

DUCK LAKE CROSSING DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

This DECLARATION, made as of this 31st day of December 2003 by Duck Lake, LLC (hereinafter referred to as “Declarant”).

W I T N E S S E T H

WHEREAS, Declarant is the owner in fee simple of a certain parcel of real estate in the Village of Fox Lake, County of Lake, State of Illinois, and legally described in Exhibit “A” attached hereto (“Property”); and

WHEREAS, Declarant has received approval from the Village of Fox Lake of a Final Plat, as hereinafter defined, for the Property and has subdivided the Property by recording a Final Plat of Subdivision, as hereinafter defined, which documents collectively provide for a development consisting of thirty-six (36) Lots for single-family homes and Common Area, all as hereinafter defined. Declarant is desirous of subjecting the Property to the conditions, covenants, restrictions, reservations and easements hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner, as hereinafter defined, and shall inure to the benefit of and shall run with the Property, and each and every parcel thereof;

NOW, THEREFORE, Declarant hereby declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the conditions, covenants, restrictions and reservations, hereinafter collectively referred to as the “Covenants”, which are for the purpose of promoting and enhancing the value, desirability and attractiveness of the Property. These Covenants shall be considered as Covenants running with the Property and shall be binding on all parties acquiring any interest in and to the aforesaid Property or any part thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I  
Declaration Purposes

Section 1. General Purposes.

(a) The Declarant desires to provide for the harmonious development of the Property, by planning and laying out a single-family community and imposing the Covenants hereinafter set forth, which shall benefit the Property as well as the Owners thereof.

(b) The Declarant, by the imposition of Covenants and the reservation of certain powers unto itself, does intend to provide a plan for the development of the Property that is intended to enhance and to protect the values of Declarant’s single-family residential community, “Duck Lake Crossing”.

(c) The Declarant desires to protect the Owners, as hereinafter defined, against such improper use of surrounding Lots, as hereinafter defined, as may depreciate the value of their property; to guard against the erection thereon of buildings built of improper or unsuitable materials; to insure adequate and reasonable development of said Property; to encourage the erection of attractive improvements thereon, with appropriate locations thereof and to prevent haphazard and inharmonious improvements;

Section 2. Declaration. To further the general purposes herein expressed, the Declarant, for itself, its successors and assigns, hereby declares that the Property, whether or not referred to in any deed of conveyance, or a part thereof, at all times is and shall be held, transferred, sold, conveyed and occupied subject to the Covenants herein set forth. The provisions of this Declaration are intended to create mutual equitable servitudes upon each Lot, as hereinafter defined, becoming subject to this Declaration in favor of each and all other such Lots, as hereinafter defined; to create privity of contract and estate between the grantees of such Lots, their heirs, successors and assigns; and to operate as Covenants running with the land for the benefit of each and all such Lots being subject to this Declaration, and the respective Owners of such Lots, present and future.

## ARTICLE II

### Definitions

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

(a) "ASSESSABLE LOT". Shall mean a Lot located on the Property improved with a Dwelling, which has been conveyed, transferred, sold under Articles of Agreement, or leased by Declarant.

(b) "ASSOCIATION". Shall mean and refer to Duck Lake Crossing Homeowners' Association Inc., an Illinois non-for-profit corporation, its successors and assigns.

(c) "BOARD OF DIRECTORS", "BOARD" OR "DIRECTORS". Shall mean and refer to the Board of Directors of the Association as constituted from time to time.

(d) "BY – LAWS". Shall mean the By-Laws of the Association.

(e) "COMMON AREA". Shall mean and refer to (i) real property, now or hereafter owned by the Association and referred to on the Plat of Subdivision as "Outlot A and Outlot B", (ii) entry signage,

and (iii) easements created for the common use and enjoyment of the Members of the Association, but shall not include Lots or any part of the Property conveyed or dedicated to a public municipality or municipalities.

(f) CONVEYANCE DATE. Shall mean the date that fee ownership of the Common Area is transferred from the Declarant to the Association. Conveyance of the Common Area shall be at a time of Declarant's choosing or the Turnover Date (as hereinafter defined), whichever occurs earlier.

(g) DECLARANT". Shall mean and refer to Duck Lake, LLC and its successors, assigns or beneficiaries, whether such succession or assignment applies to all or any part of the Property. Any such successor or assignee shall be deemed a Declarant and entitled to exercise all or a portion of the rights of Declarant provided herein, if designated as such by Declarant in any instrument recorded for such purposes.

(h) DWELLING". Shall mean any building located on an Assessable Lot and intended for the shelter and housing of a Single Family, as hereinafter defined. Dwelling shall include any structure attached or adjacent to the Dwelling utilized for storage of personal property, tools and equipment.

(i) EASEMENTS. Shall be defined as on the Plat of Subdivision

(j) LOT". Shall mean Lots One (1) through Thirty-six (36), depicted as a separately numbered parcel, the exact location, size and dimension of which is set forth on the Plat of Subdivision (as hereafter defined), or as set forth in an instrument in writing executed, acknowledged and recorded by Declarant, which designates a part of the Property as a Lot for the purposes of this Declaration.

(k) LOT DEED". Shall mean a deed that conveys a Lot from Declarant to an Owner, or from an Owner to an Owner.

(l) OWNER". Shall mean or refer to the record holder of the fee simple title to any Lot, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include Declarant to the extent of the number of Lots owned by it and shall also include the interest of Declarant as contract seller of any Lot.

(m) PLAT OF SUBDIVISION" OR PLAT". Shall mean the Final Plat of Subdivision for Duck Lake Crossing, as recorded in the Office of the Recorder of Deeds of Lake County, Illinois on July 29, 2003 as document no. 5319035.

(n) "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 five persons not all so related, maintaining a common household in a Dwelling.

(o) "STRUCTURE". Shall mean any building or other improvement, including a Dwelling, erected or constructed that is more or less permanently located on or in the ground, or attached to something having a permanent location on or in the ground.

(p) "TURNOVER DATE". Shall mean the date that voting control of the Association is transferred from the Declarant to the Owners. This shall occur upon the earlier of:

(i) Four (4) months after title to ninety-five percent (95%) of all the Lots have been conveyed by the Declarant.

(ii) Such time that Declarant may elect to transfer control of the Association to the Owners.

(q) "VILLAGE". Shall mean the Village of Fox Lake, Illinois.

### ARTICLE III

#### Restrictions Governing Improvements

Section 1. Improvements Generally. No Structure, landscaping or other improvements shall be commenced or allowed on any portion of the Property unless it complies with the provisions of this Article III and the provisions of Article IV and X hereof.

Section 2. Permitted Structures. Except as may be limited by ordinance or other pertinent regulations of the Village, there shall at no time be constructed or maintained on any one Assessable Lot any Structures, either permanent or temporary, other than (a) one Dwelling, (b) any decks, patios, playground equipment, or storage facilities that are in compliance with Village ordinances or other pertinent regulations, and have received prior written consent from the Board of Directors of the Association, (c) one garage attached to a Dwelling capable of storing not less than two (2) automobiles, and (d) such temporary structures or facilities as may be necessary for the construction of the above improvements (it being expressly understood that such temporary structures or facilities shall be removed promptly upon the completion of the construction of the improvements for which their maintenance on the Assessable Lot was required). The provisions of this section shall not be construed to prohibit Declarant from maintaining any sales offices or

trailers, parking areas, sales facilities, signs, construction trailers, Structures or facilities on any portion of the Property, which right is hereby expressly reserved by Declarant.

#### ARTICLE IV Use and Restrictions

Section 1. Generally. All Assessable Lots on the Property shall be used for Single Family residential purposes only; provided, however, that Declarant reserves the right to use Lots and Dwellings for sale or display purposes.

All Dwellings shall be of new construction and no subsequent construction, other than for single-family detached housing and garages, shall be built on any Assessable Lot previously developed with a Dwelling. No vehicle, outbuilding or Structure other than a Dwelling, as defined herein, shall be used as a residence, either temporarily or permanently, on any part of the Property. Notwithstanding the foregoing, sheds or other structures utilized for the storage of personal property, tools and equipment may be subsequently constructed with prior written Board approval and approval and/or permitting as required by the Village of Fox Lake.

No industry, business, trade, occupation or profession of any kind, whether commercial or otherwise, designed for profit or non-profit, in violation of any Village ordinance or other pertinent regulations, shall be conducted, maintained or permitted in any Dwelling or Structure located on the Property, except for the business of home sales and construction as operated by the Declarant or its agents.

Section 2. Vehicles. No boat, airplane, motor home, trailer or house trailer shall be stored permanently or temporarily in the open on any of the Lots or the Property, with the exception of conventional passenger vehicles of Owners and their tenants and guests, which shall be permitted to be parked on the respective driveways of Owners, and the temporary construction and sales trailers used by the Declarant or its agents.

Section 3. Fences. No perimeter fence or similar enclosure shall be constructed with a height of more than six (6) feet. No fence of any height shall be constructed of chain link, wire mesh, barbed wire, chicken wire and any material similar thereto. All fence designs, colors and materials must be approved, in writing, by the Architectural Control Committee prior to installation.

Section 4. Sanitation. The Common Area and Lots shall be kept free and clear of all rubbish, debris and all other unsightly materials, and no waste shall be permitted thereon. All rubbish, trash or garbage shall be kept indoors so as not to be seen from Dwellings and streets and shall be regularly removed from the Property and shall not be allowed to accumulate thereon; provided,

however, that garbage cans may be kept along the sides and rears of the Dwellings as long as they are maintained in a sightly condition. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 5. Signs and Billboards. No advertising signs, billboards, objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on the Property except:

- (a) Signs and billboards used by Declarant during the sale of Lots and Dwellings;
- (b) One sign, per Assessable Lot, which bears the words "For Sale" or "For Rent" and measures no more than three (3) square feet per sign face.

Any signs or billboards permitted under this Section 5 must comply with Village, County, State and Federal ordinances and statutes.

Section 6. Activities. No noxious or offensive activity shall be conducted upon any of the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without in any way limiting the effect of the foregoing, the following activities are specifically prohibited:

- (a) The maintenance of unsightly plants or under-brush or plants breeding infectious diseases or noxious insects;
- (b) The burning of refuse outside of a Dwelling;
- (c) The hanging of laundry or other articles on any Lot in a manner which causes such laundry or articles to be visible from any other Lot;
- (d) The raising, breeding or maintenance of any livestock, poultry, or animals on any Lot. The keeping of household pets shall be subject to compliance with all Village ordinances.

Section 7. Satellite Dishes. No satellite dish or device may be erected on any Assessable Lot unless:

- (a) The dish or device is erected in the backyard of any Lot, or on the roof or wall mounted in the rear of a Dwelling;
- (b) The diameter of the dish or device is no more than three (3) feet; and
- (c) Prior written consent is obtained from the Board of Directors of the Association or by the Architectural Review Committee as appointed by the Board as provided in Article IX.

Section 8. Construction. No development, construction or removal of any improvement located on the Common Areas shall be initiated without the written consent of the Board of Directors of the Association. Notwithstanding the foregoing, no activity shall be undertaken on the Common Areas or detention and drainage easements that would impair the structural integrity of any Dwelling located on the Property.

Section 9. Board Authority. The Board of Directors of the Association shall adopt such other rules and regulations, from time to time, which govern the use and enjoyment of the Common Areas, as the Board, in its sole discretion, deems appropriate or necessary.

## ARTICLE V

### Duck Lake Crossing Homeowners' Association

Section 1. Creation and Purpose. An Illinois not-for-profit corporation known as Duck Lake Crossing Homeowners' Association, Inc., (the "Association",) shall be formed, the purposes of such Association shall be: to insure high standards of maintenance and operation with respect to Property preserved by Declarant for the Common Areas and detention and drainage easements; to insure the provision of services and facilities which shall benefit all residents of the community; and, to generally maintain and promote the desired character of Duck Lake Crossing.

Section 2. Powers and Duties of the Association. The Association, through its Board of Directors, shall have the following powers and duties:

(a) The ownership or maintenance or management of the Common Areas and all facilities, improvements and landscaping and all other property acquired by the Association or property which the Association agrees to maintain, including landscaping located in concrete islands, cul-de-sacs and median strips in dedicated streets which are adjacent to or within the Property, and any signage or lighting located on such streets.

(b) The authorization to employ a manager or any other persons necessary for the operation of the Property, and to contract with independent contractors or managing agents for the performance of all or any part of the duties and responsibilities of the Association, provided that any contract with a person or firm appointed as a manager or managing agent shall provide for the right of the Association to terminate the same at the first annual meeting of the Members of the Association convened after the Turnover Date.

(c) The establishment and maintenance of a working capital and contingency fund in an amount to be determined by the Board.

(d) The maintenance of all storm water facilities, including underground pipes and appurtenant structures located on the Property, including Outlot A and

Outlot B, in accordance with the engineering requirements promulgated by the Village.

(e) The maintenance of any landscaping, signs, fencing, retaining walls, landscape watering systems, lighting and other improvements that may be located at the entranceways to the Property, as well as any other locations that such improvements may be installed by either Declarant or the Board.

(f) The maintenance of any vacant or unimproved property, which shall include landscaping of, and removal of rubbish from such property, as well as the performance of any acts, deemed to be necessary or desirable to keep the vacant properties and parkways of Duck Lake Crossing neat in appearance and in good working order. Said responsibilities shall be completely within the discretion of the Board and shall not extend to any Lot or other portion of the Property owned by Declarant.

(g) The improvement of Association property and the provision of such other facilities and services as may be authorized, from time to time, by the affirmative vote of at least two-thirds (2/3) of the total number of the votes entitled to be cast by the Class A and Class B Members which collectively attend any meeting properly convened; provided, however, that any such action so authorized shall always be for the express purpose of keeping Duck Lake Crossing a highly desirable residential community.

(h) The Duck Lake Crossing Lot Owners shall also be members of the Duck Lake Water Improvement Association, by virtue of the use by the Owners of a Private Park legally described on Exhibit B attached hereto, subject to conditions, covenants and conditions of said Duck Lake Water Improvement Association. The Duck Lake Water Improvement Association will provide that one member of the Duck Lake Crossing Homeowners' Association will be a member of the Board of Directors of the Duck Lake Water Improvement Association.

(i) The exercise of all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Members, by the Articles of Incorporation, this Declaration or By-Laws.

Section 3. Board of Directors and Officers. The Association shall have a Board of not less than three (3) directors who shall be elected by the Members of the Association at such intervals as the corporate charter and By-Laws of the Association shall provide, except that vacancies in the Board occurring between regularly scheduled meetings of the Members may be filled by the Board if so provided by the corporate charter or By-Laws and that the first Board and subsequent Boards (until the Turnover Date) shall be appointed by the Declarant and shall consist of three (3) in number. The Association shall have such officers as shall be appropriate, from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Board and who shall manage and conduct the affairs of the Association, under the direction of the Board. Except as otherwise expressly provided by the



charter or By-Laws, all power and authority to act on behalf of the Association, both pursuant to this Declaration and otherwise, shall be vested in the Board, from time to time, and its officers, under the direction of the Board, and shall not be subject to any requirements of approval on the part of its Members. The corporate charter and By-Laws of the Association may include such added provisions for the protection and indemnification of its officers and directors as shall be permissible by law. The directors and officers shall not be liable to the Owners or to others for any mistake of judgement or any acts or omissions made in good faith in their capacity as directors or officers of the Association. Each director and officer shall be indemnified and held harmless from any liability which arises out of contracts entered into on behalf of the Owners of the Association, unless such contracts shall have been made in bad faith or contrary to the provisions of this Declaration. In the event liability does result from such a contract or from any acts of a director or officer of the Association, the Owners shall assume such liability to the extent that it is not covered by insurance. The liability of the Owners, however, shall be limited to their proportionate share of the total liability.

Section 4. Membership. Every person or entity who is the record Owner of a fee or an undivided fee interest in any Lot shall, upon the vesting of such interest and without any further act, or, if the record Owner is a land trust, the beneficiary or beneficiaries thereof, shall be a "Member" of the Association, subject to (a) the rights and obligations provided herein, and (b) the Articles of Incorporation and the duly enacted By-Laws of the Association. The presence at any membership meeting of any one of several co-Owners of any given Lot shall be deemed to constitute the presence of a quorum for that Lot, relative to any matter before the meeting, except as otherwise provided for herein. The foregoing is not intended to include persons or entities that hold an interest merely for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership, and membership shall cease upon termination of such ownership.

Section 5. Voting. The Association shall have two classes of voting membership:

Class A. Class A Members shall be those Members of the Association other than Declarant, except as Declarant may qualify for Class A membership as provided herein. Each Class A Member shall be entitled to one (1) vote on each matter submitted to a vote of the Members for each Lot owned by that Member; provided that where title to a Lot is in more than one person, such co-Owners acting jointly shall be entitled to only one (1) vote, and in no case shall more than one (1) vote be cast for any one Lot.

Class B. The sole Class B Member shall be the Declarant. The Class B Member shall be entitled to nine (9) votes for each of the Lots that Declarant owns.

## ARTICLE VI

### Maintenance Assessments

Section 1. Covenant for Maintenance Assessments. Each Owner of an Assessable Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay to the Association: (a) regular assessments or charges, (b) special assessments for capital improvements and unforeseen expenses, and (c) the payment of a \$50.00 annual fee to the Duck Lake Water Improvement Association or such other mandatory annual fee as is assessed all members of the Duck Lake Water Improvement Association. All such assessments are to be established and collected as hereinafter provided by this Declaration, as well as by the Articles of Incorporation and By-Laws of the Association.

Section 2. Purpose and use of Assessments. All assessments levied by the Association shall be for the purpose of insuring the high standards of maintenance and operation of the Property reserved or conveyed by Declarant for the common use of all residents and Owners, and, in general, to promote the desired character of the Property. Such purposes and uses of assessments shall include, but not be limited to, the cost of covering all taxes, insurance, and expense related to the repair, replacement and maintenance of the Common Areas; any charges incurred in connection with storm and sanitary sewer facilities and easements which exist on the Property; expenses associated with the maintenance and upkeep of the Property; all equipment purchases approved by the Association; and any other charges required by this Declaration or charges which are determined to be necessary or desirable by the Board of Directors for achieving the primary purposes of the Association.

Section 3. Assessment Procedure – Regular Assessments. Until further direction of the Board, each Owner shall pay four hundred fifty dollars (\$450.00) annually. From and after December 31, 2003, the regular assessments shall be determined by the affirmative vote of at least two-thirds (2/3) of the Board of Directors of the Association, as provided in this Declaration and the By-Laws of the Association, but no such regular assessment shall exceed one hundred and twenty five percent (125%) of the approved budget (as described below), without the affirmative vote of at least two-thirds (2/3) of the total number of votes entitled to be cast by the Class A and Class B Members which collectively attend any meeting properly convened. An additional annual fee, as referred to above in Article VI, Section 1 (c), shall be due and payable from each owner on an annual basis, and payable directly to the Duck Lake Waterway Association.

On or before January 1st, of each year, commencing January 1, 2004, and pursuant to the By-Laws of the Association, the Board of Directors shall hold a meeting or meetings for the purpose of: (a) estimating all expenses provided for in Section 2 of this Article VI; (b) fixing the amount assessed against the individual Assessable Lots for the forthcoming year; and (c) establishing the date(s) that such assessments or installments thereof shall be due and payable to the Association. If such a meeting is not held, the fixed amount shall be

equal to the annual assessment of the proceeding year. Should the Board of Directors fail to establish payment dates, all regular assessments shall be due in one (1) annual installment on January 30th of the year for which they are assessed.

Any regular assessments may include a reasonable reserve fund which may be allocated for the costs of maintaining and improving the Common Areas, landscaping (as defined in Article V, Section 2), signs, monuments, storm drainage capital improvements, entrance improvements and any other purposes contemplated in Section 2 of this Article VI. Any allocation of reserve funds shall be made upon the affirmative vote of two-thirds (2/3) of the Board of Directors, which vote shall be taken at a meeting called for that purpose, as provided in the By-Laws of the Association.

The Board of Directors shall prepare an itemized list of all estimated expenditures, and give written notice of the assessment to every Owner subject thereto.

Section 4. Assessment Procedure – Special Assessments. Special assessments may be levied by the Association to defray the cost, in whole or in part, of any capital improvements or unforeseen expenses. For purposes hereof, capital improvements shall include the construction or reconstruction, or unexpected repair or replacement, of any capital improvements situated in the Common Areas. Unforeseen expenses shall include any items omitted from the list of estimated expenditures that is prepared by the Board of Directors in accordance with Section 3 of this Article VI.

In the event that the Board of Directors determines that a need exists for levying a special assessment as herein provided, the Board shall adopt a resolution which sets forth the following information for the proposed special assessment: the purpose of the assessment; the amount of capital required therefor; the time period allowed for collection of said capital; and the anticipated due dates for payment of the assessment. Thereafter, the Board of Directors shall call a special meeting of the Association to vote on said resolution. All special assessments must be approved by at least a two-thirds (2/3) vote of the total number of votes entitled to be cast by the Class A and Class B Members which collectively attend any meeting properly convened.

Section 5. Initial Lot Closing. Upon the closing of the first sale of an Assessable Lot by the Declarant to a purchaser for value, the purchasing Owner shall (i) pay a prorated share of the then current Regular and any Special Assessments calculated from the date of the closing of the Assessable Lot through the end of the year during which the closing occurs, (ii) pay the additional annual fee referenced at Article VI, Section 1 (c), above, and (iii) make a capital contribution to the Association in an amount of \$200.00, which amounts shall be held and used by the Association for its working capital needs (and not as an advance payment of the Regular or any Special Assessment).

Section 6. Allocation and Payment of Assessments. Both annual and special assessments must be fixed at a uniform rate for all Assessable Lots, except as may be otherwise provided in this Declaration.

Prior to the Conveyance Date, Declarant shall have the obligation to maintain the Common Areas, as well as all signs and monuments located thereon, and shall pay all expenses associated therewith, including, without limitation, the cost of any required capital improvements or real property taxes payable in connection with said Common Areas. After the Conveyance Date, the Association shall have the obligation to maintain the Common Areas, as well as all signs and monuments located thereon, and shall pay all expenses associated therewith, including, without limitation, the cost of any required capital improvements or real property taxes payable in connection with said Common Areas

For all Lot Owners other than Declarant, assessments or any installments thereof shall become due and payable on the scheduled dates for payment of such assessments, commencing with the month during which a Lot is conveyed, transferred or leased by Declarant to the Owners thereof. If a conveyance, transfer or lease occurs after the scheduled date for payment of an assessment, such assessment or any installment thereof shall become due and payable upon such conveyance, transfer or lease.

Section 7. Non-Payment of Assessments. Any assessment, regular or special, which is not paid on a scheduled payment date shall be considered delinquent. Such a delinquency shall be a continuing lien and an equitable charge which runs with the land touching and concerning the Assessable Lot held by the existing Owners thereof, as well as the heirs, devisees, personal representatives, assigns, successors and grantees of such Owners.

Should title to any Assessable Lot be held more than one Owner, all Owners shall be jointly and severally liable for the payment of assessments due thereon. In addition to attaching to the land, a lien for a delinquent assessment shall attach to all rents owed from parties that are in possession of any Assessable Lot. Any such lien, however, shall be subordinate to an assignment of rents that is held by a mortgagee, if such assignment was delivered in connection with a first mortgage loan on the Property.

Should any assessment remain unpaid thirty (30) days after it has become delinquent, such assessment shall bear interest from the date of delinquency at three percent (3%) over the Prime Rate as stated in the Wall Street Journal (hereinafter referred to as "Prime Rate).

The Association may recover any delinquent assessment by bringing an action at law or in equity against the then existing Owners personally obligated to pay the same, or foreclose the lien attached to the Assessable Lot and Dwelling situated thereon. Such recovery shall include interest, costs and reasonable attorney's fees incurred in connection with any such action.

The venue for all actions at law provided for in this Article VI shall be in Lake County, Illinois. The persons in possession of any Dwelling shall be

authorized to accept a summons on behalf of the Owners thereof.

No Owners may waive or otherwise escape liability for the payment of any assessments provided for herein by alleging non-use of the Common Areas or abandonment of their Assessable Lots and/or the Dwelling situated thereon.

Section 8. Subordination of Lien. Any lien for the recovery of the assessments provided for herein shall be subordinate to the lien of the first mortgage or first trust deed that is placed upon the Lot and Dwelling situated thereon for the purpose of purchasing the same. The automatic subordination of such liens shall apply only to those assessments that arise subsequent to the creation of the lien of the first mortgage or first trust deed. The sale or transfer of any Assessable Lot pursuant to a decree of foreclosure under such first mortgage or first trust deed, or any proceeding or conveyance in lieu thereof, shall extinguish the lien of any assessments that become due and payable prior to such sale or transfer. However, such sale or transfer shall not relieve the Owners of the Assessable Lot from liability for any assessments or installments that become due thereafter.

Section 9. Real Estate Taxes. After the Conveyance Date, the Association shall be obligated to pay and discharge all general and special real estate taxes and assessments levied by any public authority with respect to the Common Areas. Prior to the Conveyance Date, such taxes and assessments shall be the obligation of the Declarant, in accordance with the provisions of Section 5 of this Article VI.

Section 10. Dissolution. All Owners hereby covenant and agree that in the event the Association herein provided for shall be dissolved, all restrictions and obligations set forth remain in full force and effect. If this event should occur, the Village shall be notified and the individual homeowners shall bear the responsibility of the Homeowners' Association maintenance duties as specified herein.

Section 11. Exempt Property. Notwithstanding anything to the contrary contained herein, the following properties subject to this Declaration shall be exempt from the assessments provided for herein:

- a) All properties dedicated to any local public authority and granted to or used by a utility company, including but not limited to streets and right-of-ways.
- (b) All Dwellings owned by the Declarant, which are used by Declarant, at any time, as a model home or office.
- (c) All Lots owned by Declarant.
- (d) The Common Area portion of the Property, designated as Outlot A and Outlot B on the Plat, as defined in Article II hereof.

## ARTICLE VII

### Insurance

The Board of Directors of the Association shall have the authority to and shall obtain comprehensive public liability insurance, in such limits as it shall deem desirable. Such insurance shall include coverage for liability related to the injury or death of any persons, property damage, workman's compensation claims, and any other liabilities or claims which are deemed to be worthy of protection. The policy or policies purchased shall insure the following: each Owner; the Association and its officers; members of the Board; the Declarant; and any employees and agents of the aforementioned parties. In addition, the policy or policies shall protect the officers of the Association and the members of the Board from liability from all actions which are performed in good faith, but which are beyond the scope of the respective authority of such officers and Board Members. Such insurance coverage shall also include cross liability claims brought by one or more insured parties against other insured parties. The premiums for such insurance shall be common expenses, payable out of the proceeds of the assessments required by and collected in accordance with Article VI hereof. The Association shall be further responsible for the procurement and maintenance of insurance policies for the Common Areas, covering any loss or damage caused by fire or any other hazards contained in customary fire and extended coverage policies, including, without limitation, damage caused by vandalism and malicious mischief. The Board is further authorized to arrange for the attachment of any endorsements to the insurance policies purchased which are deemed to be prudent and in the best interests of the Association. Upon request, the Board shall provide the Village with copies of all certificates of insurance or any other adequate evidence of the insurance that the Association is required or authorized to maintain by the provisions hereof.

## ARTICLE VIII

### Rights Reserved to Declarant

(a) Until each of the various Lots shall have been conveyed by the Declarant to the first Owners thereof (or to the nominee of such Owners), the Declarant shall, with respect to each such unsold Lot, retain all rights of ownership that would otherwise be granted to such Owners.

(b) Until the Turnover Date, Declarant, as well as its successors and assigns, shall retain the right, at any time and from time to time, to add additional portions of real estate to the Property encumbered by these Covenants. Declarant shall be responsible for any costs or expenses incurred in connection with such real estate, until such time as Declarant conveys such real estate either to subsequent Owners or to the Association.

(c) Until the Association is organized and assumes its duties and powers hereunder, the Declarant shall have all of the rights, powers, duties and obligations granted herein to, or imposed upon, the Association and shall be authorized and empowered to take any actions that the Board would have been authorized and empowered to take if the Association had been in existence. Similarly, until the initial meeting of the Members after the Turnover Date, the Declarant shall appoint the Board of Directors of the Association. Such Board shall have the same powers and authority as the Board that shall be appointed by the Members pursuant to the terms of this Declaration.

(d) At all times, Declarant shall be entitled to conduct sales of Lots and Dwellings from the Property. In connection therewith, Declarant, as well as its agents, employees, guests and invitees, shall have the right to utilize roads, streets, Common Areas and all other portions of the Property. Declarant is further authorized at all times, to utilize signage, flags, posters, and lighting, as well as to establish sales offices and model homes as required.

## ARTICLES IX

### Architectural Controls

The purpose of the architectural controls provided for herein is to secure an attractive, harmonious residential development with continuing appeal. With the exception of interior alterations, no Dwelling or other Structure, improvement or landscaping shall therefore be commenced, erected or maintained, nor shall any additions or alterations be made thereto, including exterior color changes, until the plans are approved by the Board of Directors or by an Architectural Review Committee composed of three (3) or more Members appointed by such Board. Such plans and specifications shall include the following information regarding the proposed improvement: the nature, kind and shape of the improvement; its dimensions; the materials from which the improvement shall be constructed; the color selected therefor; the location of the improvement relative to the Lot upon which it shall be erected; the effect that the improvement shall have upon the grading and landscaping plans of the Lot; and the estimated cost of such improvement. In the event that the Board or its delegated committee fails to approve or disapprove such plans within thirty (30) days from the date that plans and specifications have been submitted for approval, said plans and specifications will be deemed approved, and this Article IX will be deemed to have been fully complied with. Notwithstanding the foregoing, Declarant shall not be required to submit its Dwelling plans or any improvements to the Architectural Review Committee for approval. In addition, no changes or alterations in drainage or grading may be made without the approval of the Village, even though the Board of Directors may approve such changes.

## ARTICLE X

### Easements

Section 1. Utility and Drainage Easements. Certain portions of the Lots and Common Area shall be subject to: (i) utility easements for sewer, water, gas, cable television, electricity, telephone and any other necessary utilities; and (ii) drainage and detention easements. If such utilities are not installed or easements for the same are not described prior to conveyance of the Lots or Common Areas, or if additional easements of a comparable nature become necessary at a later date in order to effectuate the intent of the easements theretofore granted, the Declarant hereby reserves the right to grant the same at a later time.

Section 2. Landscaping. Declarant hereby reserves unto itself an assignable easement for the planting and maintenance of trees, shrubs, grass and any other landscaping located on the Common Areas.

Section 3. Maintenance of Common Areas. Declarant hereby grants and conveys to the Association a non-exclusive easement and uninterrupted right over, upon and under the Common Area for the purpose of maintaining and operating the Common Areas and all facilities and improvements located thereon, including, but not limited to, landscaping, signs, monuments, fencing, retaining walls, non-public irrigation systems and lighting situated on said Common Areas.

In the event the Association fails to make repairs to or maintain the area, surface, structures or pipes, an easement is hereby reserved for and granted to the Village of Fox Lake to take such corrective measures to repair or maintain such areas. It is agreed, however, that such rights and easement shall not be available to the Village of Fox Lake until the Association has been requested to make such repairs or maintenance and said Association fails to make such repairs and/or perform such maintenance within fifteen (15) days after receiving such notice. In case of emergency, the Village shall have the right to take immediate corrective action and shall notify the Association of the same as soon as practical. In the event the Village makes such repairs or performs such maintenance, the Village shall have the right of reimbursement from the Association and shall further have the right to place a lien against the property until the Village is reimbursed for the work performed. Any work performed by the Village pursuant to this covenant and easement shall not vest any rights of ownership or responsibility for the continued maintenance of the area. Furthermore, the Village of Fox Lake maintains the perpetual right and easement to drain public streets into privately maintained storm sewers and detention areas as may be located or shown on the Plat.

### Section 4. Maintenance of Easement Areas.

Conservation Easements. Each individual homeowner accepting title to all or any part of a landscape Conservation Easement, along with the Association,



shall conclusively be deemed to have covenanted and agreed, jointly and severally, to care for and maintain the landscaped Conservation Easement.

Drainage Easements. Unless otherwise specifically directed by the Village through official board action, the respective Lot Owners shall be responsible for the surface maintenance of the Drainage Easement or stormwater easement, including the control of erosion and maintenance of such permitted landscaping, including grass, within those portions of any easements which are part of their respective Lots, as indicated on the Plat. The Association shall be responsible for the maintenance of all stormwater facilities, including underground pipes and structures, even if located on a Lot. In the event an Owner or the Association fails to fulfill said responsibilities, the Village may, but shall not be obligated to fulfill said responsibilities.

Section 5. Encroachments. If any portion of the Common Area that is owned and/or maintained by the Association encroaches upon any Assessable Lot, or if any part of an Assessable Lot encroaches upon any portion of the Common Area or any other Assessable Lot as a result of the construction, repair, reconstruction, settlements or shifting of any structure, a valid mutual easement shall exist in favor of the Association and the respective Owners involved to the extent of the encroachment. However, a valid easement shall not exist in favor of any Owner who creates an encroachment through intentional, willful or negligent conduct, which conduct shall include the acts of any agent or employee of such Owner.

## ARTICLE XI

### General Provisions

Section 1. Covenants to Run with the Land. Each grantee who accepts a deed of conveyance from Declarant, as well as each Purchaser who enters into a contract with Declarant for such a deed, shall be subject to all restrictions, conditions, covenants, reservations, liens, charges, stipulations regarding jurisdiction, rights and powers which are created or reserved by this Declaration. Accordingly, all rights, benefits, powers and privileges of every nature which are hereby granted, created, reserved or declared and all restrictions, conditions, covenants, reservations and obligations which are imposed hereunder, shall be deemed and constructed as covenants running with the land, and shall bind each and every person, as though the provisions of this Declaration were recited in full in each deed of conveyance, mortgage, trust deed or other document evidencing ownership of a Lot in Duck Lake Crossing. To this effect, reference to this Declaration shall be sufficient to vest the respective grantees, mortgagees and trustees of Lots in Duck Lake Crossing with the rights, privileges and easements granted and created hereunder as fully and completely as though such provisions were recited in their entirety in each of the aforementioned documents.

Section 2. Perpetuities. If, and to the extent, that any of the Covenants would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or which otherwise imposes limitations upon the time for which such Covenants may be valid, then the provisions concerned shall continue and endure for only twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of Rose Fitzgerald Kennedy mother of the former President John F. Kennedy, who are living at the date of this Declaration.

Section 3. Enforcement. Declarant, as well as each Owner of an Assessable Lot, shall from time to time, have the right jointly and separately, to file suits for the procurement of a prohibitive or mandatory injunction to prevent the breach of, or to enforce the observation of, any of the Covenants set forth in this Declaration, in addition to the right to bring any ordinary legal action for damages incurred as a result of such breach. Furthermore, at any time that a Dwelling is built (or is being built) on an Assessable Lot in Duck Lake Crossing and such structure is and remains in violation of any of the Covenants hereinabove set forth, for a period of thirty (30) days after the Owners of said Lot actually receive written notice of such violation from Declarant or the Association, then Declarant or the Association shall have, in addition to the foregoing rights, the right to enter upon the property where such violations exists and to summarily abate or remove the same at the expense of the Owner, and such entry and abatement or removal shall not be deemed to be a trespass. Moreover, under no circumstances shall the failure of Declarant, the Association or any Owners to enforce any of the Covenants herein set forth regarding the enforcement of a particular violation be deemed to be a waiver of the right to do so thereafter.

Section 4. Amendment. Subject to the provisions of Section 7 of this Article, the record Owners in fee simple ownership of the Lots in Duck Lake Crossing may revoke, modify, amend or supplement, in whole or in part, any or all of the Covenants contained in this Declaration and may release, from any part or all of the Covenants, all or any part of the real Property subject thereto. Any such change(s) shall be effective at any time, if the following conditions are met: (i) so long as Declarant owns any Lots in the Property, the Declarant consents thereto; (ii) there shall be an affirmative vote of at least two-thirds (2/3) of the total number of votes entitled to be cast by the Class A Members which attend any meeting properly convened; (iii) the change(s) are set forth in a written instrument (a) executed and acknowledged by Declarant, if made prior to the Turnover Date, or (b) executed and acknowledged by each of the consenting Owners and certified by the Secretary of the Association, if made after the Turnover Date; and (iv) the change(s) are recorded in the Office of the Recorder of Deeds of Lake County, Illinois. Notwithstanding the foregoing, the Declarant may make any such change(s) in its sole and absolute discretion without the approval of the Association prior to the Turnover Date. However, if any amendments to the Declaration shall affect the rights of the Village as set forth herein or in any existing Village ordinance, the amendments must be approved by the Village.

Section 5. Special Amendment. Declarant reserves the right and power to record a special amendment (“Special Amendment”) to this Declaration at any time and from time to time for the following reasons: (i) to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran’s Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently aforementioned agencies or entities; (ii) to induce any of the aforementioned agencies or entities to issue, purchase, sell insure, or guarantee first mortgages for Lots in Duck Lake Crossing; (iii) to correct clerical or typographical errors in this Declaration, or in any Exhibit, supplement, or amendment thereto; or (iv) to include additional parcels of real estate as Property encumbered by these Covenants. In addition, a Special Amendment shall be deemed to include, until the Turnover Date, any amendment to this Declaration which Declarant elects to record, at any time and from time to time, for any other purposes, so long as such amendment will not materially impair the rights of the Owners hereunder or materially increase the expenses to be borne by such Owners pursuant to this Declaration. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to enact, approve or consent to a Special Amendment on behalf of each Owner, as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, or other document evidencing ownership of a Lot, and the acceptance thereof, shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power of the Declarant to enact, approve, execute and record Special Amendments. The right of the Declarant to act pursuant to the provisions of this Section shall terminate at such time as the Declarant no longer holds or controls title to any Lot in Duck Lake Crossing.

Section 6. Construction. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for development.

Section 7. Titleholding Trust. In the event title to any Lot is conveyed to a 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 beneficiary or beneficiaries, thereunder, from time to time, shall remain responsible for the payment of all obligations, liens of indebtedness chargeable against such Lot and the performance of all agreements, covenants and undertakings or created under this Declaration. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation created hereunder and the trustee shall not be required to sequester funds or trust property to pay in whole or in part, any such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien against the Lot and the beneficiary or beneficiaries of such trust, regardless of any transfer of the beneficial interest of any such trust or any transfer of title to such Lot.

Section 8. Common Area Control. To the extent that any real property taxes payable after the Conveyance are attributable to the period prior to the Conveyance Date, Declarant shall reimburse the Association, on a pro rata basis, for such real property taxes. Moreover, Declarant shall, no later than the Turnover Date, convey that portion of the Common Area, which is not dedicated to the Village, to the Association.

Section 9. Captions and Headings. All articles and section headings set forth herein are intended for convenience of reference only and shall not be construed to have any substantive effect on the provisions of this Declaration.

Section 10. Covenant in Event of Dissolution of Association. All Owners hereby covenant and agree that in the event the Association herein provided for shall be involuntarily dissolved, the vote of the majority of Owners shall determine the actions that will be taken as a result thereof. All Owners covenant and agree that no action will be taken with respect to the Homeowners' Association's maintenance duties referred to in Article V, Section 2 without the prior written consent of the Village.

Section 11. Severability. If by legislation, judgement or court order, any portion of the covenants, restrictions, easements, conditions, reservations, liens or charges imposed by this Declaration shall be found to be unconstitutional, invalid, or unenforceable, such determination shall in no way affect any other provisions of this Declaration and all provisions of this Declaration not so affected shall remain in full force and effect.

Section 12. Filing Current Addresses. Each Owner of a Lot shall file his or her correct mailing address with Declarant and shall notify Declarant promptly in writing of any subsequent change of address. Declarant shall maintain a file of such addresses and make the same available to the Association. A written or printed notice, deposited in the United States Post Office, postage prepaid, and addressed to any Owner at the last address filed by such Owner with Declarant shall be sufficient and proper notice to such Owner, whenever notices are required in this Declaration.

Section 13. Directors and Membership Meetings and Notices. All meetings of the Board of Directors or membership of the Association shall be called and conducted pursuant to the Articles of Incorporation and By-Laws of said Association, except as such By-Laws are expressly modified by the terms hereof.

Section 14. Covenant to Rebuild. In the event that it is necessary to rebuild any one or more Dwellings, whether by reason of fire, casualty or other occurrence, all Owners covenant that such reconstruction shall be executed in accordance with the original plan of development, executed as closely as possible, with all other existing Dwellings.

Section 15. Construction and Application. The singular shall include the plural, for purposes hereof, and the masculine, the feminine or neuter wherever it is so required, and vice versa.

Section 16. Village Ordinance and Regulations. This Declaration shall be governed by the local ordinances and regulations of the Village. Nothing herein contained shall be construed to violate any local ordinance or regulation of the Village or any other written agreement made between the Village and the Declarant.

IN WITNESS HEREOF, Duck Lake, LLC has caused its name to be signed to these presents by its duly authorized officers as of the date and year first above mentioned.

Duck Lake, LLC, by its Manager, Reserve One Homes, Inc.

By: \_\_\_\_\_

Attest: \_\_\_\_\_

STATE OF ILLINOIS)  
 )SS.  
COUNTY OF \_\_\_\_\_)

I, a Notary Public in and for the County in the State aforesaid, DO  
HEREBY CERTIFY that \_\_\_\_\_ and \_\_\_\_\_, the  
\_\_\_\_\_ and \_\_\_\_\_ who are personally  
known to me to be the same persons whose names are subscribed to the  
foregoing instrument as such \_\_\_\_\_ and \_\_\_\_\_,  
respectively, of Reserve One Homes, Inc, the Manager of Duck Lake, LLC,  
appeared before me this day in person and acknowledge that they signed  
and delivered the said instrument as a free and voluntary act, for the uses  
and purposes therein set forth.

Given under by hand and notarial seal this \_\_\_\_\_ day of  
\_\_\_\_\_, 200\_\_.

NOTARY PUBLIC

EXHIBIT A  
LEGAL DESCRIPTION OF  
THE PROPERTY

LOTS 1 THROUGH 36, BOTH INCLUSIVE, AND OUTLOT A AND OUTLOT B, ALL IN DUCK LAKE CROSSING, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 45 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 29, 2003 AS DOCUMENT NUMBER 5319035, IN LAKE COUNTY, ILLINOIS.

EXHIBIT B  
LEGAL DESCRIPTION OF  
THE PRIVATE PARK

“PRIVATE PARK” IN FIRST ADDITION TO CHRISTOPHER LARKIN’S DUCK LAKE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 15, ALL IN TOWNSHIP 45 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 9, 1927, IN BOOK “R” OF PLATS, PAGE 29, IN LAKE COUNTY, ILLINOIS.

THIS DOCUMENT WAS PREPARED BY & MAIL TO:  
JOSEPH GOTTEMOLLER  
MADSEN, SUGDEN & GOTTEMOLLER  
Attorneys at Law  
One N. Virginia Street  
Crystal Lake, IL 60014  
(815) 459-5152