

TICOR TITLE INSURANCE COMPANY

WK 168681

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS
FOR
LEISURE POINT RESORT HOMEOWNER'S ASSOCIATION
AS AMENDED AND RESTATED**

LaSALLE NATIONAL TRUST, N A. Successor Trustee to

WHEREAS, LaSalle Bank (herein called the "Land Trustee"), not personally but solely as Trustee under the provisions of that certain Trust Agreement dated the 28th day of October, 1994, and known as Trust Number 119137 (the "Land Trust") as successor in interest to Manufacturer's Affiliated Trust Company, not personally but solely as Trustee under the provisions of that certain Trust Agreement dated the 6th day of August, 1992, and known as Trust Number 11724, formed an Association known as the Leisure Point Resort Homeowner's Association (the "Association") pursuant to a Declaration of Covenants, Conditions, Restrictions and Easements (the "Declaration") as recorded in the Office of the Recorder of Deeds of Lake County, Illinois, as Documents No. 3223641, to promote and enhance the value and amenities of the Property (as hereinafter defined), maintain the exteriors of the Units (as hereinafter defined) located on the Property, and maintain and enforce the covenants, conditions, restrictions and reservations set forth in the Declaration; and

WHEREAS, the Land Trustee reserved itself the right to modify or amend the terms of said Declaration, including the right to add additional property to the Association, and now hereby modifies and amends said Declaration, on this 31 day of July, 1995, by restating the Declaration in its entirety by this instrument; and

WHEREAS, the Land Trust is the owner and legal title holder of certain real estate in the Village of Fox Lake, County of Lake and the State of Illinois, which real estate is legally described on Exhibit A attached hereto ("Parcel B"); and

WHEREAS, Janet M. Nixon and the Point Partnership, an Illinois general partnership (the "Point Partnership") is the owner and legal title holder and contract purchaser, respectively, of certain real estate in the Village of Fox Lake, County of Lake and the State of Illinois, which real estate is legally described on Exhibit B attached hereto ("Parcel C"); and

WHEREAS, Parcel B and Parcel C are sometimes collectively referred to herein as the "Property"; and

WHEREAS, the beneficiaries of the Land Trust and the partners of the Point Partnership (collectively the "Developer") desire to cause to be constructed on the Property, in conformity with a certain Planned Unit Development ordinance approved by the Village of Fox Lake on April 20, 1992, as amended, and other ordinances of the Village of Fox Lake, eighteen (18) individual single family

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dwelling units (such respective numbered lots, together with the individual dwelling units contemplated to be constructed thereon, are hereinafter referred to as the "Units"); and

WHEREAS, it is contemplated that each of the Units will be sold to individual purchasers (the "Owners") for the use as a residence, and that the remainder of the Property (the "Common Areas") shall be held subject to the provisions of this Declaration and eventually conveyed to a corporation or unincorporated association to be formed and to be conducted as hereinafter described (the "Association"), for the benefit of the Owners.

In order to accomplish the foregoing, the Land Trust and the Point Partnership, as legal title holder of Parcel B and Parcel C, respectively, hereby make the covenants, declarations and agreements and create the restrictions and easements herein set forth:

ARTICLE I

UNITS

1. Description and Ownership. All Units on the Property shall have lawful access to the Common Areas. Each Unit is identified by its lot number; lots 1 to 18 inclusive, unless otherwise described on Exhibit E attached hereto. Except as set forth on Exhibit E, the legal description of each Unit shall refer to such lot number. No Unit Owner shall deed, plat or otherwise subdivide or in any other manner cause his Unit (including his boat slip) to be separated into any tracts or parcels different from the whole Unit. Each Unit shall include one (1) boat slip; which boat slip shall be conveyed, as personal property, to a Owner with such Owner's Unit. The land underlying the boat slip, if any, shall be part of the Common Areas.

ARTICLE II

COMMON AREAS

1. Description. All portions of the Property, other than the Units themselves, shall be described as the "Common Areas" (except for such portions described as "Limited Common Areas") and shall be and are hereby declared to be subject to the covenants, agreements, easements and restrictions set forth in this Declaration, to be and remain in effect until such time as amended, modified or revoked in accordance with the provisions of this Declaration. The riparian rights applicable to the Common Areas shall not extend on Nippersink Lake more than twenty (20) feet beyond waterside of the sea wall.

2. Use and Ownership. Except as otherwise limited in the Declaration, all of the Unit Owners shall have the right to use the Common Areas (except for those portions described as "Limited Common Areas") for all purposes incident to the use and occupancy of his Unit as a place of residence, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his Unit. Such right shall extend to each Unit Owner, and the agents, servants, tenants, family members and invitees of each Unit Owner, including, without limitation, the right of ingress and egress over, upon and across the private streets and paths in or upon the Common Area, and not for the use or benefit of the public generally.

3. Limited Common Areas. The Limited Common Areas are such parts of the Common Areas serving exclusively a single Unit or adjoining Units as an inseparable appurtenance thereto, as designated as such in this Declaration, or which by the nature or location thereof, or by the terms of this Declaration, are clearly intended to be reserved for or for the use of one or more Units to the exclusion of other Units. The Limited Common Areas shall include, but shall not be limited to, the following: (a) the patios adjacent to a Unit, which serve exclusively a single Unit, to the extent such patio encroaches onto the Common Areas; (b) any system or component part thereof (including, without limitation, the furnaces, boilers, fittings, housings, ducts, flues, shafts, electrical wiring, conduits and the areas or rooms containing them) which serves a Unit exclusively, to the extent that such system or component part is located outside the boundaries of a Unit; and (c) the driveway adjacent to a Unit which serves exclusively that Unit.

4. Use of Limited Common Areas. Each Unit Owner and occupant shall have the right to (a) the exclusive use and possession of the Limited Common Areas serving exclusively the Unit which right shall be appurtenant to and shall run with title to such Unit, and shall not be separated from such Unit, and (b) the use and possession of the Limited Common Areas serving the Unit in common with one or more (but not all) other Units, which use and possession shall be to the exclusion of all other persons except the Unit Owner and occupant of any such other Unit to which such Limited Common Areas shall respectively appertain.

5. Ingress and Egress. There shall be upon the Common Areas such private streets and paths as shall be necessary to provide ingress and egress to and from the Units for the use and benefit of the Owners of the Units and their guest and invitees.

6. Landscaping. There may be upon the Common Area such trees, shrubs and other landscaping as the Association shall determine from time to time, and as shall be in conformity with all applicable government laws, ordinances and regulations.

7. Prohibition on Structures and Business Use. Except as herein provided for, there shall be no structures or enclosures above the ground of the Common Areas and no public commercial or business use of any kind shall be permitted therein.

8. Private Streets. It is expressly and irrevocably stipulated and agreed that notwithstanding any other term or provisions hereof, no automobiles, trucks, boats or other vehicles shall be parked or left standing unattended at any time upon any of the private streets upon the Common Areas, or operated upon any of said private streets in any manner violative of any law or ordinance which would be applicable if said private streets were public streets, unless and then only so long as express permission by ordinance or otherwise shall be given by the Village of Fox Lake; and that said Village of Fox Lake shall have, and is hereby granted, all the rights to enact and enforce the provisions of this Article II, Section 8, both by imposition of fines and other penalties and by removal of violating vehicles as said Village would at the time have if said private streets were public streets within the jurisdiction of said Village. It is expressly agreed that the provisions of this Article II, Section 8 may not be altered, amended or revoked without the consent of the Village of Fox Lake thereto.

9. License and Easement to the Village of Fox Lake. An irrevocable license and easement is hereby granted to said Village of Fox Lake to go upon the Property at any time and from time to time for the purpose of maintenance and repair of water, sewage and any other facilities under the control of said Village or which said Village shall deem to require maintenance or repair, for the purpose of keeping the private streets and paths thereon open at all times for the passage of fire, police and other emergency vehicles, personnel and equipment, including but without limitation, the removal of snow and other obstructions from said streets and paths and for the purpose of the enforcement of any of the rights or privileges granted to said Village herein. Nothing herein contained shall require said Village to do any of the things herein authorized for it to do, or to excuse the Association from any of its obligations with respect thereto, but said Village is hereby granted the right to make such reasonable charges for the performance of any such action as it shall deem appropriate, which charges shall be a lien upon the Property until paid; provided, however, that such lien shall be subordinate and inferior to the lien of any prior mortgage upon the Property.

10. Right to Grant Other Licensees and Easements. The right is reserved to the Association to make and grant, in additions to those otherwise in force, such easements and rights of, over, upon and under the Common Area or any part thereof for the construction and maintenance of facilities for the supply of water, electricity and gas, the furnishing of telephone service, TV cable service, and the removal of sewage and waste and other utilities, as shall be

necessary or appropriate in order to provide said service to all the Units and the Owners from time to time thereof. Further, the right is reserved to the Association to make and grant such easements and rights over, upon and under the Common Areas as shall be necessary or appropriate in order to more fully establish and maintain the rights of ingress and egress described hereof, including mutual easements with the owners of that certain real estate adjacent to the Property in the Village of Fox Lake, County of Lake and State of Illinois, which real estate is legally described on Exhibit C attached hereto ("Parcel A"), upon which presently sits a restaurant, to provide mutual ingress and egress over the private streets to the restaurant. Notwithstanding anything herein to the contrary, it is expressly understood and agreed that under no circumstances may the easement of ingress and egress with the owners of Parcel A be reduced or denied without the consent of the owners of Parcel A.

11. Additional Rules and Regulations. The Common Areas and the use thereof shall be subject to such additional rules and regulations as shall be in force from time to time by reason of action taken by the Association pursuant this Declaration. Notwithstanding anything herein to the contrary, the Association shall be first and foremost governed by the laws of the Village of Fox Lake.

ARTICLE III

GENERAL PROVISIONS AS TO UNIT AND COMMON AREAS

1. Easements.

(a) Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any part of any Unit, or any part of if any Unit encroaches or shall hereafter encroach upon any part of the Common Areas, as a result of the construction, repair, reconstruction, settlement or shifting, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such Unit or Common Areas so encroaching; provided, however, that after the date this Declaration is recorded, a valid easement for an encroachment shall in no event be created in favor of any Unit Owner other than the Developer or in favor of the Owners of the Common Areas if such encroachment occurred due to the willful conduct of said Unit Owner or Owners. The parties hereto acknowledge that the patios of certain Units encroach onto the Common Areas.

(b) Utility Easements. The Village of Fox Lake, Lake County, and all public utilities, including Ameritech, Commonwealth Edison Company and Northern Illinois Gas, serving the Property are hereby granted the right to lay, construct, renew, operate and maintain conduits, cables, pipes, wires, transformer