This instrument is executed by THE OLD SECOND NATIONAL BANK of Aurora, Illinois, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by THE OLD SECOND NATIONAL BANK are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be asserted or be enforceable against THE OLD SECOND NATIONAL BANK by reason of any of the the covenants, statements or representations contained in the instrument.

By: Constance A. Krug
Title: Administrator
Attest: Mark C. Weber
Title: T.O.

STATE OF ILLINOIS)
) SS
COUNTY OF Kane)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above-named Constance A. Krug and Mark C. Weber of Old Second National Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Admins. and T.O. respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth; and the said T.O. did also then and there acknowledge that he or she as custodian of the corporate seal of said Corporation, caused the corporate seal of said Corporation to be affixed to said instrument as his or her own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 4th day of October, 2001.

Vicki Kirk
Notary Public



OLD SECOND NATIONAL BANK, not personally but as Trustee under a Trust Agreement dated October, 1995 and know as Trust No. 5934

DOWNS GROVE NATIONAL BANK, not personally but as Trustee under a Trust Agreement dated May 7, 1999 and known as Trust No. 99-018

This instrument is executed by THE OLD SECOND NATIONAL BANK of Aurora, Illinois, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by THE OLD SECOND NATIONAL BANK are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be asserted or be enforceable against THE OLD SECOND NATIONAL BANK by reason of any of the the covenants, statements or representations contained in the instrument.

By: Constance A. Krug

Title: Administrator

Attest: Mark C. Weber

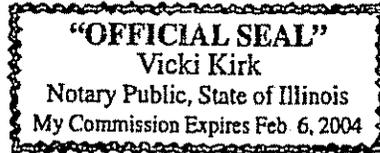
Title: T.O.

STATE OF ILLINOIS)
) SS
COUNTY OF Kane)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Constance A. Krug and Mark C. Weber of Old Second National Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Admin. and T.O. respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth; and the said T.O. did also then and there acknowledge that he or she as custodian of the corporate seal of said Corporation, caused the corporate seal of said Corporation to be affixed to said instrument as his or her own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 4th day of October, 2001.

Vicki Kirk
Notary Public



Architectural Review Authority of the Orchard Road Business Park Property Owners Association

By: Donald J. Cichelski

By: Richard Cichelski

By: John Cichelski Jr

Board of Directors of the Orchard Road Business Park Property Owners Association

By: Donald J. Cichelski

By: Richard Cichelski

By: John Cichelski Jr

PARCEL 1

THAT PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 12, 2880.13 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE WEST AT RIGHT ANGLES TO SAID EAST LINE 275.00 FEET; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 611.40 FEET TO THE CENTER LINE OF INDIAN TRAIL ROAD; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE 308.05 FEET TO THE EAST LINE OF SAID SECTION 12; THENCE SOUTH ALONG SAID EAST LINE, BEING ALONG THE CENTER LINE OF SAID INDIAN TRAIL ROAD, 472.59 FEET TO THE POINT OF BEGINNING;

AND

PARCEL 2

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LEGAL DESCRIPTION
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2001K109315

2005K063479

SANDY WEGMAN
RECORDER
KANE COUNTY, IL

4/21/05

RECORDED ON
06/06/2005 03:10PM

REC FEE: 31.00
PAGES: 10

SECOND AMENDMENT TO THE DECLARATIONS
OF COVENANTS, CONDITIONS AND RESTRICTIONS
LOTS 1-13 OF ORCHARD ROAD BUSINESS PARK,
AURORA, ILLINOIS

This Amendment to the Declarations of Covenants, Conditions and Restrictions Lots 1-13 of Orchard Road Business Park, Aurora, Illinois, dated August 25, 2000 is made this 26th day of May, 2005, by Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 26, 1995 and known as Trust No. 5934, and by Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 17, 1990 and known as Trust No. 5196 (hereinafter referred to as "Covenantors").

WITNESSETH:

WHEREAS, the Covenantors are the owners of the real property commonly known as Orchard Road Business Park and legally described in **Exhibit A** of this Amendment, which exhibit is attached hereto and incorporated herein by reference, (hereinafter referred to as "Subject Property"); and

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WHEREAS, the Covenantors caused to be recorded by the Recorder of Kane County on September 18, 2000 as Document No. 2000K074247 the Declarations of Covenants, Conditions and Restrictions for Lots 1-13 of Orchard Road Business Park dated August 25, 2000; and

WHEREAS, the aforesaid Declarations of Covenants, Conditions and Restrictions specifies the General Architectural Standards applicable within the Subject Property; and

WHEREAS, the Covenantors have determined that it is necessary and reasonable to amend said terms as they apply to materials approved for use on exterior walls; and

WHEREAS, said amendment will benefit the property owners in Orchard Road Business Park, fulfill the purpose of the Orchard Road Business Park Property Owners Association, and further the objectives of the Covenantors; and

WHEREAS, Section 7.09 of the Declarations of Covenants, Conditions and Restrictions provides that the Declarations of Covenants, Conditions and Restrictions may be modified if such modification is in writing and signed by the Architectural Review Authority and the Board of Directors of the Orchard Road Business Park Property Owners Association; and

WHEREAS, the Covenantors are not yet required to transfer control of the Orchard Road Business Park Property Owners Association to the successor Board Directors pursuant to Section 2.05 of the Declarations of Covenants, Conditions and Restrictions; therefore, the Covenantors retain the right to amend the aforesaid Declarations of Covenants and Restrictions as pertains to the General Architectural Standards,

NOW, THEREFORE, Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 26, 1995 and known as Trust No. 5934, and Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 17, 1990 and known as Trust No. 5196 declare that the Declarations of Covenants, Conditions and Restrictions Lots 1-13 Orchard Road Business Park dated August 25, 2000 and recorded by the Recorder of Kane County, Illinois, on September 18, 2000 as Document No. 2000K074247 shall be amended as hereinafter set forth.

Section 1. The provisions of Section 1.01, Definitions, subparagraph B shall be amended by deleting the original subparagraph B in its entirety and by adding in its place the following amended subparagraph B:

“ARA” shall mean and refer to the Architectural Review Authority.

Section 2. The provisions of Section 4.06, General Architectural Standards, of the Declarations of Covenants, Conditions and Restrictions shall be amended deleting the original Section 4.06 (A) in its entirety and by adding, in its place, the following amended Section 4.06(A):

Section 4.06 General Architectural Standards:

A. Exterior walls may not be faced with metal or plastics of any kind, concrete block, or unpainted smooth concrete. Only face brick is acceptable for exterior walls, unless other material is reviewed and approved by the ARA upon a finding that it is harmonious with the character, appearance and style of the other improved lots within the Subject Property. This architectural standard shall not preclude the use of standing seam metal roofs (mansard style or

otherwise), or architectural metal screens around rooftop mechanical equipment.”

Section 3. The provisions of Section 7.09, Modification, of the Declarations of Covenants, Conditions and Restrictions shall be amended deleting the original Section 7.09 in its entirety and by adding, in its place, the following amended Sections 7.09(1), (2) and (3):

Section 7.09 Amendments:

Section 1. Amendments. The provisions of this Declarations may be changed, modified or rescinded by an instrument in writing setting forth such change, modification, or rescission, certified by the Secretary of the Board of Directors and approved by both the Board of Directors and ARA. There shall be a meeting called for the purpose of discussing the proposed change, modification, or rescission and the voting may be either in person or by written proxy.

Section 2. Notice of Amendment. The change, modification, or rescission accomplished under the provisions of the preceding paragraph, shall be effective upon recordation of such instrument in the Office of the Recorder of Kane County, Illinois.

Section 3. Rights of Covenantor. No amendment which shall adversely affect the rights of the Covenantor (including, but not limited to, the right to maintain sales facilities, signs, and access for construction set forth in this Declaration) shall be effective without the Covenantor’s express written consent thereto.”

Section 3. The amended provisions specified herein shall be incorporated into the Declarations of Covenants, Conditions and Restrictions Lots 1-13 Orchard Road Business Park and shall apply to and be binding upon the property in the Orchard Road Business Park, as the property of the Orchard Road Business Park is described in **Exhibit A** and to the Owners of said

Lots thereof with equal meaning and of like force and effect.

IN WITNESS WHEREOF, Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 26, 1995 and known as Trust No. 5934 and Old Second National Bank, not personally, but as Trustee under a Trust Agreement dated October 17, 1990 and known as Trust No. 5196 have caused this Second Amendment to the Declarations of Covenants, Conditions and Restrictions Lots 1-13 of Orchard Road Business Park, Aurora, Illinois to be executed by their legally authorized officers, whose signatures are hereunto subscribed, and to affix their corporate seals on the day first above written.

[SIGNATURE PAGES FOLLOW]

OLD SECOND NATIONAL BANK, not personally but as Trustee under a Trust Agreement dated October 26, 1995 and known as Trust No. 5934

This instrument is executed by THE OLD SECOND NATIONAL BANK of Aurora, Illinois, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by THE OLD SECOND NATIONAL BANK are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be asserted or be enforced against THE OLD SECOND NATIONAL BANK by reason of any of the covenants, conditions or representations contained in the instrument.

By: Constance A. Krug

Title: Trust Officer

Attest: Janet S. Dee

Title: Trust Officer

STATE OF ILLINOIS)
) SS
COUNTY OF Kane

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above-named Constance A. Krug and JANET S. DEE of Old Second National Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such TRUST OFFICER and TRUST OFFICER respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth; and the said T.O. did also then and there acknowledge that he or she as custodian of the corporate seal of said Corporation, caused the corporate seal of said Corporation to be affixed to said instrument as his or her own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 26th day of May, 2005.

Vicki Kirk
Notary Public



We as the members of the Architectural Review Authority of the Orchard Road Business Park Property Owners Association, hereby consent to the adoption and recording of this Second Amendment to the Declarations of Covenants, Conditions and Restrictions Lots 1-13 of Orchard Road Business Park, Aurora, Illinois.

By: Richard Czubski

By: Ronald Czubski

By: John Czubski Jr

We, as the members of the Board of Directors of the Orchard Road Business Park Property Owners Association, hereby consent to the adoption and recording of this Second Amendment to the Declarations of Covenants, Conditions and Restrictions Lots 1-13 of Orchard Road Business Park, Aurora, Illinois.

By: Richard Czubski

By: Ronald Czubski

By: John Czubski Jr

Prepared by and mail to:
John F. Philipchuck, Esq. *pd 31-*
Dommermuth, Brestal, Cobine & West, Ltd.
123 Water Street
Naperville, IL 60540

PARCEL 1

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PIN #14-12-400-006

STACY CAMPBELL
REGISTERED PROFESSIONAL SURVEYOR
STATE OF MONTANA

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