



THE GALENA TERRITORY
ASSOCIATION, INC.

General Declaration of Covenants and Restrictions

Established July 23, 1973

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**GENERAL DECLARATION
OF
COVENANTS AND RESTRICTIONS**

THIS DECLARATION, made this 23rd day of July, 1973, by THE BRANIGAR ORGANIZATION, INC., an Illinois corporation herein called "the Developer".

**ARTICLE I
DECLARATION - PURPOSES**

Section 1. **General Purposes:** The Developer is the owner of certain real property located in Jo Daviess County, Illinois, and desires to create thereon a planned community development provided with common properties designed for the private use of owners within such development, except as herein otherwise provided.

- (a) The Developer desires to provide for the preservation of the values and amenities in said planned community development and for the maintenance of the open spaces and other common properties and to this end desires to subject the real property described in Article III, together with such additions as hereafter may be made thereto as provided in Article III, to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.
- (b) The Developer has deemed it desirable for the efficient preservation of the values and amenities in said planned community development to create an entity to which the common properties will be conveyed and transferred, and to which will be delegated and assigned the powers of maintaining and administering the common properties and administering and enforcing the covenants and restrictions and collection and disbursing the assessments and charges hereinafter created. For that purpose, the Developer has caused to be incorporated under the laws of the State of Illinois a nonprofit corporation known as "The Galena Territory Association, Inc."

Section 2. **Declaration:** To further the general purposes herein expressed, the Developer, for itself, its successors and assigns, hereby declares that the real property hereinafter described in Article III as "existing properties"; and such additions to the existing properties as hereinafter may be made pursuant to the provisions of Article 3 hereof, whether or not referred to in any deed of conveyance of such properties, at all time is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth. The provisions of this Declaration are intended to create mutual equitable servitudes upon each lot becoming subject to this Declaration in favor of each and all other such lots; 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 becoming 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 or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to "The Galena Territory Association, Inc.", its successors and assigns.

- (b) "The Properties" shall mean and refer to Existing Properties, and all additions to the Existing Properties subject to this declaration.
- (c) "Existing Properties" shall mean and refer to the real estate described in Article III Section 1. hereof.
- (d) "Common Properties" shall mean any real property and improvements thereon and any personal property or equipment with respect to which the Developer grants, assigns or conveys to the Association, title, interest in or rights of use, or with respect to which the Developer permits use by the Association and its members, and any replacement of or for any of the foregoing.
- (e) "Lot" shall mean any plot of land described by a number upon any recorded subdivision map of the Properties, but shall not include any plot designated therein as a "tract".
- (f) "Living Unit" shall mean and refer to any portion of a Multi-Family Structure situated upon the properties designed for occupancy by a single family.
- (g) "Multi-Family Structure" shall mean any building containing two or more Living Units under one roof or any cluster of Living Units of single or multiple story construction, whether detached or joined by common walls, situated upon any lot designated for multi-family residential use.
- (h) "Single Family Residential" shall mean any of the Properties restricted by Supplemental Declaration to use for improvement with dwellings.
- (i) "Multi-Family Residential" shall mean any of the Properties restricted by Supplemental Declaration to use for improvement with Multi-family Structures.
- (j) "Owner" shall mean the record owner, (whether one or more persons or entities), of the fee simple title to or the contract purchaser for any Lot or Living Unit situated upon the Properties; but, notwithstanding any applicable theory of the Deed to Secure Debt, shall not mean or refer to any holder thereof unless and until such holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosures.
- (k) "Member" shall mean all those owners who are members of the Association as hereinafter provided, except that the Developer shall not be a Member.
- (l) "Dwelling Lot" shall mean any Lot intended for improvement with a dwelling.
- (m) "Dwelling" shall mean any building located on a Dwelling Lot and intended for the shelter and housing of a single family.
- (n) "Dwelling Accessory Building" shall mean a subordinate building or a portion of a Dwelling, the use of which is incidental to the Dwelling and customary in connection with that use.
- (o) "Single Family" shall mean one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not all so related, together with his or their domestic servants, maintaining a common household in a Dwelling.
- (p) "Story" shall mean that portion of a Dwelling included between the surface of any floor and the surface of a floor next above, or if there is no floor above, the space between the floor and the ceiling next above.
- (q) "Living Area" shall mean that portion of a Dwelling which is enclosed and customarily used for Dwelling purposes and having not less than six (6) feet headroom, but shall not include open porches, open terraces, breezeways, attached garages, carports or Dwelling Accessory Buildings.
- (r) "Structure" shall mean any building or other improvement erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something

having a permanent location on or in the ground. A sign or other advertising device, attached or projecting, shall be construed to be a separate Structure.

(s) "Committee" shall mean the Architectural Review Committee.

ARTICLE III EXISTING PROPERTIES - ADDITIONS THERETO - MERGERS:

Section 1. **Existing Properties.** The real property which is and shall be held transferred, sold, conveyed and occupied subject to this Declaration is located in Jo Daviess County, Illinois and more particularly described as follows:

Lots 1 to 132 (both inclusive) in Shenandoah Unit 1 of Branigar's Galena Territory, a Subdivision in Jo Daviess County, Illinois according to Plat of Record recorded with the Recorder of Deeds in Plat Book 14, Page 5, 6, 7 and 8.

Section 2. **Additions to Existing Properties.** The Developer is the owner of, or has the right to acquire, 6,500 acres, more or less, including the Existing Properties, comprising a single tract of land in Jo Daviess County, Illinois. The Developer, its successors and assigns, in accordance with Developer's General Plan of Development for The Galena Territory, shall have the right to bring within the scheme of this Declaration in future stages of development any part or all of said lands which are not included in the Existing Properties. The additions authorized under this, and Article III Section 3, shall be made by filing of record a Supplemental Declaration of covenants and restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property. Any Supplemental Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of use of the added property, as are not inconsistent with the scheme of this Declaration. Any such additional property, when made subject to the scheme of this Declaration, will become subject to assessment for its just share of Association expenses in accordance with the scheme of this Declaration. In no event shall any such supplementary declaration revoke, modify or add to the covenants established by this Declaration with respect to the existing properties in any manner which would substantially alter the scheme of this Declaration.

Section 3. **Other Additions.** The Developer reserves the right to bring within the scheme of this Declaration any additional lands which are contiguous or adjacent to or within the immediate vicinity of the lands referred to in Article III Section 1 and Section 2 and which now are or hereafter may be owned by Developer and subjected to the scheme of this declaration, provided that Developer provides with respect to such additional lands, open areas and recreational or other facilities which, in developer's sole discretion, will not unjustly dilute the available facilities within the Properties as so expanded.

Section 4. **Mergers.** In the event of a merger or consolidation of the Association with another association as authorized by its Articles of Incorporation, its properties, rights and obligations may be transferred to another surviving or consolidated association. Alternatively, if the Association is the surviving corporation in a merger or consolidation, it may administer the covenants and restrictions established by this Declaration within the Existing Properties together with the covenants and restrictions established upon any, other properties, as one scheme. However, no such merger or consolidation shall effect any revocation, change or addition to the covenants established by this Declaration with respect to the Existing Properties or any Supplemental Declaration with respect to any additions thereto, except as hereinafter provided.

ARTICLE IV ARCHITECTURAL REVIEW PROCESS:

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

Section 2. **The Committee.** To achieve Developer's objectives, the Developer shall create the Committee with power to administer this Declaration with regard to approving or disapproving those matters which are expressed herein to be within the jurisdiction of the Committee. The Committee shall consist of not less than three members. The names and addresses of the persons who from time to time comprise the membership of the Committee shall be furnished the Association. Matters requiring approval of the Committee be submitted to its Chairman, or as the Committee otherwise designates. The function of the Committee shall be transferred to the Association at any time at the option of the Developer.

Section 3. **Matters Requiring Approval.** Prior written approval shall be obtained from the Committee with respect to all matters stated in this Declaration as requiring such approval. In addition thereto, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, nor shall any clearing of trees or change of property grade be made until the plans and specifications showing the nature, kind, shape, elevations, heights, materials and color, location and grade, proposed landscaping, design and proposed location on the lot of the sanitary disposal system, of the same shall have been submitted to and approved in writing by the Committee.

Section 4. **Procedure.** Whenever approval is required of the Committee, appropriate plans and specifications shall be submitted to the Committee. The Committee shall either approve or disapprove such design and location and proposed construction and clearing activities within thirty days after said plans and specifications have been submitted to it; except that, if such plans and specifications are disapproved in any respect, the applicant shall be notified wherein such plans and specifications are deficient. The Committee may withhold approval for any reason deemed by it to be appropriate, including aesthetic reasons, except that approval will not be withheld for capricious or unreasonable reasons. If such plans and specifications are not approved or disapproved within thirty days after submission, approval will not be required and this Article will be deemed fully complied with. At the discretion of the Committee a reasonable filing fee established by the committee shall accompany the submissions of such plans to defray expenses except that so long as the committee is under developer's control such fees shall not exceed \$50.00. No additional fee shall be required for resubmission of plans revised in accordance with recommendations made upon disapproval. A copy of each approved set of plans and specifications shall be kept on file with the Committee.

Section 5. **Deviations From Covenants and Restrictions.** The Committee shall have the power to enter into agreements with the owner of any lot, without the consent of the owner of any other lot, or adjoining or adjacent property, to deviate from the provisions of the covenants and restrictions within the jurisdiction of the Committee for reasons of practical difficulty or particular hardships which otherwise would be suffered by such owner. Any such deviation, which shall be manifested by written agreement, shall not constitute a waiver of any such covenant as to other lots in the Properties.

ARTICLE V GENERAL RESTRICTIONS

Section 1. **Land Use - Single Family Residential.** Any portion of the Properties designated by Supplemental Declaration for "Single Family Residential" use shall be used only as dwelling lots for single family residences and shall be subject to the restrictions set forth in this Article V or as modified or added to by the provisions of the Supplemental Declaration pertaining thereto. Except as may be otherwise provided in the supplemental Declaration, no building shall be erected on any such lot except one dwelling designed for occupancy by a single family and one dwelling accessory building designed for use in conjunction with said dwelling as a private garage or servants' quarters or a combination of both. No structure may be erected or maintained on any such lot except as shall be approved in writing by the Committee.

Section 2. **Land Use - Multi-Family Residential.** Any portion of the Properties designated by Supplemental Declaration for "Multi-Family Residential" use shall be used only for improvement with multi-family structures and shall be subject to the restrictions set forth in this Article V or as modified or added to by the provisions of the Supplemental Declaration pertaining thereto.

Section 3. **Quality of Structures.** It is the intention and purpose of these covenants to insure that all structures shall be of a quality of design, workmanship and materials which are compatible and harmonious with the natural setting of the area and other structures within the development. All structures

shall be constructed in accordance with applicable government building codes and with more restrictive standards that may be required by the Committee.

Section 4. **Location of Structures on Lot.** The developer deems that the establishment of standard inflexible building setback lines for location of structures on individual lots would be incompatible with the objective of preserving the natural setting of the area and preserving and enhancing existing features of natural beauty and visual continuity of the area. Therefore, the location of each structure, including driveways and culverts, on a lot shall be subject to approval in writing by the Committee, giving consideration to setback lines, if any, on the recorded plat, provided that each Owner shall be given reasonable opportunity to recommend the suggested construction site.

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

Section 6. **Temporary Structures.** No trailer, mobile home, recreational vehicle, tent, shack or other structure, except as otherwise permitted herein or in the applicable Supplemental Declaration, and no temporary building or structure of any kind shall be used for a residence, either temporary or permanent. Temporary structures used during the construction of a structure shall be on the same lot as the structure and such temporary structures shall be removed upon completion of construction.

Section 7. **Completion of Construction.** Any construction undertaken on any lot shall be continued with diligence toward the completion thereof and construction of any Dwelling shall be completed within one year from commencement of construction, except that such period may be extended for a reasonable time by reason of act of God, labor disputes or other matters beyond the owner's control. No structure shall be deemed completed until installation of approved landscaping.

Section 8. **Maintenance of Lots.** All lots, including adjacent parkway's, whether occupied or unoccupied, and any improvements placed thereon at all times shall be maintained in such manner as to prevent their becoming unsightly, unsanitary, or a hazard to health. If not so maintained, the Association shall have the right, through its agents and employees to do so, the cost of which shall be added to and become a part of the annual assessment with respect to such Lot. Neither the Association nor any of its agents, employees or contractors shall be liable for trespass or any damage which may result from such work.

Section 9. **Lot Appearance.** No person shall accumulate on his Lot junked vehicles, litter, refuse or other unsightly materials. Garbage shall be placed in receptacles provided therefore and if outside shall be properly screened. Fuel tanks shall be underground or properly shielded.

Section 10. **Other Prohibited Matters.** Except as otherwise permitted by the Supplemental Declaration: No animals other than unoffensive common domestic household pets such as dogs and cats, shall be kept on any lot. No home occupation or profession shall be conducted on any lot except as may be authorized by the Committee. Habitual parking of commercial vehicles on any lot or parking area adjacent is prohibited. No model home or homes shall be permitted on any lot or lots except by prior written authorization of Developer. Habitual parking on roadways is prohibited.

Section 11. **Easements Reserved with Respect to Lots.** Developer reserves for itself, its successors and assigns, easements over each Lot, and the right to ingress and egress to the extent reasonably necessary to exercise such easements, as follows:

- (a) Utility easements shown on any recorded Plat of the Properties, except that if any plat fails to establish easements for such purposes than a 10-foot side strip running along side lot lines, front lot line and rear lot line of Dwelling Lots is reserved for the installation and maintenance of utility facilities, and incidental usage related thereto.
- (b) The Owner shall not place any structure on any such easement and shall be responsible for maintaining the easement and any damages caused by user of right to the easement shall be repaired and restored by such user.

- (c) Prior to commencement of construction upon any lot, the Developer, its successors, assigns and licensees, shall have the right to enter upon any lot for the purpose of removing offensive underbrush or for pest control purposes. No such entry shall be deemed a trespass.
- (d) No Owner shall have any claim or cause of action, except as herein provided, against Developer, its successor, assigns, or licensees arising out of exercise or nonexercise of any reserved easement except in cases of willful or wanton misconduct.

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

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

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

- (a) The Association will accept conveyance of the Common Properties which the Developer is obligated to or, may convey to the Association.
- (b) The Association will preserve and maintain for the common benefit of its Members, and other users of right, all of the Common Properties which it shall own, shall pay any taxes assessed thereon, carry insurance with respect thereto as determined by its Board of Directors, and shall keep the same in good and sightly appearance.

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

- (a) Rights of the Developer, its successors, assigns, licensees and sub-licensees as herein reserved.
- (b) The right of the Association, in accordance with its by-laws, to borrow money for the purpose of improving the Common Properties, and in addition thereto, to mortgage such properties. In the event of a default upon any such mortgage, the lender's rights shall be limited to the right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all Members' rights fully restored.
- (c) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosures.
- (d) The right of the Association, as provided in its Articles and By-Laws, to make reasonable rules and regulations with respect to the use of the Common Properties and to suspend enjoyment rights of any Member for any period during which any assessment against such Member remains unpaid, and for any period not to exceed thirty days, for any infraction of its published rules and regulations.
- (e) Except as otherwise provided herein, the right of the Association to charge reasonable admission and other fees for the use of the Common Properties where such use results in an added expense to the Association and added benefits to the using Members.
- (f) "The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency; authority or utility, subject to the conditions and limitations as provided in its Articles of Incorporation."

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

- (a) An easement is reserved with respect to all open areas conveyed to the Association pursuant to this Declaration, to install, lay, construct, renew, operate and maintain utility lines and conduits and underground or overhead poles and equipment, and structures and devices relating to utility services for the purpose of serving the properties with telephone, electricity, water, sewer service and other utility services; and Developer, its successors and assigns, through authorized representatives, may enter upon such areas at all times for any such purposes, and cut down and remove any trees or bushes that interfere or threaten interference with any such right of use.
- (b) An easement is reserved for surface drainage over any open areas.
- (c) The Developer reserves for itself, its successors, assigns, licensees and sublicensees the non-exclusive use, in common with Members, of the open areas (including lakes) for recreation purposes.
- (d) The Developer reserves for itself, its successor and assigns, the right from time to time to construct additional recreational facilities and structures upon any of the open within the properties areas which are Common Properties, and at sites selected by Developer, which additional facilities upon completion will be a part of the Common Properties.
- (e) The Developer reserves for itself, its successor and assigns, the right to use at all times, without rental, any of the open areas which are Common Properties for the purpose of pasturing and grazing animals and growing and harvesting of hay and other feed crops. Such right shall include fencing of areas used for such purposes but use of such right shall not be in a manner so as to interfere with the continuity of any established trail systems in such areas or any trail systems which the Association reasonably may desire to establish them.
- (f) Agents, representatives and licensees of the Developer shall have the right at all times to enter upon the open areas for the purpose of exercising any such reserved rights, and no such entry shall constitute trespass, provided that no such entry shall interfere unreasonably with the use and enjoyment of the Common Properties by the Members, except as restricted herein.
- (g) The Developer, its successors and assigns, by their agents and representatives, reserves the right during the sales period of the development, but not exceeding ten (10) years from the date of recording of this Declaration, at all times to bring prospective customers upon any and all of the Common Properties, except the exercise of such right shall not unreasonably interfere with the use of the Common Properties by Members.

**ARTICLE VII
MEMBERSHIP AND VOTING RIGHTS
IN THE ASSOCIATION:**

Section 1. **Membership.** Every person or entity, except the Developer, who becomes an Owner of any Lot or Living Unit subject to the provisions of this Declaration and which is subject to assessment by the Association automatically shall be a member of the Association by acceptance of a Deed or Conveyance or by entering into a contract for purchase of such Lot or Living Unit, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

Section 2. **Voting Rights.** The Association shall have one class of members who shall be the persons or entities as provided in Article VII Section 1. Each Member shall be entitled to one vote for each Lot or Living Unit in which he holds the interest required for membership. When more than one person holds such interest, all such persons shall be Members and the vote for such Lot or Living Unit shall be exercised as they among themselves shall determine, but in no event shall more than one vote be cast with respect to any such Lot or Living Unit.

- (a) For purposes of determining votes allowed pursuant to this Article, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.

**ARTICLE VIII
COVENANT FOR
MAINTENANCE ASSESSMENTS**

Section 1. **Creation of the Lien and Personal Obligation with Respect to Assessments.** The Developer, for each Lot and Living Unit within the properties subjected to the provisions of this Declaration, hereby covenants and each owner of any such Lot or Living Unit, by acceptance of a deed therefore or contract for the purchase thereof (whether or not it shall be so expressed in any such deed or contract), shall be deemed to covenant for himself, his heirs, representatives, successors and assigns to pay to the Association an annual assessment. All such assessments, together with interest thereon and cost of collection thereof, shall be a charge on the land with respect to which such assessments are made and shall be a lien against such land when such lien is perfected as provided in this Article. Each such assessment, together with interest thereon and costs of collections thereof, also shall be the personal obligation of the person who is the owner of such assessed land at the time when the assessment fell due.

Section 2. **Purpose of Assessments - Annual Assessments.** The annual assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of, the Members, and for the improvement and maintenance of the Common Properties, and to providing services and facilities related to all or any of the foregoing matters, and of the Members, including, but not limited to, discharge of the obligations of the Association as imposed by this Declaration, payment of taxes, if any, upon the Common Properties, payment of insurance with respect to the Common Properties and repairs, replacement and additions thereto, payment for any services provided to Members with respect to the foregoing matters, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. **Amount of Assessments, Change in Amount and Date of Commencement.** The annual assessment for each year, commencing with the assessment made with respect to the calendar year 1976, shall be \$100.00. No assessment shall be made with respect to any period prior to 1976. The Board of Directors of the Association, by resolution adopted in the manner provided in its By-Laws may increase the amount of the annual assessment for any future year, except that the amount of the increase for any year shall not exceed 15% of the annual assessment for the preceding annual period unless an annual assessment of a greater amount for such year shall have been approved by vote of Members as provided in the By Laws of the Association.

Section 4. **Effect of Nonpayment of Assessment; the Lien; Personal Obligation of the Owner.** If any assessment is not paid on the date when due, such assessment thereupon shall become delinquent and from and after the time when the Association shall have filed against the delinquent property with the Recorder of Deeds an appropriate instrument setting forth such delinquency, such assessment, together with interest thereon and cost of collection thereof as hereinafter provided, shall become a continuing lien upon the property against which such assessments are made and shall bind such property in the hands of the then Owner, his heirs, representatives, successor and assigns. The personal obligation of the then Owner to pay such assessment shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

Section 5. **Interest; Remedies of the Association.** Delinquent assessments shall bear interest at the rate of 8% per annum from the date of delinquency. The Association may bring either an action at law against the person personally obligated to pay the same, or to foreclose the lien against the property and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest as provided and reasonable attorney's fees to be fixed by the court, together with the costs of such action.

Section 6. **Exempt Property.** Notwithstanding the foregoing, no assessments, charges or liens shall be assessed with respect to Lots owned by the Developer(except Lots subject to purchase contracts).

Section 7. **Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien or any mortgage or deed to secure debt now or hereafter placed upon the properties subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosures, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not

relieve such property from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

Section 8. **Proof of Payment.** The Association upon request and payment of a service fee of not more than \$15.00 at any time shall furnish any Owner liable for any assessment a certificate in writing signed by an officer of the Association setting forth what assessments, if any which have been made with respect to said Owner's property and which are unpaid. Such certificate shall be conclusive evidence with respect to the matters certified therein.

ARTICLE IX SANITARY DISPOSAL:

Section 1. Except as otherwise provided by Supplemental Declaration, sanitary disposal for each lot shall be by means of a septic system or other approved method designed by a registered professional engineer or registered sanitarian. Before installation, the design plans for the system shall be submitted to and a permit for installation obtained from Jo Daviess County Health Department or any other governmental authority having jurisdiction. Any such system as installed shall be subject to inspection and final approval by the approving authority before backfilling. The cost of installation of the system shall be borne by the Owner. Final approval by the Committee of building plans shall be subject to issuance of the required permit for sanitary disposal.

ARTICLE X WATER SERVICE:

Section 1. At such time as the owner shall elect to connect a service line to said system main, the owner shall pay a minimum connection charge of Two Hundred Seventy Five Dollars (\$275.00) to said utility. Thereafter owner shall pay for usage of water at reasonable rates, subject to a minimum monthly charge, established by said utility. Said monthly amount for availability of water, connection charge and water usage rates shall be subject to reasonable alteration, modification and revision by said utility and may be billed monthly, bi-monthly, quarterly or semi-annually at the option of said utility.

Section 2. Unpaid amounts billed for availability of water, connection charge and water usage rates shall constitute a lien upon and encumber the Lot or Lots with respect to which the charges shall have been made and the utility, its successors and assigns, shall have the same rights and remedies to record and foreclose such liens and collect such charges as are reserved to the Association with regard to its charges as set forth in ARTICLE 8 hereof.

ARTICLE XI GENERAL PROVISIONS:

Section 1. **Duration.** The covenants and restrictions set forth in this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owners of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of 20 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by the then owners of two-thirds of the Lots and Living Units has been recorded agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement or change shall be effective unless made and recorded one year in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety days in advance of any action taken.

Section 2. **Notices.** Any notice sent or required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly given when mailed, postage prepaid, to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of mailing.

Section 3. **Enforcement.** Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction. Such action may be either to restrain violation or to recover damages, or against the land, to enforce any lien created by these covenants. Failure by the Association or any Owner to enforce any

covenant or restriction herein contained in no event shall be deemed a waiver of the right to do so thereafter.

Section 4. **Modification.** By recorded Supplemental Declaration, the Developer may modify any of the provisions of this Declaration of any Supplemental Declaration for the purpose of clarification or otherwise, provided no such modification shall change the substantive provisions of this Declaration or any Supplemental Declaration or materially alter the rights of any Owner established by such document.

Section 5. **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order in no way shall affect any other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the foregoing instrument has been executed and its corporate seal thereunto affixed, on the day and year first above written by the officers of the undersigned thereunto duly authorized.

THE BRANIGAR ORGANIZATION, INC.

By: /s/ Lester L. Harber
Vice President

ATTEST: /s/ Joseph T. Cesario
Secretary

STATE OF ILLINOIS
COUNTY OF

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Lester L. Harber personally known to me to be the Vice President of THE **BRANIGAR ORGANIZATION, INC.** and Joseph T. Cesario personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Secretary, they signed and delivered the said instrument as Vice President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this _____ day of
_____ 1973.

Notary Public

Commission expires _____

