

Covenants

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DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS
AND EASEMENTS
FOR
ORCHARD VALLEY
SUBDIVISION UNIT -1

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DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
ORCHARD VALLEY SUBDIVISION UNIT-1

This Declaration of Covenants, Conditions, Restrictions and Easements for Orchard Valley Subdivision Unit-1 is made this 10th day of December, 1990, by Merchants National Bank of Aurora, as Trustee under the provisions of a Trust Agreement dated the 28th day of November, 1989, and }own as Trust No. 4251 (“Declarant”);

WITNESSETH THAT;

WHEREAS, Declarant is the owner of certain real property located in the City of Aurora, Kane County, Illinois, as more particularly described in Exhibit “A” attached hereto and made a part hereof, known as “Orchard Valley Subdivision Unit 1” (the “Property”), and Declarant desires to subject the Property to the provisions of this Declaration and to have constructed in and upon Orchard Valley Subdivision Unit-1, a planned development community, and to provide for an orderly and reasonable method of development and administration of the Property for the purposes of enhancing and protecting the value of the Property and to insure the most beneficial development of the Property and to protect any users as might tend to diminish the value or pleasurable enjoyment thereof and for the provision for maintenance for stornwater drainage, detention and retention and maintenance of wetland areas; and,

WHEREAS, Declarant has executed, acknowledged and delivered to the Recorder of Deeds of Kane County, Illinois, a Plat of Subdivision of the Property recorded as Document No. 90K62092 providing, among other things, for certain easements and restrictions with respect to the Property which are hereby incorporated herein by reference; and,

WHEREAS, as hereinafter provided in this Declaration, Declarant reserves unto itself, its successors and/or assigns the sole and exclusive right, privilege arid option to submit additional property to the provisions of this Declaration at a later time and from time to time as a part of the planned development community described herein and/or to cause amendments to the Planned Development District, by the addition of additional property. In furtherance thereof, Declarant hereby reserves unto itself, its successors and/or assigns the sole and exclusive privilege and right, from time to time, to subject all or any portion of the Property to additional and separate covenants, conditions, restrictions and easements and to convey or cause to be conveyed additional parcels of real estate and/or submit additional parcels of real estate to this Declaration and any additional covenants, conditions, restrictions and easements; and,

WHEREAS, Declarant intends that a certain portion of the property shall be developed and maintained as a golf course and related facilities and amenities on that certain real property more particularly described in Exhibit "B", attached hereto and made a part hereof, (the "Golf Course Property") and Declarant intends that its development, use, operation and maintenance shall be governed and regulated by this Declaration, where applicable; and,

WHEREAS, the Property has been annexed to the City of Aurora, Kane County, Illinois subject to the terms of an Annexation Agreement and has been classified as a Special Use Planned Development District (P.D.D.) Zoning Classification pursuant to Ordinance No. 089-02, 089-03 and 089-04 (the "Annexation Agreement") which provide, among other things for certain conditions and restrictions relating to development of the Property, all of which are hereby incorporated herein by reference, and which in the sole and absolute direction of Declarant, its successors or assigns, with approval by the City or Aurora, may be amended from time to time.

NOW, THEREFORE, Declarant hereby declares that all of the Property described in Exhibit "A" and any additional property which may by subsequent amendment hereto be subjected to this Declaration at the sole and exclusive option of Declarant shall be held, transferred, sold, conveyed, leased, occupied, and used subject to the following easements, restrictions, covenants, charges, liens and conditions which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the real Property subjected to this Declaration, and which shall be binding on all parties having any right, title, or interest in the described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof and where provided herein, shall benefit the property on which the aforesaid golf course is located.

ARTICLE I DEFINITIONS

1. Definitions. When used in this Declaration, unless the context shall prohibit or otherwise require, the following words, shall have all the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

(A) "Additional Property" shall mean and refer to any part or all of the real Property abutting and/or adjacent to that property described in Exhibit "A" and all improvements thereon, as Declarant in its sole and exclusive discretion shall acquire from time-to-time and/or shall permit to be subjected to the terms of this Declaration and by amendment to the PD.D. hereto recorded in the Office of the Recorder of Deeds of Kane County, Illinois.

(B) "Annexation Agreement" shall mean and refer to the annexation and zoning documents and exhibits adopted by the City of Aurora, Kane County, Illinois as
_ Ordinance No. 08902, 089-03 and 089-04, and as may be amended from time.

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(C) "Architectural Review Committee" shall mean and refer to Orchard Valley Partnership c/o Richard Faltz, 11 West Merchants Drive, Oswego, Illinois, or its successors or assigns and as shall be appointed by Orchard Valley Partnership to regulate and approve improvements, additions and changes within the Property as provided in Article IV hereof.

(D) "Declarant" shall mean and refer to the Merchants National Bank of Aurora Trust No. 4251, or any successor-in-title to the entire interest of such person with respect to the "Property" at the time of such transfer to said successor-in-title, or any party who acquires said person's entire interest with respect to the Property at the time of such acquisition pursuant to foreclosure of a Mortgage encumbering said person's interest in the Property.

(E) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements for Orchard Valley Subdivision-Unit 1, and all amendments thereof filed for record in the Office of the Recorder of Deeds in Kane County, Illinois.

(F) "Development, with an initial capital letter, shall mean and refer to the Property described in Exhibit "A" and all improvements located or constructed thereon, and any portion of the Additional Property' submitted to the provisions hereof pursuant to Section II.

(G) "Dwelling", with an initial capital letter, shall mean and refer to any LD improved property intended for use as a single-family or multi-family dwelling, detached or attached, located within the Development.

(H) "Golf Course Facilities" shall mean and refer to the golf course and related facilities developed in conjunction with and adjacent to the. Development, including the golf course, golf practice area, putting green, golf cart paths, golf pro shops, locker room facilities, food and beverage facilities and recreational facilities and all other related facilities.

(I) "Golf Course Property" shall mean and refer to that certain property on which the golf course and Golf Course Facilities are located, being more particularly described on Exhibit "B" attached hereto and incorporated

(J) "Golf Course Property Flood Plain and Stormwater Facilities" shall mean and refer to all Flood Plain and Stormwater Detention/Retention Facilities and Improvements located on or below the surface of the Golf Course Property.

(K) "Lot" shall mean and refer to any unimproved portion of the Property (and a subdivided lot of record) upon which it is intended that a Dwelling, Structure or other improvement shall be constructed. A tract of land shall be deemed unimproved and thus considered to be a Lot, rather than a Dwelling or Structure, until the improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon such completion, such tract of land and the improvements thereon shall collectively be considered to be a Dwelling or Structure for purposes of this Declaration.

(L) "Occupant" shall mean and refer to any person, including, without limitation, any Owner or any guest, invitee, lessee, tenant, or family member of any Owner, occupying or otherwise using a Dwelling or Structure within the Development.

(M) "Orchard Valley" shall mean and refer to the Property described in Exhibit "A".

(N) "Orchard Valley Subdivision Unit-1" shall mean and refer to the Property described in the Plat of Subdivision recorded in Kane County, Illinois as Document No. 90K62092.

(O) "Owner", with an initial capital letter, shall mean and refer to one or more persons, including Declarant, who or which owns fee simple title to any Lot or Dwelling, or Structure, excluding, however, those persons having such an interest under a Mortgage. In the event that there is recorded in the Office of the Recorder of Deeds of Kane County, Illinois, any installment land sales contract covering any Lot, Dwelling, or Structure the Owner of such Lot Dwelling, or Structure shall be the Purchaser under said contract and not the fee simple title holder. An installment land sales contract shall be an instrument whereby the Purchaser is required to make payment for a Lot, Dwelling, or Structure for a period extending beyond nine (9) months from the date of the contract, and where the Purchaser does not receive title to such Lot, Dwelling or Structure until all such payments are made, although the Purchaser is given use of such Lot, Dwelling or Structure.

(P) "Parcel" with an initial capital letter, shall mean and refer to those subdivided tracts of real estate described as Parcels I through 18 in the Final Subdivision Plat of Orchard Valley-Unit 1 recorded in Kane County as Document No. 90K62092.

(Q) "Plat of Subdivision" with an initial capital letter shall mean and refer to the Final Subdivision Plat of Orchard Valley-Unit 1 recorded in Kane County, Illinois as Document No. 90K62092.

(R) "Person" shall mean and refer to a natural person, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

(S) "Property", with an initial capital letter, shall mean and refer to those tracts or parcels of land described on Exhibit "A", together with all improvement thereon, including the Common Areas, roads, utility systems, drainage systems, and other improvements serving the Lots, Dwellings and Structures, and, upon submission to the provisions of this Declaration, the tracts or parcels of land caused by Declarant to be added thereto, together with all improvements thereon.

(T) Property Stormwater Facilities" shall mean and refer to all Stormwater Detention/Retention Facilities and Improvements located on or below the surface of the Property.

(U) "Record" or "place of record" means to record a document in the Office of the Recorder of Deeds of Kane County, Illinois.

(V) "Stormwater Detention/Retention Facilities and improvements" shall mean and refer to all on-site facilities necessary for the management of stormwater as appears on the Plat of Subdivision of the Property and all on-site and offsite facilities and areas for the management of stormwater of the Property on the Golf Course Property.

(W) "Structure", with an initial capital letter, shall mean and refer to any improved property or building, other than a residential Dwelling, located within the Development.

(X) "Unit", with an initial capital letter, shall mean and refer to the resubdivided area of any Parcel or Parcels located on the Property as may be placed of record by Declarant.

(Y) "Wetlands" shall mean and refer to that portion of the Property described as Conservation Easement" on the Plat of Orchard Valley Subdivision-Unit 1.

ARTICLE II

DEVELOPMENT

2.1 Development of Property.

(A) Residential Property.

(1) Single Family Residential Property. Parcels 2, 5, 14, 15, 17 and 18 as set forth in the Plat of Subdivision shall be and are hereby restricted exclusively to detached, single family residential use and uses accessory thereto and shall be subject to the standards and restrictions set forth in Article 1V hereof.

(2) Multi-Family Residential Property. Parcels 3, 4, and 12 as set forth in the Plat of Subdivision shall be and are hereby restricted to attached or detached multiple or single family residential use and uses accessory thereto and shall be subject to the standards and restrictions set forth in Article IV hereof.

(3) Homeowner's Association. Declarant intends to create a Homeowner's Association which shall be established by recording the "Declaration of Covenants, Conditions and Restrictions of Orchard Valley Homeowner's Association Single Family Residential Property Parcels 2, 5, 14, 15, 17, and 18 as set forth in the Plat of Subdivision. The "Declaration of Covenants, Conditions and Restrictions of Orchard Valley Homeowner's Association" shall provide, among other things, for the maintenance of entry way monuments and signage and the maintenance of all landscaping contained in street or roadway cul-de-sacs and islands located within said Parcels by the Owners of any Lots, Dwellings or Structures therein. Said "Declaration of Covenants, Conditions, and Restrictions of Orchard Valley Homeowners Association" and all of its terms and provisions are incorporated herein by reference and shall run with title to the real property subjected to same and which shall be binding on all parties having any right, title or interest in Parcels 2, 5, 14, 15, 17 and 18 or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns.

(B) Golf Course Property. Parcels 6, 9, 13 and 16 as set forth in the Plat of Subdivision and Lots 301, 302, 303, 304 and 305 of Parcel 14 as shall be set forth in the proposed Plat of Resubdivision of Parcel 14 shall be and are hereby restricted exclusively to golf course uses and facilities related thereto, such as club house, driving range, pro shops, locker rooms, food and beverage facilities, recreational facilities, and maintenance facilities, and said parcels shall be developed and maintained as a golf course and such related facilities for a minimum period of twenty (20) years from the date of recordation of the Plat of Subdivision. In the event that any portion of the foregoing parcels are not used as golf course or related facilities, same shall be maintained as open area, and the cost of maintenance for same, including all Wetlands and Flood Plan and Stormwater Detention/Retention Areas shall be borne by the owner or owners of the Golf Course Property. The Golf Course Property Owner shall also be responsible for the maintenance and operation of the Golf Course Property, the Golf Course Facilities and all entry monuments and signage located on the Golf Course Property.

(C) Commercial Property. Parcel 11 as set forth in the Plat of Subdivision shall be and is hereby restricted to development as office, research, industrial and commercial uses (provided, however, all or any portion of Parcel II may be converted to attached or detached multiple or single family residential use and uses accessory thereto under the terms and conditions of the Annexation Agreement) and shall be subject to the standards and restrictions set forth in Article IV hereof.

(D) School/Park Property. Parcel 10 of the Plat of Subdivision shall be dedicated as Public School and Park Sites and shall be developed, used and maintained as such by the appropriate governmental agency. To the extent these areas are not so developed, those portions shall remain as open space.

(E) Park Property. Parcels 7 and 8 as set forth in the Plat of Subdivision and Lot 306 of 14 as shall be set forth in the proposed Plat of Resubdivision of Parcel 14 shall be dedicated as Public Park Property and shall be developed, used and maintained as such by the appropriate governmental agency. To the extent these areas are not so developed, those portions shall remain as open space.

2.2 Regulation of Development. The development and use of the Property shall be regulated and governed by this Declaration, the Annexation Agreement and the various zoning and building rules, regulations and ordinances of the State of Illinois, Kane County and the City of Aurora and all other governmental agencies having jurisdiction over the Property.

2.3 Development of Additional Property.

(A) Declarant hereby reserves the right and option, for itself, its successors and assigns, to be exercised in its sole discretion to submit from time to time, Additional Property to the provisions of this Declaration and thereby to cause the Additional Property or a portion thereof to become part of the Property.

(B) The option reserved under this Section 2.3 may be exercised by Declarant only by the execution of an amendment to this Declaration which shall be filed in the Office of the Recorder of Deeds of Kane County, Illinois, together with a legal description of the Additional Property which is being added to the Property by such amendment.

2.4 Subdivision Hat. Declarant reserves the right to record, modify, amend, revise and add to, at any time and from time to time, a subdivision plat or plat of resubdivision setting forth such information as Declarant may deem necessary with regard to the Development, including, without limitation, the locations and dimensions of the Parcels, Lots, Dwellings, Structures, Additional Property, roads, utility systems, drainage systems, utility easements, drainage easements, access easements, and set-back line restrictions; provided, however, Declarant shall not modify, amend, revise or add to a subdivision plat or plat of resubdivision of any property located within the boundaries of the Golf Course Property or the School/Park Property or the Park Property without the prior written consent of the owner(s) of the property directly affected by any such modification, amendment, revision or addition, which consent, in all events, shall not be unreasonably withheld. The Owner of the Golf Course Property shall have the right, subject to the prior written consent of Declarant, which consent shall not be unreasonably withheld, to record, modify, amend, revise and add to, at any time and from time to time, a subdivision plat setting forth such information as the Owner may deem necessary with regard to the Golf Course Property, including, without limitation, the location of the Golf Course and related facilities, provided, all of said facilities shall remain on those Parcels designated herein as Golf Course Property.

2.5 Resubdivision of the Property. Declarant intends to resubdivide certain Parcels of the Property by filing of record certain Plats of Resubdivision. The area comprising any resubdivided Parcel or Parcels shall be referred to as a Unit” on any such Plat of resubdivision. The Parcel or Parcels affected by any such Plat of Resubdivision and the corresponding Unit, are as follows:

Unit 2	Parcel 15
Unit 3	Parcel 2
Unit 4	Parcel 5
Unit 5	Parcel 17
Unit 6	Parcel 14
Unit 7	Parcel 18
Unit 8	Parcels 3, 4, 11 and 12

ARTICLE III PROPERTY RIGHTS

3.1 General. Each Parcel and Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Subdivided Lots shall not be resubdivided without the express written consent of the Declarant.

3.2 Access. All Owners, by accepting title to Lots, Dwellings or Structures conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress, and egress to and from such Lot, Dwelling or Structure and acknowledge and agree that such access ingress, and egress shall be limited to roads, sidewalks, walkways, and trails located within the Development from time to time, provided that pedestrian and vehicular access to and from all Lots, Dwellings and Structures shall be provided at all times.

3.3 Easements for Utilities and Public Services. There is hereby reserved for the benefit of Declarant, and its respective successors and assigns, the alienable, transferable, and perpetual right and easement, as well as the power to grant and accept easements to and from Kane County, Illinois the City of Aurora, Illinois, or any other public authority or agency, public service district, public or private utility, or other person, upon, over, under and across portions of all Parcels, Lots and Dwellings and Structures, for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, Storm sewers, drainage systems, and detention and retention ponds and facilities, including the right to adjust water levels of all ponds, lakes, creeks and other bodies of water for the Development or any portion thereof, and elec-icai, gas, telephone, water, and sewer lines, provided that such easements shall not unreasonably affect the developability, marketability or value of any such Lot, Dwelling or Structure. Such easements may be granted or accepted by Declarant, its successors or assigns. To the extent possible, all utility lines and facilities serving the Development and located therein

shall be located underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Development so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems; provided, however, that such utility company or other supplier or servicer shall take reasonable actions to repair and restore any damage caused by such utility company or other supplier or servicer during the exercise of any rights conveyed under any easement granted hereunder.

3.4 Sales and Construction Offices. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Declarant and its successors and assigns the alienable and transferable right and easement in and to the Property for the maintenance of signs, sales offices, construction offices, business offices, and model Dwellings and Structures, together with such other facilities upon any Property owned by the Declarant as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the completion, improvement, and/or sale of Lots, Dwellings, Structures, or Additional Property, for so long as Declarant owns any Lot, Dwelling or Structures primarily for the purpose of sale or has the option to add Additional Property to the Development.

3.5 Easements for Additional Property. There is hereby reserved to Declarant, and its successors, assigns, and successors-in-title to Additional Property (if said rights are granted by Declarant to such successors, assigns, and successors-in-title), for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Property, perpetual, non-exclusive rights and easements for (i) the installation, maintenance, repair, replacement, and use within those portions of Lots, Dwellings and Structures encumbered pursuant to Section 3.3 hereof of security systems and utility facilities and distribution lines, including, without limitation, drainage systems, storm sewers, and electrical, gas, telephone, water, sewer, and master television antenna and/or cable system lines, provided, any material damage caused thereby shall be repaired, and (ii) drainage and discharge of surface water onto and across the Property, provided that such drainage and discharge shall not materially damage or affect the Property or any improvements from time to time located thereon.

3.6 Maintenance Easement. There is hereby reserved for the benefit of Declarant, and its successors, and assigns, an alienable, transferable, and perpetual right and easement to enter upon any Lot and upon unimproved portions of any Dwelling or Structure for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Development, provided that such easements shall not impose any duty or obligation upon Declarant to perform any such actions.

3.7 Environmental and Conservation Easement. There is hereby reserved for the benefit of Declarant and its respective agents, employees, successors, and assigns an alienable, transferable, and perpetual right and easement on, over, and across all Parcels, Lots and all unimproved portions of Dwellings and Structure for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated or instituted by any governmental entity, such easement to include, without Limitation, the right to implement erosion control procedures and practices, the right to maintain any and all Wetland areas on the Property, the right to drain standing water, and the right to dispense pesticides and the right to assign or delegate any or all of the foregoing. The Golf Course Property Owner shall be responsible for and shall take any and all actions necessary or required to comply with all conservation and environmental rules, regulations and procedures promulgated, instituted or required by any governmental entity which affects all or any portion of the Golf Course Property.

3.8 Easements for Golf Course Property. There is hereby reserved for the benefit of Golf Course Property Owner, its successors, assigns, and successors-in-title with respect to the Golf Course Property, the following transferable, alienable, and perpetual rights and easements:

(A) Utility Easements. The right and easement for the installation, maintenance, repair, replacement, and use within those portions of Parcels and Lots, encumbered pursuant to Section 3.3 hereof and which are contiguous to the Golf Course Property of security systems and utility facilities and distribution lines, including, without limitation, drainage systems, storm sewers, and electrical, gas, telephone, water, sewer and master television antenna and/or cable system lines, provided, any damage caused thereon shall be repaired, and the right and easement for the drainage and discharge of surface water onto and across the Property, provided that such drainage and discharge shall not materially damage or affect the Property or any improvements from time to time located thereon, such rights to be limited and restricted as set forth in Section 3.03 hereof.

(B) Construction, Maintenance, and Repair. The right and easement on, over, through, under, and across such portions of the Parcels and Lots which are contiguous to the Golf Course Property for the purpose of constructing such improvements on the Golf Course Property and for maintaining, repairing and replacing golf course improvements, provided it shall not use such easement so as to unreasonably interrupt or interfere with any Owner's use of the Parcels and Lots, and shall promptly repair and restore any damage to same caused by the use of the right and easement granted herein. In addition, there is hereby reserved for the benefit of Golf Course Property Owner, its agents, employees, successors, and assigns, the right and easement to enter upon any unimproved portions of Parcels and Lots which are located within thirty (30) feet from the water's edge of any lake, pond, wetland area, or other body of water located on the Golf Course Property, for the purpose of mowing such area and keeping the same free and clear from unsightly growth and trash, as well as for the purpose of maintaining such bodies of water and/or Wetlands areas, such maintenance to include, without limitation, dredging and maintenance of reasonable water quality standards.

(C) Golf Course Maintenance. The non-exclusive right and easement over and across the portions of each Parcel and Lot which are adjacent to the Golf Course Property for the purpose of maintenance of the Golf Course Property. This reserved right and easement shall permit, but shall not obligate, Golf Course Property Owner and its agents, employees, successors, and assigns with respect to the Golf Course Property, to go upon any such portions of such Parcels and Lots to maintain or landscape the area encumbered by such easements. The area encumbered by this easement shall be limited to the portion of such Parcels and Lots within ten (10) feet of those boundary lines of such Parcels and Lots which are adjacent to the Golf Course Property or within thirty (30) feet of boundary lines adjacent to lakes, ponds, or other bodies of water abutting the golf course.

(D) Entry by Golfers. Each Parcel and Lot which is adjacent to the golf course located on the Golf Course Property shall be subject to the right and easement on the part of registered golf course players to enter upon the unimproved portion of any such Parcel and Lot which is within ten (10) feet of any such golf course to remove a ball, subject to the official rules of the golf course, with such entering not being deemed to be a trespass. Golf course players shall not be entitled to enter on any such Parcels and Lots with a golf cart or other vehicle, or in any way commit a nuisance and shall be prohibited from entering any Parcel or Lot beyond said ten (10') foot area.

(E) Landscaping Restriction. The landscaping plan for any Lots, Dwellings and Structures adjacent to any golf course located on the Golf Course Property shall, for that portion of such Lot, Dwelling and Structure which is within thirty (30) feet of any such golf course, be in general conformity with the overall landscaping plan of such golf course. To promote a suitable and attractive open space atmosphere, no fence, wall, shrubbery, building, or other structure will be permitted within said thirty (30) foot portion of those Lots, Dwellings and Structures which are adjacent to such golf course, without the prior written approval of the Architectural Review Committee. There is hereby reserved over and across said thirty (30) foot portion of said Lots, Dwellings and Structures the right and easement of light, air, and view for the benefit of the adjacent golf course.

3.9 No Partition. There shall be no judicial partition of the Development or any part thereof, nor shall any person acquiring any interest in the Development or any part thereof seek any such judicial partition unless the Development has been removed from the provisions of this Declaration.

3.10 Burden Upon the Property. Declarant hereby declares that this Declaration and the covenants, conditions, restrictions and easements established herein shall be covenants to run with the land. Said covenants and restrictions shall inure to the benefit of and be binding upon each and every Owner, and his or her respective heirs, representatives, successors, purchasers, lessees, grantees and mortgagees. By the recording or acceptance of the conveyance of a Lot, Dwelling or Structure or any interest therein, the person or entity to whom such interest

is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration.

3.11 Nonserverability of Rights. The rights, liabilities and obligations set forth herein shall attach to and run with the ownership of any portion of the Property as more specifically set forth herein and may not be severed or alienated from such ownership.

ARTICLE IV

Architectural Standards and Use Restrictions

4.1 Purpose. In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Property, the Lots, Dwellings and Structures, any and all improvements located therein or thereon shall be subject to the restrictions set forth in this Article IV. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article IV.

4.2 Architectural Review Committee. Orchard Valley Partnership c/o Richard A. Faltz, 11 West Merchants Drive, Oswego, Illinois, or its successors or assigns as shall be appointed by Orchard Valley Partnership shall be designated as the Architectural Review Committee to regulate and approve all improvements, additions and changes within the Property. The Architectural Review Committee is authorized to retain the services of architects, engineers, designers, site planners, attorneys and other consultants to advise and assist with its functions.

4.3 Permitted Improvements Standards.

(A) No improvements of any nature whatsoever shall be constructed, altered, added to, or maintained upon any part of the Property, except (i) Dwellings, Structures and other improvements which are constructed by Declarant, (ii) such improvements as are approved by the Architectural Review Committee in accordance with this Article IV, or (iii) improvements which pursuant to this Article IV do not require the consent of the Architectural Review Committee.

B) The Architectural Review Committee is hereby authorized, but is not required to promulgate written architectural standards, policies, and guidelines governing the construction, location, landscaping, and design of improvements, the contents of submissions of plans and specifications and other information required to evidence compliance with and obtain approval pursuant to Article IV hereof. Any such standards published by the Architectural Review Committee shall be binding and enforceable on all Owners with respect to all improvements in

the Development requiring the approval of the Architectural Review Committee.

(C) No improvements of any nature whatsoever shall be commenced, constructed, altered, added to or maintained upon any part of the Property and no permit of any nature shall be obtained from or granted by the City of Aurora (except for Dwellings, Structures and other improvements which are constructed by Declarant and for improvements which pursuant to this Article IV do not require the consent of the Architectural Review Committee) unless and until the Architectural Review Committee has approved in writing the proposed plans and specifications, and the proposed architect and builder of any such improvements.

4.4 Construction of Improvements.

(A) No construction of improvements on any Lots, Dwellings and Structures shall be undertaken or conducted on Sundays, except for (i) construction activities of Declarant, (ii) emergency situations involving the potential loss, injury, or damage to persons or property, and (iii) as otherwise permitted by the Architectural Review Committee.

(B) Unless otherwise approved by the Architectural Review Committee, (i) Dwellings and Structures may not be temporarily or permanently occupied until a certificate of occupancy for such Dwelling has been issued, and (ii) No temporary house, shack, tent, barn, accessory building or other outbuilding shall be permitted on any Lot, at any time. Construction of all Dwellings and Structures shall be completed within one (1) year of the commencement date of said construction. During the continuance of construction by an Owner, such Owner shall require its contractors to maintain the Lot, Dwelling and Structure in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such Owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the Lot, Dwelling and Structure.

4.5 Architectural Approval. To preserve the architectural and aesthetic appearance of the Development, no construction of improvements of any nature whatsoever shall be commenced or maintained by any Owner, other than Declarant, with respect to the construction or affecting the exterior appearance of any Dwelling or Structure or with respect to any other portion of the Property, including, without limitation, the construction or installation of sidewalks, driveways, mailboxes, decks, patios, swimming pools, playhouses, walls, fences, garages, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until copies of the plans and specifications and related data shall have been submitted to and approved in writing by the Architectural Review Committee. The Architectural Review Committee may establish a reasonable fee sufficient to cover the expense of reviewing plans and related data and to compensate any consultants. The Architectural Review Committee shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable. Following approval of any plans and specifications by the Architectural Review Committee,

representatives of the Architectural Review Committee shall have the right during reasonable hours to enter upon and inspect any Lot, Dwelling and Structure, or other improvements with respect to which construction is underway to determine whether or not the plans and specifications therefor have been approved and are being complied with. In the event the Architectural Review Committee shall determine that such plans and specifications have not been approved or are not being complied with, the Architectural Review Committee shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications and all costs, expenses and attorney's fees incurred by the Architectural Review Committee shall be paid by the Owner. In the event (a) the Architectural Review Committee fails to approve or disapprove in writing any proposed plans and specifications within thirty (30) days after such plans and specifications shall have been submitted, and (b) no suit to enjoin construction has been filed within thirty (30) days after commencement of such construction, such plans and specifications will be deemed to have been expressly approved, provided the proposed improvements are generally in harmony with the scheme of the Development as set forth in this Declaration. Upon approval of plans and specifications, no further approval under this Article IV shall be required with respect thereto, unless such plans and specifications are materially altered or changed. Refusal of approval of plans and specifications may be based by the Architectural Review Committee upon any ground which is consistent with the objects and purposes of this Declaration, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

4.6 Landscaping Approval. To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed by any Owner, other than Declarant, unless and until the plans therefor have been submitted to and approved in writing by the Architectural Review Committee. The provisions of Section 4.5 hereof regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling. Furthermore, no hedge, fence, wall or shrubbery planting or tree which obstructs sight-lines of streets and roadways within the Development shall be placed or permitted to remain on any Lot, Dwelling and Structure where such interferes with traffic sight-lines, including sight-lines at the intersection of a driveway and a road or street in the Development. All of the landscaping of Lots, Dwellings and Structures must be completed prior to occupancy or sufficient funds to cover one hundred twenty-five percent (125%) of the cost to complete, all of such landscaping shall be deposited with the Architectural Review Committee to guarantee completion. Any deposit made shall be refunded upon completion and after inspection and approval or the landscaping by the Architectural Review Committee.

4.7 Approval Not a Guarantee. No approval of plans and specifications and no publication of Standards shall be construed as representing or implying that such plans, specifications, or Standards will, if followed, result in properly designed improvements 0: comply with applicable building codes, ordinances or regulations. Such approvals and Standards shall in no event be construed as representing or guaranteeing that any Dwelling, Structure or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, nor the Architectural Review Committee shall be responsible or

liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article P1, for any loss or damages to any person arising out of the approval or disapproval of any pi or specifications, for any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor for any defects in construction undertaken pursuant to such plans and specifications.

4.8 Building Restrictions. All Dwellings, improvements and Structures shall be constructed in compliance with this Declaration, the Annexation Agreement and any and all applicable state, county and municipal zoning and building codes and restrictions and any applicable regulations and restrictions of applicable governmental agencies. All grading, clearing, construction of impervious surfaces and other construction activity performed on Lots, Dwellings or Structures shall be performed in accordance with the standards promulgated by and the requirements of the Architectural Review Committee. Prior to any such grading, clearing, construction of impervious surface, or other construction activity, the Owner of any Lot, Dwelling or Structure shall receive the prior written approval of the Architectural Review Committee. Any Owner that performs any grading, clearing, construction of impervious surface, or other construction activity in violation of the above, shall be liable to Declarant for any damages incurred by Declarant arising out of such violation and Declarant hereby expressly reserves the right to sue any such Owner for monetary damages and for specific performance of the above covenants and restrictions and all costs, expenses and attorney's fees incurred by Declarant shall be paid by Owner. In addition, the Architectural Review Committee is authorized to promulgate from time to time as part of the standards described in 4.3(B) hereof additional restrictions applicable to the Development, including, without limitation, restrictions relating to height of improvements above grade, roof pitch, and minimum square footage of Living Space in each Dwelling. No exterior portion of any building, structure, or other improvement (excepting sidewalks and driveways) located on or with respect to any Lot, Dwelling or Structure shall be located other than as permitted by the applicable set-back line restrictions as set forth in the applicable Plat of Subdivision and the Annexation Agreement unless otherwise permitted by applicable code of the City of Aurora. In addition, all Dwellings and Structures constructed on a Lot shall: (i) have as a minimum first floor elevation one (1) foot above the level of the 100-year flood as designated on official flood plain maps, or as maybe otherwise required by the city of Aurora; and (ii) be designed and constructed in compliance with the requirements of any building code related to construction in flood hazard areas, if any are applicable.

4.9 Minimum Square Footage of Living Space. Minimum square footage of living space in all Single Family Residential Dwellings, exclusive of basements, garages, porches and patios, shall be established as follows:

Parcel 2 (Unit 3) Dwellings:

Ranch:	1,450 square feet
Two Story:	1,600 square feet
Split Level:	1,600 square feet (with a minimum of 800 square feet on main level and lower level)
Bi-Level:	1,600 square feet (with a minimum of 800 square feet on main level)

Parcel 5 (Unit 4) Dwelling:

Ranch: 2,000 square feet
Two Story: 2,400 square feet (with a minimum of 1,000 square feet on first floor)
Split Level: 2,400 square feet (with a minimum of 1,000 square feet on main level and lower level)
Bi-Level: 2,400 square feet (with a minimum of 1,000 square feet on main level)

Parcel 14 (Unit 6) Dwellings:

Ranch: 1,200 square feet
Two Story: 1,400 square feet (with a minimum of 700 square feet on first floor)
Split Level: 1,400 square feet (with a minimum of 700 square feet on main level and lower level)
Bi-Level: 1,400 square feet (with a minimum of 700 square feet on main level)

Parcels 15 (Unit 2), (Unit 5) and 18 (Unit 7) Dwellings:

Ranch: 1,800 square feet
Two Story: 2,100 square feet (with a minimum of 900 square feet on first floor)
Split Level: 2,100 square feet (with a minimum of 1,000 square feet on main and lower level)
Bi-Level: 2,100 square feet (with minimum of 1,000 square feet on main level)

4.10 Fence Restrictions. In order to promote a suitable and attractive open space environment, the installation of fences, walls or other structures shall be restricted as follows:

(A) Lots Adjacent to Golf Course. The installation of fences, walls or other structures along and upon those portions of Lots which are within thirty (30) feet of the Golf Course shall be prohibited unless specifically approved in writing by the Architectural Review Committee, which approval may be withheld in its sole discretion.

(B) Lots Located in Parcel 14. The installation of fences, walls or other structures along, upon, over and within the side yards and side yard areas of all Lots located in Parcel 14 (Unit 6) as set forth in the Plat of Subdivision shall be expressly prohibited.

4.11 Service Yards. Each Owner of a Lot, Dwelling or Structure shall provide visually-screened areas to serve as service yards for garbage receptacles, wood piles, gas and electric meters, and air conditioning equipment. Vehicles, materials, supplies, and equipment which are stored outside by Owners must be placed or stored in order to conceal them from view from roads and adjacent properties. All visual barriers shall be approved by the Architectural Review Committee pursuant to this Article IV.

4.12 Use of Lots and Dwellings. Except as provided in Section 3.4 and 4.21 hereof, use of all Lots, Dwellings and Structures shall be restricted and regulated pursuant to the provisions of Article II. No more than one (1) Dwelling shall be located on any Lot on designated Single Family Residential Property. Parcels or Lots designated as Single Family Residential and Multi-Family Residential shall be restricted to residential uses only. The use of a portion of a Dwelling as an office by an Owner or his tenant shall not be considered to be a violation of this covenant if such use does not create regular customer, client, or employee traffic. The use of a Dwelling or a portion thereof for business meetings, entertainment, or the enjoyment or business of the Owner's employees, trustees, agents, clients, or customers shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. Lease or rental of a Dwelling for residential purposes shall also not be considered to be a violation of this covenant so long as the lease (i) is for not less than the entire Dwelling and all the improvements thereon, and (ii) is for a minimum term of six (6) months.

4.13 Exterior Appearance. The use of wood and masonry is encouraged for sidewalls of all Dwellings and Structures (except for Dwellings constructed on Parcel 14 (Unit 6)), it being the intention and purpose of this covenant to assure that all construction shall be of the best quality and workmanship and material. The use of roll paper siding or imitation brick, stone or asphalt/granule shingle siding is prohibited. Further, no foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades, or other purpose, nor shall any window-mounted heating or air-conditioning units be permitted to be installed on front or side windows. Except within screened service yards, outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed, or maintained, nor shall any clothing, rugs, or other item be hung on any railing, fence, hedge, or wall. When not in use, all garage doors shall be kept closed. All mailbox structures shall be constructed with wooden posts and crossarms with a standard United States mailbox of urban size.

4.14 Signs. No sign, billboard, poster or other advertising device of any type shall be erected or placed anywhere in the exterior of any improvements located within the Development, except as follows:

- (A) One "For Sale" or "For Rent" sign of not more than 6 square feet on each Lot;
- (B) Signs required by legal proceedings;
- (C) Entrance identification signs;
- (D) Declarant's signs;
- (E) Signs expressly approved by the Architectural Review Committee. Provided, however, signs identifying or relating to businesses or business activities shall be expressly prohibited.
- (F) Golf Course Property signage.

4.15 Antennas. No radio receiver, satellite dish, or other similar device shall be attached to or installed on any portion of the Development, unless contained entirely within the interior of a building or other structure, nor shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any Lot, Dwelling or Structure which may unreasonably interfere with the reception of television or radio signals within the Development.

4.16 Water Wells and Septic Tanks. No private water wells may be drilled or maintained and no septic tanks or similar sewerage facilities may be installed or maintained on any Lot, Dwelling or Structure, except for wells maintained solely for irrigation purposes for the Golf Course Property.

4.17 Pets. No animals, livestock, birds, or poultry of any kind shall be raised, bred, or kept by any Owner upon any portion of the Development, provided that generally recognized house pets may be kept in Dwellings and Structures, provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose. No pet shall be allowed to make any unreasonable amount of noise or to become a nuisance. Outdoor kennels, dog runs and similar structures shall be expressly prohibited.

4.18 Nuisances. No rubbish or debris of any kind shall be dumped, placed, or permitted to accumulate upon any portion of the Development, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Development, so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to persons using or occupying any other portions of the Development. Noxious or offensive activities shall not be carried on in any Lot, Dwelling or Structure, and each Owner, his family, tenants, guests, invitees, servants, and agents shall refrain from any act or use of a Lot, Dwelling or Structure, which could cause disorderly, unsightly, or unkempt conditions, or which could cause embarrassment, discomfort, annoyance, or nuisance to the occupants of other portions of the Development or which could result in a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation.

4.19 Golf Course Property. Owners of Lots, Dwellings and Structures as well as their families, tenants, guests, invitees and pets, shall be obligated to refrain from any actions which would cause a nuisance or distract from the playing qualities of the golf course located on the Golf Course Property. Such prohibited activities shall include, but not be limited to, burning materials where smoke will cross the golf course, maintenance of pets under conditions which interfere with golf course play due to barking or other actions, playing loud radios, televisions, stereos or instruments, running or walking on the Golf Course Property or other interference with play.

4.20 Motor Vehicles, Trailers, Boats, Etc. All automobiles owned or used by Owners or Occupants other than temporary guests and visitors shall be parked in garages to the extent that garage space is available, and garages shall not be used for storage or otherwise so that they become unavailable for parking cars therein. Garage doors shall be kept closed. No airplane, boat, mobile home, motor home, commercial vehicle or recreational vehicle or similar vehicles may be parked or stored in the front driveway, side yard or front yard of any Lot. Commercial vehicles may be temporarily parked in the front driveway, but not overnight. No Owners or other occupants of any portion of the Development shall repair or restore any vehicle of any kind upon or within any Lot, Dwelling or Structure, except (i) within enclosed garages or workshops or (ii) for emergency repairs, and then only to the extent

necessary to enable the movement thereof to a proper repair facility.

4.21 Sales and Construction Activities. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, successors, transferees, contract purchasers, and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the completion, improvement, and sale of Lots and/or Dwellings and/or Structures or the developing of Lots, Dwellings, Structures and Additional Property, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model Dwellings and Structures, all as may be approved by Declarant from time to time. The right to maintain and carry on such facilities and activities shall include specifically the right to use Dwellings as model residences, and to use any Dwelling or Structure as an office for the sale of Lots and/or Dwellings and/or Structures and for related activities which may continue for a period of one (1) year after the sale of the last Lot in a Parcel.

4.22 Multiple Ownership. No Lots or Dwellings or Structures may be sold under any time-sharing, time-interval, or similar right-to-use programs.

4.23 Minimum Square Footage, Density and Other Restrictions. Minimum square footage, density restrictions and all other restrictions for all Lots, Buildings and Structures for all Parcels, including but not limited to Parcels 3, 4, 11 and 12 as set forth in the Plat of Subdivision shall be further regulated and restricted and controlled as set forth in the Annexation Agreement.

ARTICLE V General Provisions

5.1 Amendments by Declarant. During any period in which Declarant retains any ownership interest in the Property, Declarant may amend this Declaration by an instrument in writing filed and recorded in the Office of the Recorder of Deeds in Kane County, without the approval of any Owner or Mortgagee; provided, however, that, with the exception of the addition of any Additional Property to the terms of this Declaration, (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of his Lot, Dwelling or Structure, as set forth in this Declaration or adversely affects the title to any Lot, Dwelling or Structure such amendment shall be valid only upon the written consent thereto by a majority in number of then existing Owners affected thereby, or (ii) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected. Each Owner, by acceptance of a deed or other conveyance to a Lot or Dwelling or Structure, agrees to be bound by such amendments as are permitted by this Section 5.01 and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development.

5.2 Enforcement. Each Owner shall comply strictly with this Declaration, and as same may be lawfully amended from time to time, and with the covenants, conditions, restrictions and easements set forth in this Declaration and in the deed or other instrument of conveyance to his Lot, Dwelling, or Structure if any. Failure to comply with any of the same shall be grounds for instituting an action to recover sums due, for damages, and/or for injunctive relief and/or any other remedy available at law or in equity, such actions to be maintainable by Declarant, or, in a proper case, by an aggrieved Owner. Should Declarant employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner. No delay, failure, or omission on the part of Declarant, or any aggrieved Owner in exercising any right, power, or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power, or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant or its beneficiaries for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any person, of the provisions of this Declaration, however long continued.

5.3 Duration. The provisions of this Declaration, and all amendments, shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners, Lessees and Mortgagees and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect for a period of twenty (20) years from and after the date of the recording of this Declaration. Upon the expiration of said twenty (20) year period, this Declaration shall be automatically renewed for successive ten (10) year periods, unless, during the last year of the initial twenty (20) year period or last year of any ten (10) year renewal period an instrument signed by a majority of the then Owners has been recorded agreeing to terminate this Declaration. Each Lot shall have one (1) vote.

5.4 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, until twenty-one (21) years after the death of the last survivor of the now living descendants of the Honorable David L. Pierce, Mayor of the City of Aurora.

5.5 Severability. Invalidity of any provision hereof shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

5.6 No Trespass. Whenever the Declarant, the Architectural Review Committee, and their respective successors, transferees, assigns, agents, or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action shall not be deemed to be a trespass.

5.7 Land Trust. In the event title to a Lot or Dwelling or Structure is held by a land trust under which all powers of management, operation and control remain vested in the trust beneficiaries, then the beneficiaries thereunder shall be considered Owners for all purposes hereunder and they shall be responsible for any obligation created under this Declaration against such Lot, Dwelling or Structure.

5.8 Deviations By Agreement With Orchard Valley Partnership. Declarant hereby grants and assigns unto Orchard Valley Partnership, its successors, transferees or assigns the right to enter into agreements with the Owner of any Lot or Lots (without the consent of Owners of other Lots or adjoining or adjacent property) to deviate from any or all of the covenants set forth herein, provided there are practical difficulties or particular hardships evidenced by the Owner, and such deviation (which shall be manifested by an agreement in writing) shall not constitute a waiver of any such covenant as to the remaining Lots and no such deviation shall be valid unless approved by the appropriate governmental authority, which at the time of such proposed deviation, shall have jurisdiction over the property.

5.9 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant will best effect the intent of the general plan of Development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance, building codes or other regulations which are less restrictive. The effective date of this Declaration shall be the date of its filing for record. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of Illinois.

IN WTTNESS WHEREOF, the said Merchants National Bank of Aurora, not personally, but as Trustee, has caused this instrument to be signed by its _____ Trust Officer and attested to by the authority granted to it by said Trust Agreement.

THE MERCHANTS NATIONAL BANK OF
AURORA, not individually but as Trustee under
Trust No. 4251

By: _____

THIS INSTRUMENT WAS PREPARED BY,
AND AFTER RECORDING, RETURN TO:

Peter C. Econornos, Esq.
Laser, Schostok, Kolman & Frank
30 North LaSaile Street
Suite 2500
Chicago, illinois 60602

CONSENT OF MORTGAGEE

First Illinois Bank of Evanston N.A., a national banking corporation, as Mortgagee under a Mortgage and Security Agreement as to a portion of the Property legally described on Exhibit "A" to which this Consent is attached, which Mortgage and Security Agreement is dated November 21, 1990 and recorded November _____, 1990 in the Office of the Recorder of Deeds of Kane County, Illinois as Document No. _____, hereby consents to the execution and recording of the within Declaration.

IN WITNESS WHEREOF, First Illinois Bank of Evanston, N.A. has caused this instrument to be signed by its duly authorized officers on its behalf, in Cook County, Illinois on this _____ day of _____, 1990.

First Illinois Bank of Evanston, N.A.
By: _____

Attest: _____

STATE OF Illinois)
) SS.
COUNTY OF COOK)

I, _____, a notary public in and for
said County in the State of aforesaid DO HEREBY CERTIFY THAT

_____, _____, Vice-
President of First Illinois Bank of Evanston, N.A. and

_____, _____,
of said Company, personally known to me to be the same
persons whose names are subscribed to the foregoing instrument as
such _____, Vice-President and
_____, secretary 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 Company for the uses
and purposes therein set forth.

Given under my hand and notarial seal this _____ day of
_____, 1990.

Notary Public

CONSENT OF MORTGAGEE

USAA Real Estate Company, a Delaware corporation, as Mortgagee under a Mortgage and Security Agreement as to a portion of the Property legally described on Exhibit "A" to which this Consent is attached, which Mortgage and Security Agreement is dated December 14, 1989 and recorded December 15, 1989 in the Office of the Recorder of Deeds of Kane County, Illinois as Document No. 2015656, hereby consents to the execution and recording of the within Declaration.

IN WITNESS WHEREOF, USAA Real Estate Company has caused this instrument to be signed by its duly authorized officers on its behalf, in San Antonio, Texas on this _____ day of _____, 1990.

USAA Real Estate Company
By: _____

Attest: _____

STATE OF TEXAS)
) SS.
COUNTY OF _____)

I, _____, a notary public in and for
said County in the State of aforesaid DO HEREBY CERTIFY THAT

_____, _____, Vice-
President of USAA Real Estate Company and

_____, _____,
Secretary of said Company, personally known to me to be the same

persons whose names are subscribed to the foregoing instrument as
such _____, Vice-President and

_____, secretary 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 Company for the uses

and purposes therein set forth.

Given under my hand and notarial seal this _____ day of
_____, 1990.

Notary Public

EXHIBIT A

ALL PARCELS IN ORCHARD VALLEY UNIT 1, IN CITY OF
AURORA, KANE COUNTY, ILLINOIS

EXHIBIT B

PARCELS ONE, SIX, NINE, THIRTEEN AND SIXTEEN IN
ORCHARD VALLEY UNIT 1 IN CITY OF AURORA, KANE
COUNTY, ILLINOIS