

EXHIBIT "E"

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WOODS OF WAYNE
Wayne, Illinois

89-082757

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**GENERAL PLAN OF DEVELOPMENT FOR WOODS OF WAYNE
A PLANNED COMMUNITY DEVELOPMENT**

Woods of Wayne is a planned private residential community development. Located in the Village of Wayne, DuPage County, Illinois, it will offer residents superb country living, yet close proximity to transportation, shopping and a multitude of recreational facilities.

DESCRIPTION OF PROPERTY:

Woods of Wayne is located in Dupage County, Illinois, approximately 4 miles east of St. Charles, in the Village of Wayne. The property lies approximately 1/4 mile south of Army Trail Road, and is adjacent to State Highway 59 on the east. The southern most portion of the property fronts on Smith Road.

It is planned that the development will encompass more than 153 acres utilizing lands which are owned by the Developer. The lands are gently rolling and much of the property is heavily wooded. The plan of development has been carefully designed to maximize the presentation of wooded areas.

MASTER PLAN:

A master plan for development has been conceived which will serve as an evolutionary guideline for development of the property. The plan (a map depicting the plan is available to each purchaser) designates areas to be set aside for residential and open space uses. This approach permits a desirable community plan to reflect historical experience and changing conditions.

PRINCIPAL LAND USE: RESIDENTIAL

In accordance with the master plan, Woods of Wayne will contain single family homesites of not less than 40,000 square feet in size. Eight equestrian lots of 100,000 square feet are also planned.

COMMON PROPERTIES:

Open Land Areas - A portion of the land in Woods of Wayne will be left in green areas or open space for permanent use and enjoyment of property owners. The open space areas will be conveyed to the Woods of Wayne Homeowners' Association (discussed in subsequent section) and will be maintained by the Association. In addition, certain areas around the perimeter of the property have been designated as equestrian easements.

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WOODS OF WAYNE HOMEOWNERS' ASSOCIATION:

The Developer has caused to be created as a nonprofit corporation under the laws of Illinois a property owners' association named the Woods of Wayne Homeowners' Association. The Association will own and operate the Common Properties transferred to it by Developer, and will own and maintain the private roads within the development. Membership in the Association is mandatory for all Lot Owners and contract purchasers. A copy of the Articles and By-laws of the Association will be furnished to each purchaser.

Providing Funds for Association Expenses:

Each Owner is subject to annual assessment by the Association for the purpose of providing the Association with adequate funds to carry out its obligations. In addition, a reserve fund for the Association will be established through the payment of \$200 by each lot owner at the time of the sale of each lot to its initial purchaser. Failure of Owners (which includes contract purchasers) to pay when due any assessment made in respect to his property will result in a lien being imposed thereon for the amount of such assessment, together with interest and costs of collection, and will also be his personal obligation. The Village of Wayne will have the legal right, under certain circumstances, to enforce assessments for maintenance or repair of the streets, and to provide for police patrols. Each Purchaser should carefully read the provisions of the Declaration of Covenants and Restrictions relating to assessments, a copy of which will be furnished each Purchaser.

Protective Covenants and Restrictions:

A Declaration of Covenants, Conditions and Restrictions setting forth provisions for the common benefit of all Owners in the project has been recorded. Through this means the Developer intends to provide for the preservation of natural beauty, value and amenities within the project.

Architectural Control:

In the interest of providing for the development of an ecologically sound and aesthetically pleasing community, the Developer has created an Architectural Review Committee. This Committee is charged with the responsibility of reviewing and approving in advance all plans and specifications for physical improvements and alterations on the properties covered by the Declaration. Matters with which the Committee is concerned include location of buildings on a homesite; size, type, style, quality and exterior appearance of buildings; erection of buildings, fences or other structures; etc.

Roads and Utilities:

All roads within the development will be private and will be conveyed by the Trustee and the Developer to the Homeowners' Association, whose responsibility it will be to maintain them. Roads will be constructed by Developer in accordance with standards imposed by the Village of Wayne.

The Owner of any Lot will be responsible for having a well drilled at his expense prior to occupying any building on the site. All purchasers should examine the provisions of their purchase contract.

Sewage disposal for Single-Family Lots will be by individual septic systems for individual Lots which conform to DuPage County and Village ordinances. Installation of such systems will be the responsibility of the Lot Owner and the cost thereof will be paid by him.

It is intended that this document is a general description of Developer's General Plan for Woods of Wayne and that its provisions do not create any contractual obligation upon Developer or the Trustee. Each purchaser should examine his purchase contract, the Annexation Agreement, the Declaration of Covenants, Conditions and Restrictions pertaining to his property, the Articles of Incorporation and By-Laws of the Association and the Architectural Guidelines. If any statement herein conflicts with any provision of any such document, the provisions of such document shall prevail with respect to such matters.

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION made this _____ day of _____, 19____ by WORTH BANK AND TRUST COMPANY, not personally but as Trustee under Trust Agreement dated June 9, 1989 and known as Trust No. 4444 (hereinafter referred to as "Trustee") and BND INVESTMENTS, INC., an Illinois corporation (hereinafter referred to as "Developer").

**ARTICLE I
DECLARATION - PURPOSES**

Section 1. General Purposes. The Trustee is the owner and Developer is the developer of certain real property located in DuPage County, Illinois, and legally described in Exhibit "A" attached hereto and incorporated herein, and desire to create thereon a planned private community development provided with Common Properties designed for the private use of Owners within such development, except as herein otherwise provided.

(a) Trustee and Developer intend to subject the real property described in Exhibit "A" to certain covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of purchasers and Owners of Lots on the Subject Property and for the benefit of the Association.

(b) Trustee and Developer intend to grant certain water detention easements and to establish an Illinois not-for-profit corporation known as Woods of Wayne Homeowners' Association ("the Association"); and

(c) Trustee and Developer have deemed it desirable for the efficient preservation of the values and amenities of the subject development to create the Association for the purpose of administering and enforcing the covenants, conditions and restrictions, and for collecting and disbursing the assessments and charges hereinafter created.

Section 2. Declaration. Trustee and Developer hereby declare that the Subject Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens which are for the purpose of protecting the value and desirability of Subject Property, and which shall run with the Subject Property and be binding on and inure to the benefit of all parties having any right, title or interest in the Subject Property or any part thereof, and their heirs, successors and assigns.

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Section 3. Rights of Village. This Declaration of Covenants, Conditions and Restrictions is incorporated in an Annexation Agreement between, inter alia, Trustee and Developer, on the one hand, and the Village of Wayne ("Village") on the other hand, and was part of the consideration flowing to the Village and inducing the Village to approve the development and to annex the Subject Property. Accordingly, it is specifically intended that the Village be a beneficiary of the covenants, conditions, restrictions and easements set forth in this Declaration, and that the same be enforceable by the Village in any appropriate action at law or in equity.

ARTICLE II DEFINITIONS

Section 1. The following words and terms, when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the Woods of Wayne Homeowners' Association, its successors and assigns.

(b) "The Properties" shall mean and refer to the Existing Properties, subject to this Declaration.

(c) "Existing Properties" shall mean and refer to the real estate described in Article III Section 1 hereof, and on Exhibit "A" attached hereto and incorporated herein.

(d) "Common Properties" shall mean any real property and improvements thereon and any personal property or equipment with respect to which the Developer grants, assigns or conveys to the Association, title, interest in or rights of use, or with respect to which the Developer permits use by the Association and its members, and any replacements of or for any of the foregoing.

(e) "Lot" shall mean any plot of land described by a number upon any recorded subdivision map of the Properties, but shall not include any plot designated therein as an "outlot." "Lot" may also include, where applicable, a "Dwelling Lot."

(f) "Single Family Residential" shall mean all of the Properties restricted to use for improvement with dwellings.

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the property, including contract Sellers. For any purposes of this Section, holders of beneficial interests under land trusts holding title to any Lot which is a part of the property shall be considered an Owner. Trustee or Developer shall, as long as it owns lots, be an Owner.

(h) "Member" shall mean all those Owners who are members of the Association as hereinafter provided.

(i) " Dwelling Lot" shall mean any Lot intended for improvement with a dwelling.

(j) " Dwelling" shall mean any building located on a Dwelling Lot and intended for the shelter and housing of a single family.

(k) " Dwelling Accessory Building" shall mean a subordinate building or a portion of a Dwelling, the use of which is incidental to the Dwelling and customary in connection with that use.

(l) " Single Family" shall mean one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not all so related, together with his or their domestic servants, maintaining a common household in a Dwelling.

(m) " Story" shall mean that portion of a Dwelling included between the surface of any floor and the surface of a floor next above, or if there is not floor above, the space between the floor and the ceiling next above.

(n) " Living Area" shall mean that portion of a Dwelling which is enclosed and customarily used for Dwelling purposes and having not less than six (6) feet headroom, but shall not include open porches, open terraces, breezeways, attached garages, carports, basements or Dwelling Accessory Buildings. The minimum square footage of living area for any Dwelling on any Dwelling Lot in the Existing Properties shall be 2500 square feet if a one-story home, and 3000 square feet if a multi-story home.

(o) " Structure" shall mean any building or other improvement erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in the ground. A sign or other advertising device, attached or projecting, shall be construed to be a separate Structure.

(p) " Committee" shall mean the Architectural Review Committee of the Woods of Wayne Homeowners' Association established in Article IV hereof.

(q) " Declaration" shall mean the within instrument together with those exhibits which are attached hereto and made a part hereof and shall include such amendments, if any, to the within instrument as may be from time to time adopted pursuant to the terms hereof. The within Declaration may be referred to in any other document as the Declaration of Covenants, Conditions and Restrictions for Woods of Wayne, Village of Wayne, Illinois.

(r) "Village" shall mean the Village of Wayne, DuPage and Kane Counties, Illinois, or, where applicable, the corporate authorities of said Village, or its duly authorized officers or employees.

(s) "Developer" shall mean BND Investments, Inc., an Illinois corporation, and its successors, assigns and affiliates.

(t) "Trustee" shall mean Worth Bank and Trust Company, as Trustee under a title-holding land trust holding legal title to the Subject Property, or its successors and assigns.

**ARTICLE III
EXISTING PROPERTIES - ADDITIONS THERETO - MERGERS:**

Section 1. Existing Properties. The real property which is and shall be held transferred, sold, conveyed and occupied subject to this Declaration is located in DuPage County, Illinois and more particularly described in Exhibit A attached hereto and hereby made a part hereof.

Section 2. Mergers. In the event of a merger or consolidation of the Association with another association as authorized by its Articles of Incorporation, its properties, rights and obligations may be transferred to another surviving or consolidated association. Alternatively, if the Association is the surviving corporation in a merger or consolidation, it may administer the covenants and restrictions established by this Declaration within the Existing Properties together with the covenants and restrictions established upon any other properties as one scheme. However, no such merger or consolidation shall affect any revocation, change or addition to the covenants established by this Declaration with respect to the Existing Properties.

**ARTICLE IV
ARCHITECTURAL REVIEW PROCESS:**

Section 1. Objectives. Developer's objectives are to carry out the general purposes expressed in this Declaration; and to assure that any improvements or changes in the properties will be of good and attractive design and in harmony with the natural setting of the area and will serve to preserve and enhance existing features of natural beauty; and to assure that materials and workmanship of all improvements are of high quality and comparable to other improvements in the area.

Section 2. Architectural Review Committee. To achieve Developer's objectives, the Developer shall create an Architectural Review Committee (the "Committee") with power to administer this

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Declaration with regard to approving or disapproving those matters which are expressed herein to be within the jurisdiction of the Committee. The Committee shall consist of not less than three members. The names and addresses of the persons who from time to time comprise the membership of the Committee shall be furnished the Association. Matters requiring approval of the Committee shall be submitted to its Chairman, or as the Committee otherwise designates. The appointment of the Committee members may be transferred to the Association Board of Directors at any time at the option of the Developer, but in no event later than the date on which at least 50% of the lots have been built upon and occupied.

Section 3. Matters Requiring Approval. Prior written approval shall be obtained from the Committee with respect to all matters stated in this Declaration as requiring such approval. In addition thereto, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or alteration to or exterior change in color or material change or alteration therein be made, nor shall any clearing of trees, change of property drainage grade on easements, or change of property grade be made until the plans and specifications showing the nature, kind, shape, elevations, heights, materials and color, location and grade, proposed landscaping design and proposed location on the lot of the sanitary disposal system, of the same shall have been submitted to and approved in writing by the Committee. No owner may request a building permit from the Village of Wayne without such written approvals, nor shall the Village be required to issue a building permit without written evidence of such approval.

Section 4. Procedure. Whenever approval is required of the Committee, appropriate plans and specifications shall be submitted to the Committee. The Committee shall either approve or disapprove such design and location and proposed construction and clearing activities within thirty days after said plans and specifications have been submitted to it; except that if such plans and specifications are disapproved in any respect, the applicant shall be notified wherein such plans and specifications are deficient. The Committee may withhold approval for any reason deemed by it to be appropriate, including aesthetic reasons, except that approval will not be withheld for capricious or unreasonable reasons. Enforcement of the anti-monotony provisions of this Declaration shall be a sufficient reason for withholding such approval. If such plans and specifications are not approved or disapproved within thirty days after submission, approval will not be required and this Article will be deemed fully complied with. At the discretion of the Committee a reasonable filing fee established by the Committee shall accompany the submission of such plans to defray expenses, except that so long as the Committee is under Developer's control such fee shall not exceed \$50.00. No additional fee shall be required for resubmission of plans revised

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in accordance with recommendations made upon disapproval. A copy of each approved set of plans and specifications shall be kept in file with the Committee.

Section 5. Anti-Monotony Requirement. No homes within the Subject Property shall have the same or substantially the same exterior elevation or appearance. Subject to the approval of the Committee established pursuant to this Declaration, having due regard for the integrity of the natural topography of the property, and for the preservation of trees on each lot, a landowner may not construct a single family residence of substantially identical design or appearance to that of an existing building (including a building not yet constructed where plans therefor have been approved by the Committee) within 1,000 feet of such existing building. If a permit is denied under the provisions of this Section, an applicant may appeal to the Village Plan Commission for a final administrative determination.

Section 6. Deviations from Covenants, Conditions and Restrictions. The Committee shall not have the power to enter into agreements with the owner of any lot, without the consent of the owner of the adjoining or adjacent lot or lots, to deviate from the provisions of the Covenants, Conditions and Restrictions within the jurisdiction of the Committee for any reason, except as hereinafter expressly set forth, unless approved by three-fifths (3/5) of all of the members of the Association at a meeting duly called for such purpose. In such event, the proposed deviation or variation must be based upon reasons of practical difficulty or particular hardships which otherwise would be suffered by such owner, and the Committee shall submit to the Association members a detailed written statement setting forth the reasons for the proposed deviation. Any such deviation, which shall be manifested by written agreement, shall not constitute or be deemed to constitute, a waiver of any such covenant, condition or restriction as to any other lots in the Properties. In no case shall any deviation or variation be granted which would violate the provisions of any Village ordinance or regulation in effect at the time of such proposed deviation or variation. The General Restrictions set forth in Article V hereof shall not be waivable by the Committee or the Association for any reason.

Section 7. Architectural Guidelines. Attached hereto as Exhibit "E" and made a part hereof are Architectural Guidelines for Lot Owners and the Committee. In the event of any conflict between those guidelines and this Declaration, the Declaration shall control.

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setback lines for location of structures on individual Lots would be incompatible with the objective of preserving the natural setting of the area and preserving and enhancing existing features of natural beauty and visual continuity of the area. Therefore, the location of each structure, including driveways and culverts, on a Lot shall be subject to approval in writing by the Committee, giving consideration to setback lines on the recorded plat, or as may be otherwise provided by Village ordinance, provided that each Owner shall be given reasonable opportunity to recommend the suggested construction site.

Section 5. Nuisances. No noxious or offensive activity shall be carried on, in or upon any premises, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No plants or seeds or other things or conditions, harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Lot.

Section 6. Temporary Structures. No trailer, mobile home, recreational vehicle, tent, shack, or other structure, except as otherwise permitted herein, or by the Annexation Agreement, and no temporary building or structure of any kind shall be used for a residence, either temporary or permanent.

Section 7. Completion of Construction. Any construction undertaken on any Lot shall be continued with diligence toward the completion thereof and construction of any Dwelling shall be completed within one year from commencement of construction, except that such period may be extended for a reasonable time by reason of act of God, labor disputes, or other matters beyond the Owner's control. No structure shall be deemed completed until installation of approved landscaping. Any structure not so completed shall be deemed to constitute a public nuisance. The Association may enforce this provision by the levying of appropriate fines, which shall constitute additional assessments under Article IX hereof or by an appropriate action at law or in equity.

Section 8. Maintenance of Lots. All Lots, including any Common Properties, whether occupied or unoccupied, and any improvements placed thereon, at all times shall be maintained in such manner as to prevent their becoming unsightly, unsanitary, or a hazard to health. If not so maintained, the Association shall have the right, through its agents and employees to do so, the cost of which shall be added to and become a part of the annual assessment with respect to such Lot and such amount shall be immediately due and payable and the Association shall have such rights and remedies with respect to collection as are provided for annual assessments. Neither the Association nor any of its agents, employees, or contractors shall be liable for trespass or any damage which may result from such work.

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Section 9. Lot Appearance. No person shall accumulate on his Lot junked vehicles, litter, refuse, or other unsightly materials. Garbage shall be placed in appropriate receptacles and if outside shall be properly screened.

Section 10. Other Prohibited Matters. No animals other than unoffensive common domestic household pets such as dogs and cats, shall be kept on any Lot. No more than a combined total of four dogs and/or cats may be kept on any lot. Horses may be kept as provided by Village ordinance. No home occupation or profession shall be conducted on any Lot except as may be authorized by the Architectural Review Committee of the Association in accordance with applicable Village ordinances and regulations. Habitual parking of commercial vehicles on any Lot or street is prohibited.

Section 11. Easements Reserved with Respect to Lots. Trustee and Developer reserve for themselves, their successors and assigns, and to the Village, easements over each Lot, and the right to ingress and egress to the extent reasonably necessary to exercise such easements, as follows:

(a) Utility easements shown on the recorded Plat of the Properties are reserved for the installation and maintenance of utility facilities (including but not limited to cable television), and incidental usage related thereto. All electric service, telephone service and other utilities shall be supplied by underground service, and no poles shall be permitted.

(b) Equestrian easements shown on the recorded Plat of the Properties are reserved for use by the public as equestrian trails. Equestrian easements shall be maintained by the Homeowners' Association or may be maintained by the Village pursuant to applicable ordinance.

(c) An Owner shall not place any structure on any such easements and shall be responsible for maintaining the easement (except as herein provided) and any damages caused by a user of right to the easement shall be repaired and restored by such user.

(d) The Association has the right, upon fourteen days prior written notice, to enter upon any Lot for the purpose of removing offensive underbrush or for pest control purposes at the Owner's expense. No such entry shall be deemed a trespass.

(e) No Owner shall have any claim or cause of action, except as herein provided, against Trustee or Developer, their successors, assigns, or licensees arising out of exercise or non-exercise of any reserved easement except in cases of willful or wanton misconduct.

(f) The Village of Wayne Police Department, or other law enforcement agency, shall have the unrestricted right to enter and

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patrol the Subject Property for law enforcement purposes, and to enforce any speed limits or parking regulations hereafter adopted by the Association, as well as any applicable provisions of State and Village traffic regulations. The Association shall enter into an appropriate agreement with the Village as necessary to implement this Section.

Section 12. Signs. No signs or billboards of any kind shall be displayed to the public view on any Lot except that one professional sign used by a builder to advertise the Property during the construction and sales period, or a "for sale" sign if offered by Owner or broker may be displayed, which signs shall be in compliance with the applicable ordinance of the Village of Wayne.

Section 13. Parking or Keeping of Vehicles. No vehicles are to be parked on any part of any Lot, except upon driveways or within attached garages. No campers, vans, pick-up trucks, boats (on or off trailers), recreational vehicles and other types of non-passenger vehicles and accessories (except for horse trailers on equestrian lots) may be kept on any Lot unless the same are fully enclosed within the garage located on such Lot. Overnight parking of vehicles on any street is prohibited.

Section 14. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition, and shall be enclosed and not open to public view.

Section 15. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitation shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 15A. Garages. All garages must be attached. Garage doors should be of the overhead type and made of wood. The garage must have a minimum of 600 square feet and have a minimum capacity of two cars and a maximum capacity of four cars. Garages should be side loaded if feasible, considering the topography of the lot and the desire to preserve existing trees.

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Section 16. Driveways. All driveways must have a permanent hard surface. Concrete, asphalt or brick are acceptable. Gravel driveways are not permitted. Driveways must be fully completed within six (6) months from the start of construction (weather permitting) and not more than 20 feet in width, and no less than 16 feet.

Section 17. Manufacturing. No part of the Property, or any Lot, and no building erected or maintained on any part of the Property shall be used for manufacturing, industrial or business purposes, including home occupations.

Section 18. Landscaping. A landscaping plan shall be required for each Lot. The landscaping plan shall be submitted to the Committee established pursuant to Article IV of this Declaration. All landscaping shall be completed by the Purchaser within a period of the first growing season subsequent to the occupancy of said Dwelling.

Each lot shall have at least six (6) trees with a diameter of not less two inches, measured at a height of five (5) feet, within two years from the date of recording of the Final Plat of Subdivision, with at least two trees located in the parkway of the street right-of-way adjacent to the lot. Credit shall be given for trees already on the lot or a parkway. Planting of these trees shall be the responsibility of the Owner at the time of the issuance of a building permit. All lots must be seeded or sodded (unless otherwise required to preserve existing trees on the lot) within six (6) months after completion of construction of any single family residence, or within the first growing season (as defined by a landscape architect of the Village's choosing) following occupancy of a residence.

Notwithstanding anything herein to the contrary, the Owners of vacant or improved Lots are obligated to maintain said Lots in a neat and clean manner. To the extent that any Owner shall fail to perform the maintenance of his own Lot(s) at reasonable terms and in a reasonable manner, the Homeowners' Association may, but shall not be required to perform such maintenance, repair or upkeep upon fourteen days prior written notice to the Owner, and in such event, the cost thereof shall be added to such Owners annual assessments and such amount shall be immediately due and payable and the Homeowners' Association shall have such rights and remedies with respect to the collection of the same as are herein provided with respect to annual assessments.

Section 19. Removal of Trees. No trees shall be removed from any Lot (except dead or diseased trees) without the permission of the Committee established pursuant to Article IV Section 2 on good cause shown. In preparing and submitting plans and specifications for improvements to such Committee, each Owner shall

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make all reasonable efforts to minimize the number of trees to be removed.

Section 20. Tennis Courts and Swimming Pools. Both of these structures will require a special building permit from the Village of Wayne. They cannot be located within a front or side yard, but may be located in the rear yard area, subject to Village ordinances and regulations.

Section 21. Fences. No fences shall be erected without prior approval of the Committee. Fences required by Village ordinance for outdoor swimming pool enclosure shall also be approved by the Committee. Stockade, chain-link or wire fences are not allowed. No fencing shall be installed along the rear line of any lot located on the perimeter of the Subject Property unless approved by the Architectural Review Committee and the Village Plan Commission. All such fencing shall be of either split rail, corral or other rural type fencing, and shall be uniform for each lot. The Architectural Review Committee of the Homeowners' Association and the Plan Commission shall determine the type of fencing to be permitted.

Section 21A. Screening. All tennis courts, swimming pools, dog runs and kennels must be screened from visual observation along any interior street within the Subject Property. Said plans are subject to review by the Committee established pursuant to Article IV of this Declaration.

Section 22. Air conditioning condensers and other mechanical equipment are not permitted in the front yard, and shall be screened as required by Village Ordinance.

Section 23. Metallic flagpoles are prohibited. Non-metallic flagpoles less than 25 feet in height are permitted.

Section 24. Awnings or canopies may not project more than three feet from the building.

Section 25. Open air laundry facilities are prohibited.

Section 26. Exterior television and radio antennae are permitted only in a manner approved by the Committee established pursuant to Article IV of this Declaration. Satellite antenna dishes are not permitted.

Section 27. Above ground swimming pools are prohibited.

Section 28. Premises shall be landscaped and graded in such a way that water will not run off on adjoining Property except as scaled by the original Developer. Lot Owners will be fully responsible on their lot for establishing all drainage grading on easements.

Section 28A. All drainage culvert pipes on front lot entryways or driveways installed by lot owners shall be constructed of concrete materials. The width of said pipe shall be determined by the Village Engineer, and shall be installed pursuant to a design approved by the Village during the building permit process.

Section 29. No animals, livestock or poultry shall be raised, bred or kept on any Lot, except that:

(a) No horses shall be kept, maintained, or stabled on any Lot except as permitted by Village ordinance;

(b) No more than a combined total of four (4) dogs and/or cats may be kept on any lot. A reasonable number of other pets may be kept, provided they are not kept, bred or maintained for any commercial purposes;

(c) No more than one dog run may be erected on each lot;

(d) All pets shall be restrained, and not allowed to roam;

(e) Dog runs and kennels are to be screened from visual observation along any interior street within the Subject Property, and are restricted to a maximum of six (6) feet by twenty (20) feet.

Section 30. No building, veranda, bay window, fence, nor portion of any building except open steps shall be erected or maintained upon any Lot between the front lot line and the building lines as shown on the Plat, and within ten (10) feet of each of the interior side lot lines.

Section 31. The location of exterior post lights, floodlights, etc. shall be approved by the Committee established pursuant to Article IV of this Declaration.

Section 32. Boats, recreational vehicles, automobiles in need of repair, etc., shall be stored under permanent cover and out of view.

Section 33. Residences or structures on adjacent Lots shall not be similar in design or architecture. See also Article IV Section 5 above.

Section 34. Each owner shall be responsible to provide a mailbox and a yard light with address attached, in locations approved by Developer or the Homeowners' Association. No newspaper boxes or other attachments are allowed. The yard light shall be a maximum of ten (10) feet in height, with not more than eight (8) feet above ground. Lot owners shall be responsible for the maintenance of the mailbox and yard light.

Section 35. Homes of identical or substantially similar architectural design and color may not be constructed, as provided in the Annexation Agreement and Article IV, Section 5, above.

Section 36. All homes shall have basements with a minimum size of at least fifty percent (50%) of the ground level plan, excluding the garage, unless waived by the Architectural Review Committee for valid engineering reasons. Such waiver shall also be subject to approval of the Village Engineer. In no event shall waivers be granted for more than five (5%) percent of the lots. The remainder of the area below ground level, excluding garage, shall be crawl space. Slab foundations are not permitted.

Section 37. Maintenance of any parkway areas of any private or public street adjacent to any lot shall be the responsibility of the owner of such lot, except for maintenance of any trees or shrubs planted by the Developer or the Association. Maintenance of such trees or shrubs shall be the responsibility of the Developer or the Association, as applicable. The Association shall also have the right, upon fourteen days prior written notice, to perform any additional landscaping or maintenance in such parkway areas if the owner of the adjoining lot fails or refuses to do so after reasonable notice. Maintenance and landscaping of the entranceways to the Woods of Wayne Subdivision shall be the responsibility of the Developer or, as applicable, the Association.

ARTICLE VI EASEMENT FOR STORM WATER DRAINAGE AND DETENTION

Section 1. Declaration of Easement. The Developer hereby declares and establishes an easement (the "Storm Water Drainage Easement") for drainage and detention of storm water over, upon and across those portions of the Subject Property designated "Storm Water Drainage" and "Storm Water Detention" on each recorded plat of subdivision of the Subject Property or portion thereof.

Section 2. Initial Installation and Subsequent Maintenance of Storm Water Drainage Facilities. Initial installation of the improvements in the portions of the Subject Property designated for Storm Water Drainage and Storm Water Detention (the "Storm Water Drainage Facilities") shall be the responsibility of the Developer. Subsequent to approval by the Village Engineer of such initial installation in accordance with DuPage County standards, the Association shall have responsibility for maintaining the Storm Water Drainage and Storm Water Detention Facilities, and the cost thereof shall be subject to assessments as set forth in Article IV hereof.

ARTICLE VII
THE COMMON PROPERTIES: RIGHTS, OBLIGATIONS AND RESERVATIONS
WITH RESPECT THERETO

Section 1. Members Easements of Enjoyment. Subject to the provisions of this Article VII, every Member shall have the non-exclusive right and easement of enjoyment in and to the Common Properties, which easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Obligation of the Association with Respect to Common Properties. The Association, for itself, its successors and assigns, hereby covenants with the Developer as follows:

(a) The Association will accept conveyance of the Common Properties which the Trustee and Developer are obligated to or may convey to the Association.

(b) The Association will preserve and maintain for the common benefit of its Members, and other users of right, all of the Common Properties, including the equestrian easements, which it shall own, shall pay any taxes assessed thereon, carry insurance with respect thereto as determined by its Board of Directors, and shall keep the same in good and sightly appearance.

(c) The obligations of the Trustee and Developer with respect to the Common Properties are set forth in the Annexation Agreement and in the Common Properties Maintenance Agreement attached hereto as Exhibit "D" and made a part hereof.

Section 3. Extent of Members Easements. The rights and easements of enjoyment created hereby for the benefit of Association members and other users of right shall be subject to the following:

(a) Rights of the Trustee and Developer, their successors, and assigns, as herein reserved.

(b) The right of the Association, in accordance with its By-Laws, to borrow money for the purpose of improving the Common Properties, and in addition thereto, to mortgage such Properties. In the event of a default upon any such mortgage, the lender's rights shall be limited to the right, after taking possession of such Properties, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary to open the enjoyment of such Properties to a wider public until the mortgage debt is satisfied whereupon the possession of such Properties shall be returned to the Association and all Members' rights fully restored.

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(c) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosures.

(d) The right of the Association, as provided in its Articles and By-Laws, to make reasonable rules and regulations with respect to the use of the Common Properties and to suspend enjoyment rights of any Member for any period during which any assessment against such Member remains unpaid, and for any period not to exceed thirty (30) days, for any infraction of its published rules and regulations.

(e) The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility, subject to the conditions and limitations as provided in its Articles of Incorporation.

(f) Rights of the Village of Wayne, public utilities, and the public as set forth in this Declaration, the Annexation Agreement or as shown on the recorded Plat of Subdivision.

Section 4. Rights and Easements Reserved by Developer. The Developer, for itself, its successors and assigns, reserves the following rights and easements in and with respect to Common Properties transferred to the Association:

(a) An easement is reserved with respect to all open areas conveyed to the Association pursuant to this Declaration, to install, lay, construct, renew, operate, and maintain utility lines and conduits and underground and overhead poles and equipment, and structures and devices relating to utility services for the purpose of serving the properties with telephone, electricity, water, sewer service, and other utility services; and Developer, its successors and assigns, through authorized representatives, may enter upon such areas at all times for any such purposes, and cut down and remove any trees or bushes that interfere or threaten interference with any such right of use.

(b) An easement is reserved for surface drainage over any open areas, not otherwise provided for in Article VI.

(c) The Developer, its successors and assigns, by their agent, reserves the right during the sales period of the development, but not exceeding ten (10) years from the date of the recording of this document, the non-exclusive use in common with members of the Association of the open areas (including lakes) for recreational purposes, except that the exercise of such right shall not unreasonably interfere with the Common Property of the members.

(d) An easement is reserved for use by the general public for equestrian trails as depicted on the recorded Plat and by a separate recorded Declaration of Easement.

Section 5. Limitations on Improvements. No buildings or structures shall be erected on any Common Properties.

**ARTICLE VIII
CREATION OF HOMEOWNERS' ASSOCIATION**

A Homeowners' Association to be known as the Woods of Wayne Homeowners' Association, shall be formed in accordance with applicable Illinois law by the Trustee and/or Developer for the benefit of the property owners prior to the closing of the sale of the first Lot. The Homeowners' Association shall have an initial Board of Directors of three people, two of which shall be elected by the property owners (including the Developer, if applicable) and one of which shall be appointed by the Developer, so long as Trustee or Developer is an Owner of any Lot or Lots. Such Homeowners' Association shall be a non-stock, not-for-profit corporation, organized pursuant to applicable Illinois Statutes, in accordance with the Articles of Incorporation attached hereto as Exhibit "B" and the By-laws of the Association attached hereto as Exhibit "C", which exhibits are incorporated in this Declaration as if fully set forth.

**ARTICLE IX
MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every Owner of any Lot which is subject to assessment, in whole or in part, shall automatically be a member of the Homeowners' Association and shall remain such so long as he remains an Owner of a Lot subject hereto. Upon the termination of the interest of an Owner, his membership shall thereupon automatically terminate and transfer and inure to the new Owner succeeding him in interest. Trustee or Developer shall be members of the Homeowners' Association so long as they remain an Owner of a Lot subject to this Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Developer shall appoint the initial Board of Directors of the Homeowners' Association. Thereafter the Directors shall be elected by the membership as provided in the By-laws.

Section 3. The Homeowners' Association shall have two classes of voting membership:

Class A: Class A members shall be all Owners with the exception of the Trustee or Developer and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine,

but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B member shall be the Developer and shall be entitled to one and one-half (1-1/2) votes for each Lot owned, provided however, that the Trustee shall be entitled to only one vote per Lot upon the happening of the following events, whichever occurs earliest:

(a) When sixty-six percent (66%) of the Lots have been sold and conveyed by the Trustee to Owners; or

(b) Ten (10) years after the date the first Lot is conveyed by the Trustee to another Owner; or

(c) Upon written notice of election by Trustee sent to the Association as of the date specified in said Notice.

**ARTICLE X
HOMEOWNERS' ASSOCIATION:
COVENANTS FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of Lien and Personal Obligation for Assessments. The Trustee or Developer shall not be obligated for assessments on Lots owned by them for a period of two years following the closing of the first sale of a lot by the Trustee or Developer. Every Owner of a Lot, by acceptance of a deed therefor or otherwise, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees and shall be deemed to, covenant and agree to pay to the Homeowners' Association for each Lot owned (or to a management company of other collection agency designated by the Homeowners' Association):

(a) Annual assessments or charges to be paid in such installments as the Board of Directors of the Homeowners' Association shall elect; and

(b) Special assessments for any purpose including for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The assessments thus collected by the Homeowners' Association shall constitute the maintenance fund of the Homeowners' Association. The annual and special assessments, together with such interest thereon and costs of collection thereof, including but not limited to, reasonable attorneys' fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, including but not limited to, reasonable attorneys' fees, as hereinafter provided, shall also be the

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continuing personal obligation of the person who was the Owner of such Lot at the time when the said assessment fell due.

Section 2. Purpose of Assessments. Each Owner (except Developer and Trustee as provided in Section 1 of this Article) shall pay to the Homeowners' Association assessments representing his proportionate share of the expenses of maintenance, repair, replacements, administration and operation of the Storm Water Drainage and Storm Water Detention Facilities and for any other purpose appropriate under the Articles of Incorporation and By-Laws of the Association or this Declaration. To the extent, if at all, that any assessments for any fiscal year are not expended by the Homeowners' Association, any such savings shall be applied by the Homeowners' Association in reduction of its budget and the annual assessments to the Owners for the following year, except with respect to amounts held by the Homeowners' Association as reserves which shall be deemed to be held by the Homeowners' Association in trust for the members for the uses and purposes for which reserves have been established. Any interest of any Owner in and to such reserve funds shall be deemed appurtenant to such Owner's membership and shall automatically transfer and inure to such Owner's successor in interest.

Section 3. Computation of Assessments. Payments of assessments shall be in such amounts and at such times as provided below:

(a) On or before each November 1st, the Board of Directors shall estimate the total amount necessary to pay the cost of taxes, wages, materials, insurance, services and supplies, relating to maintenance of the Storm Water Drainage Facilities and such other items as provided for herein and in the By-Laws of the Homeowners' Association, which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount necessary for a reserve for contingencies and replacements, and shall on or before December 1st of each year, notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof.

(b) All obligations of the Owners hereunder for assessments, special assessments or other levies by the Homeowners' Association pursuant to this Declaration or the By-Laws of the Homeowners' Association, shall be determined by multiplying the amount of such assessment, special assessment or levy by a fraction, the numerator of which is the number of Lots owned by an Owner and the denominator of which is the number of Lots subjected from time to time to the terms and conditions of this Declaration, except those Lots owned by the Trustee or Developer during the period specified in Section 1 of this Article. On or before January 1st of the ensuing year, and on the first day of January and the first day of July of every year thereafter, each Owner shall be obligated to pay the Board of Directors or as it may direct, one-half (1/2) of the

assessment made pursuant to this paragraph, unless the Board of Directors elects a different payment schedule. On or before the date of the annual meeting of each calendar year, the Board of Directors shall supply all Owners with 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 and under the actual expenditures plus reserves. In any given year, any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited equally to each Owner by applying any such excess, as the Board of Directors sees fit, to expenses and/or reserves for the subsequent year.

(c) If said estimated cash requirement proves inadequate, for any reason, to defray the operating expenses and costs during any given year, then the Board of Directors shall be authorized to adopt a supplemental budget or budgets and shall adjust the assessments accordingly. The Board of Directors shall serve notice of such further or adjusted assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further or adjusted assessment shall become effective with the next maintenance payment. Any increase in the annual assessment in excess of ten percent (10%) of the approved assessment must be approved by two-thirds (2/3) of each class of members voting in person or by proxy at a meeting duly called for such purposes.

(d) In addition to the annual assessment authorized above, the Homeowners' Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any taxes, construction, reconstruction, repair or replacement of a capital improvement upon any of the Storm Water Drainage and Storm Water Detention Facilities provided that any such assessments in excess of a total of One Thousand and No/100 Dollars (\$1,000.00) in any assessment year shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for the purpose. Any such assessment shall be levied equally per Lot against each Owner.

(e) The Board of Directors shall establish and maintain reasonable reserves for contingencies and replacements as it shall deem necessary, and any extraordinary expenditures not included in the estimated cash requirements shall be first charged against such reserve in the year of such expenditure. If such reserves are depleted or, in the opinion of the Board of Directors, significantly reduced, then any supplemental budget, or the next regular estimated cash requirements, shall provide for the re-establishment of such reserves as the Board shall deem reasonably appropriate. All Purchasers shall begin and commence payment of the then current assessment(s) on January 1st following their date of purchase.

(f) An initial reserve shall be created by the payment of the sum of Two Hundred (\$200.00) Dollars to the Association by the initial purchaser of any lot at the time of the closing of the initial sale of such lot.

(g) The failure or delay of the Board of Directors to prepare or serve the annual or adjusted estimate or the itemized accounting or other document on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs, necessary reserves or adjusted assessments, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the maintenance charge at the then existing bi-annual rate established for the previous period until notice of the next maintenance payment which is due more than thirty (30) days after such annual or adjusted estimate shall have been mailed or delivered.

(h) The Board of Directors shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Property specifying and itemizing and maintenance and repair expenses of the Property and any other expenses incurred. Such records shall be available for inspection by any Owner or first mortgagee of record, at such reasonable time or times during normal business hours as may be requested by the Owner or mortgagee.

(i) No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot. Except as otherwise provided elsewhere herein, an Owner on the first day of January and the first day of July shall personally be liable for one-half (1/2) of the annual assessment payment; and the Owner as of the date of any levy of a special assessment shall be personally liable for such assessment.

Section 4. Date of Commencement of Annual Assessments Due Dates. The annual assessments provided for herein shall commence upon the transfer of title to individual Owners. The Homeowners' Association shall, upon demand at any time, furnish a certificate in writing signed by an Officer of the Homeowners' Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 5. Effect of nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at an annual rate equal to the prime

rate of interest as published by the Wall Street Journal on the first business day of the month for which any such liability accrues, or in lieu thereof, such other maximum interest rate as may from time to time be provided by law or statute, and the Homeowners' Association may proceed in equity to foreclose the assessment lien (which foreclosure shall follow mortgage proceedings then in force and effect and selected by the Homeowners' Association) and/or bring an action at law against the Owners of the Lot and to the amount of such assessment and judgement. The Board of Directors may adopt a rule imposing late charges for delinquent assessments in lieu of interest.

Section 6. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any bona fide first mortgage (or equivalent security interest) on a Lot recorded prior to the date upon which such assessment became due, and a decree of foreclosure under such mortgage or any proceeding or conveyance in lieu of foreclosure thereof, shall not extinguish the lien of all such assessments which become due prior to such sale of transfer. No sale or transfer shall relieve such Lot from liability for an assessment thereafter becoming due or from the lien thereof.

ARTICLE XI SANITARY DISPOSAL

Section 1. Septic Systems. No individual septic system or sewage disposal facility installed upon any Lot shall be installed with any of its components less than fifty (50) feet from the high water mark of any lake, stream, wet bottom detention pond or other body of water or within ten (10) feet of any drainage ditch. All Lots shall support septic systems in conformity with the ordinances, rules and regulations of DuPage County, Illinois, pertaining to septic systems. All septic systems shall be approved by the appropriate agency or division of DuPage County, Illinois.

ARTICLE XII WATER SERVICE

Section 1. Wells and Plumbing. All plumbing fixtures, dishwashers, toilets, or sewage disposal systems shall be connected to a septic tank system constructed by the Owner and approved by any state, county, or municipal authority having jurisdiction. Septic tank systems and locations must be of registered professional engineer design. Said engineer's design plans must be submitted to the Village or other authority for approval and issuance of permit prior to commencing construction. All systems are to be of the closed type; no waste water is to be discharged into any pond, or onto any Common Properties.

Section 2. Every Owner of or contract Purchaser for a Lot in the Properties shall be presumed conclusively, by acceptance of a deed of conveyance to or execution of a contract of purchase for such Lot, to have covenanted, for himself, his heirs, representatives, successors and assigns to install a well water system on his Lot. Each well system or other approved method shall be designed to satisfy the requirements of the County of DuPage. Wells shall be established not less than five (5) feet from any property line. Before installation, the design plans for the system shall be submitted to and a permit for installation obtained from DuPage County or any other governmental authority having jurisdiction. Any such well system as installed shall be subject to inspection and final approval by the approving authority. The cost of installation of the well system and septic system shall be borne by the Owner. Final approval by the Committee of building plans shall be subject to issuance of the required permits for well water and septic systems.

**ARTICLE XIII
RESUBDIVISION OF LOTS**

No Lot contained within the Subdivision may be resubdivided except as provided in Article V, Section 1, hereof.

**ARTICLE XIV
EXTERIOR MAINTENANCE**

The Storm Water Drainage and Storm Water Detention Facilities shall not be filled or otherwise altered by the Owners in any way which would adversely affect the functioning of such drainage system areas, retention or detention areas. To the extent, if at all, that any Owner shall fail to perform the maintenance of his own Lot whether vacant or improved, which is required by the foregoing, upon thirty (30) days prior written notice, and in a reasonable manner, the Homeowners' Association may, but shall not be required to, perform such maintenance or repair and, in such event, the cost thereof shall be added to such Owner's annual assessment and such amount shall be immediately due and payable and the Association may, but shall not be required to, perform such maintenance or repair and, in such event, the cost thereof shall be added to such Owner's annual assessment and such amount shall be immediately due and payable and the Homeowners' Association shall have such rights and remedies with respect to the collection of the same as are herein provided with respect to annual assessments.

**ARTICLE XV
GENERAL PROVISIONS**

Section 1. Insurance. The Board of Directors of the Homeowners' Association shall have the authority to and shall, to the extent such insurance is available on a commercially reasonable basis, obtain comprehensive liability insurance, in such limits as it shall deem desirable, and workman's compensation insurance and other liability insurance as it may deem desirable, insuring the Association, Board of Directors, and any Lot Owner on whose Lot any of the Storm Water Drainage Facilities or any pond is located. The premiums for all insurance purchased pursuant to the provision of this Section shall be paid at least thirty (30) days prior to the expiration date of any policy. Except as hereinabove provided, each Owner shall be responsible for obtaining fire and casualty and other types of insurance as such Owner shall deem necessary on his own Lot and the contents of his own Lot, and his additions and improvements thereto, as well as his personal liability.

Section 2. Remedies. In the event of any default by any Owner under the provisions of the Declaration, By-Laws or rules and/or regulations of the Homeowners' Association, the Board of Directors or the Village of Wayne, in its own right or in right of the Association, shall have each and all of the rights and remedies which may be provided for in this Declaration, the By-Laws and said rules and regulations, and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. All expenses of the Homeowners' Association or the Village of Wayne in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the maximum rate permitted by law, from the due date until paid, shall be charged and assessed against such defaulting Owner, (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions and improvements thereto, and upon all of his personal property upon the Lot. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Homeowners' Association, its Board of Directors, or the Village of Wayne. The Village shall have the right, but not the obligation to take any enforcement action permitted hereunder.

All of the provisions of this instrument, and those in the Articles of Incorporation and By-Laws of the Homeowners'

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Association are mutually enforceable by and among the members of the Homeowners' Association, and where applicable by DuPage County and the Village of Wayne. Any member who feels that a provision is being violated may petition the Homeowners' Association to investigate the situation. Should the Homeowners' Association determine that the allegation is true and that corrective action should be taken, the Homeowners' Association shall take whatever action is necessary to end the violation. Should the Homeowners' Association deem the allegation of violation as unworthy of action, or fail to investigate the alleged violation within thirty (30) days of notice, then the complaining Member may prosecute his claim in whatever legal manner is best suited to the situation.

Section 3. Land Trusts. In the event title to any Lot is conveyed to a land title-holding trust under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the Lot under such trust and the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot or its Owner. The names of the beneficiaries of the Trust shall be disclosed in writing to the Homeowners' Association within thirty (30) days of such conveyance, or any subsequent assignment of the beneficial interest in such trust.

No claim shall be made against any such title-holding trustee personally for the payment of any lien or obligation hereunder created, and such trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust notwithstanding any transfers of title of such Lot.

Section 4. Amendments. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless seventy-five percent (75%) of the votes outstanding shall have been voted to terminate the covenants and restriction of this Declaration upon the expiration of the initial twenty year period or any extension thereof, which termination shall be by written instrument signed by seventy five percent (75%) of the Owners and approved by and filed with the Village of Wayne, and upon such approval properly recorded in DuPage County, Illinois. This Declaration may be amended during the first twenty year period by an instrument signed by not less than ninety percent (90%) of the Owners, by the Village of Wayne, and by the Trustee and the Developer if the Class B membership has not therefore terminated, and thereafter by an instrument signed by not less than seventy five percent (75%) of the Owners. Any amendment must be recorded. Notwithstanding any provisions hereof

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to the contrary, the Trustee may, at its sole discretion and without consent being required of anyone, modify, amend, or repeal this Declaration at any time prior to the closing of the sale of the first Lot, provided said amendment, modification or repeal is in writing and properly recorded in DuPage County, Illinois and further provided that the Village of Wayne consents by ordinance approved by not less than a two-thirds vote of the corporate authorities. Trustee and Developer further reserve, prior to the closing of the sale of all of the Property, all rights which may be necessary to deal with the Property, including the right to vacate, amend, or modify the Plat of Subdivision, subject to approval of the corporate authorities of the Village. Further, nothing contained in this Section shall have application to nor require consent for the Trustee and Developer's recording of any Supplementary Declaration relative to the annexation of additional properties provided no such modification shall change the substantive provisions of this Declaration or any Supplemental Declaration or materially alter the rights of any Owner or the Village established by any such document.

Section 5. Rights and Obligations. The provisions of this Declaration and the By-Laws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Lot or any interest therein, or any ownership interest in the Lot whatsoever, the person to whom such lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the By-Laws, whether or not mention thereof is made in said deed.

Section 6. Rights and Duties of Institutional Lenders. Any provision of the within Declaration or of the By-Laws to the contrary notwithstanding, the following provisions shall control:

(a) Upon written notice directed to the Homeowners' Association by any first mortgagee of a Lot, the following actions will require notice to all said institutional holders:

- (1) Abandonment or termination of the Homeowners' Association; and
- (2) Material amendment to the Declaration, By-Laws or Articles of Incorporation.

(b) Upon the request in the manner prescribed above of any first mortgagee of a Dwelling on a Lot, the Homeowners' Association shall furnish to such mortgagee a written notice of any default by the Owner of such dwelling in the performance of such Owner's obligations under the within Declaration or the By-Laws or

Homeowners' Association's rules or regulations which is not cured within thirty (30) days.

(c) Each first mortgagee of a Dwelling on a Lot shall have the right to examine the books and records of the Homeowners' Association during normal business hours. The first mortgagees may, jointly or singly, pay taxes or other charges against the Common Areas or any portion thereof. First mortgagees may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such property, and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Homeowners' Association. The Homeowners' Association shall have the authority to enter into any agreement reflecting the provisions of the within subsection in such form as may reasonably be required by such mortgagees, and in the absence of any such agreement, the provisions of the within subsection shall be deemed to be the agreement of the Homeowners' Association and binding upon it in favor of all such mortgagees.

(d) Institutional holders of first mortgages of a dwelling on a Lot shall, in addition, upon written request, have the right:

(1) to receive an annual financial statement of the Homeowners' Association within ninety (90) days following the end of any fiscal year of the Homeowners' Association; and

(2) to receive written notice of all meetings of the Homeowners' Association and to designate a representative to attend all such meetings.

Section 7. Actions Requiring Three-Quarters vote. Unless at least seventy-five percent (75%) of the Owners and by the Developer if the Class B membership has not theretofore terminated, have given their prior written approval, and unless the Village consents by ordinance approved by not less than two-thirds (2/3) of the corporate authorities, the Homeowners' Association shall not be entitled to:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Properties, or any portion thereof or interest therein; except that the granting of easements for public utilities, the dedication to a public park district or other public purposes consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause;

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner by Homeowners' Association;

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(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of the dwellings or maintenance of the dwellings or Lots.

Section 8. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of Articles and Sections are for convenience only, and neither limit nor amplify the provisions of the Declaration unless specified reference is made to such Articles, Section or subdivisions by another document or instrument.

Section 9. Conflicts and Incorporation by Reference.

(a) The Trustee and Developer have heretofore entered into an Annexation Agreement with the Village, which has been recorded in DuPage County, Illinois. The provisions, restrictions and obligations of the Annexation Agreement are hereby incorporated in this Declaration of Covenants, Conditions and Restrictions as if fully set forth.

(b) The "Architectural Guidelines and Building Requirements for Woods of Wayne Homeowners' Association" attached hereto as Exhibit "E" are also incorporated herein as if fully set forth.

(c) In the event of any conflict between this Declaration and the By-Laws or Articles of Incorporation, this Declaration shall control.

(d) In the event of any conflict between the provisions of the Annexation Agreement and this Declaration, the most restrictive provisions shall control. In the event of any conflict between the provisions of this Declaration and the Architectural Guidelines attached hereto, the provisions of this Declaration shall control.

Section 10. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of:

(a) the rule against perpetuities or some analogous statutory provisions;

(b) the rule restricting restraints on alienation; or

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