

AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS  
FOR  
VILLAS OF TUSCANY  
AND  
BYLAWS  
OF  
THE VILLAS OF TUSCANY CLUSTER HOMEOWNERS ASSOCIATION

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR VILLAS OF TUSCANY RECORDED AT INSTRUMENT NO. 54330796 AND THE BYLAWS OF THE VILLAS OF TUSCANY CLUSTER HOMEOWNERS ASSOCIATION RECORDED AT INSTRUMENT NO. 56380742 OF THE SUMMIT COUNTY RECORDS.

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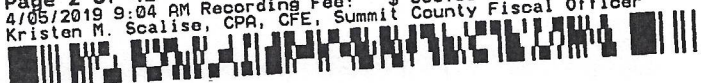
RECITALS

A. The Declaration of Restrictions, Covenants and Easements for Villas of Tuscany ("Original Declaration") was recorded on August 19, 1999, at Instrument No. 54330796 of the Summit County Records and the Bylaws of The Villas of Tuscany Cluster Homeowners Association ("Original Bylaws") were recorded on May 3, 2018, at Instrument No. 56380742 of the Summit County Records.

B. This Amended and Restated Declaration of Restrictions, Covenants and Easements for Villas of Tuscany ("Amended and Restated Declaration") and Amended and Restated Bylaws of The Villas of Tuscany Cluster Homeowners Association ("Amended and Restated Bylaws") incorporates the Original Declaration, the Original Bylaws, the Modifications to the Original Declaration recorded on June 15, 2001, at Instrument Number 54558836, the Amendments to the Original Declaration recorded on March 8, 2007, at Instrument No. 55421171, and the Amendments to the Original Declaration and Original Bylaws recorded on May 3, 2018, at Instrument No. 56380742 of the Summit County Fiscal Records. The result is a single text that is written as if the text of the above-referenced Amendments had been included in the Original Declaration and the Original Bylaws.

C. This Amended and Restated Declaration and the Amended and Restated Bylaws have been prepared at the direction of Villas of Tuscany Homeowners Association, Inc. ("Association") for the convenience of the Owners as well as for prospective purchasers of Lots within Villas of Tuscany.

D. Owners and prospective Owners are reminded that this Amended and Restated Declaration and this Amended and Restated Bylaws do not materially amend the Original Declaration, the Original Bylaws, and all recorded



Amendments thereto. The Original Declaration. Original Bylaws, and all recorded Amendments thereto are available for review at the Summit County Fiscal Office. Any inconsistency between the Original Declaration. Original Bylaws, and Amendments thereto, and this Amended and Restated Declaration and this Amended and Restated Bylaws will be resolved in favor of the Original Declaration, Original Bylaws, and each of the Amendments thereto.

#### AMENDMENT

The Original Declaration and Original Bylaws are amended and retyped as attached hereto.

The Villas of Tuscany Homeowners Association, Inc. has caused the execution of this instrument this 18<sup>th</sup> day of March, 2019.

VILLAS OF TUSCANY HOMEOWNERS ASSOCIATION, INC.

By:

Rosemary McKinney  
ROSEMARY MCKINNEY, President

By:

Carl Sorboro  
CARL SORBORO, Treasurer



STATE OF OHIO )

COUNTY OF Summit )

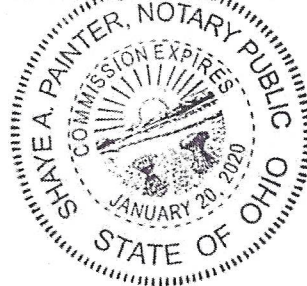
SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Villas of Tuscany Homeowners Association, Inc., by its President and its Treasurer, who acknowledged that they did sign the foregoing instrument, on Page 3 of 4, and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

I have set my hand and official seal this 18<sup>th</sup> day of March, 2019.

Shayle A. Painter  
NOTARY PUBLIC

Place notary stamp/seal here:



This instrument prepared by:  
KAMAN & CUSIMANO, LLC, Attorneys at Law  
2000 Terminal Tower  
50 Public Square  
Cleveland, Ohio 44113  
(216) 696-0650  
ohiohoalaw.com

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**AMENDED AND RESTATED**  
**DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS**  
**FOR**  
**VILLAS OF TUSCANY**

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AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS  
FOR  
VILLAS OF TUSCANY

This Declaration of Restrictions, Covenants and Easements for Villas of Tuscany is made and entered into the day and year set forth above the signature line below by MACEDONIA LAND DEVELOPMENT, LTD., an Ohio Limited Liability Company, which with its successors and assigns is herein called "Declarant".

WHEREAS, Declarant conveyed to the Villas of Tuscany Homeowners Association certain real property situated in the City of Macedonia, County of Summit and State of Ohio, which is more fully described on Exhibit A, which is attached hereto and incorporated herein by reference, and which is set forth and subdivided on the plat for Villas of Tuscany, recorded in Plat 54330795, of the Record of Plats of Summit County, Ohio (herein called the "Property").

NOW, THEREFORE, Declarant established (a) a general and uniform plan for the improvement, development, ownership, use, maintenance and sale of the Property, and (b) the manner, provisions, conditions, easements, restrictions and covenants upon and subject to which the Property shall be used, improved, occupied, owned, maintained, sold and conveyed. The Property shall be used, improved occupied, owned, maintained, sold and conveyed perpetually subject to the provisions, conditions, easements, restrictions and covenants set forth herein, all of which are, and each of them is, impressed and imposed upon each and every part of Property and shall run with the land and all of which shall apply to, be binding upon and insure to the benefit of any person who may hereafter become the Owner of any interest in the Property or any part thereof, including, but not limited to, any mortgagees having any lien upon all or any portion of the Property. Acceptance of a deed for all or any portion or any interest in the Property or acceptance of any interest in all or any portion of the Property shall constitute the recipient's acceptance of and covenant to be bound by and to perform all of the provisions hereof, including, but not limited to, the right of the Association to create and impose a lien on the interest in the Property so acquired and to enforce it, as provided below, whether or not the provisions hereof are expressly set forth in or are referred to in any deed or other instrument.



## ARTICLE I DEFINITIONS

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

(a) "Association" shall mean and refer to the Villas of Tuscany Homeowners Association, an Ohio not-for-profit corporation, formed for the purposes of maintaining and administering the Common Property, providing services of general benefit to the Owners of Lots, administering and enforcing the provisions hereof, and collecting and disbursing the assessments and exercising the other functions hereinafter provided.

(b) "Common Properties" shall mean and refer to those areas of land designed as "Common Property" on any recorded plat of the Property or any part thereof.

(c) "Declaration" shall mean this Declaration of Restrictions, Covenants and Easements for Villas of Tuscany and any and all amendments thereto.

(d) "Developer" shall mean and refer to the single party, being initially Declarant.

(e) "Lot" shall mean and refer to any subplot, together with all improvements thereon, shown upon any recorded subdivision plat of the Property.

(f) "Owner" shall mean and refer to any and all owner or owners of record, whether an individual or an entity, of a fee or undivided fee simple title to any Lot at any time during the term of this Declaration but shall not mean or refer to a mortgagee unless and until such mortgagee has acquired such title pursuant to foreclosure or by deed or any proceeding in lieu of foreclosure.

(g) "Member" shall mean the Owners or others who are Members of the Association as provided herein.



ARTICLE II  
PROPERTY SUBJECT TO THE DECLARATION: ADDITIONS

Section 1. Property Subject to the Declaration. The Property subject to the Declaration is the Property and any additional real property added thereto pursuant to Section 2 of this Article.

Section 2. Additions to the Property.

(a) Additional real property, may, upon approval by the Association, become subject to this Declaration, provided that any such proposed addition is adjacent to the Property (or to any property added thereto in accordance with this Article II). Property abutting, contiguous to, or located across a street or highway from any portion of the Property, or added property, or located within 1000 feet from any portion of the Property, or added property, shall be deemed to be adjacent to it.

(b) Any such addition shall be made by filing of record a deed, agreement or other instrument which shall extend the scheme of this Declaration to such additional property. Such instrument may contain such complementary additions to and modifications of this Declaration as may be necessary to reflect the different character, including, but not limited to, differences related to topography as are not inconsistent with the scheme of this Declaration. In no event, however, shall such instrument revoke, modify or add to this Declaration established by this Declaration for the Property or any previously added land, nor shall such instrument provide for assessment of the added property at a lower rate than that applicable hereunder to the Property.

(c) Upon merger or consolidation of the Association with another association, the surviving or consolidated association may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall be entered into which would effect or attempt to effect any revocation, modification or addition to this Declaration established by this Declaration for the Property.

ARTICLE III  
MEMBERS AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Members. Every Owner automatically shall be a Member of the Association for so long as the individual or entity is an Owner, provided that any such person or entity who holds such interest merely as a security for the payment of money or performance of an obligation shall not be a Member; in such case the holder of the equitable interest shall be the Owner. No one may be a Member except Owners, and the membership may not be severed or partitioned from the ownership interest in a Lot.

Section 2. Voting Rights. Each Member shall be entitled to one vote for each Lot. If a Lot is owned by more than one Owner, the Owners shall not be entitled to more than one vote with respect to any such Lot.

Section 3. Articles and Regulations of Association. The Articles of Incorporation and Bylaws of the Association may contain any provisions, not in conflict with this Declaration, as are permitted to be set forth in such Articles and Regulations by the Non-Profit Corporation Law of Ohio as from time to time in effect.

ARTICLE IV  
PROPERTY RIGHTS IN THE COMMON PROPERTIES AND EASEMENTS

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article IV, every Member or, in the stead of said Member, any lessee thereof or guest of either, shall have a right and easement in and to the Common Properties as provided herein. Such easement shall be appurtenant to and shall pass with the title to every Lot whether or not expressly referenced in the deed. These easements shall be non-exclusive for purposes only of access and recreation, all subject to and in accordance with the rules and regulations of the Association promulgated in accordance with the provisions hereof.

(a) Non-exclusive Lot access. Each Member and the Members' lessee or guest shall have a non-exclusive right of ingress and egress reasonably necessary to access the Lot over the streets and sidewalks that are placed in the development.



(b) Exclusive Lot access. Each Member and the Member's lessee or guest shall have the exclusive right to use the driveway adjacent to the Member's Lot for access to said Lot. The use of this easement will be for the purpose of ingress and egress, and temporary parking (as may be limited by the Association) of the Member's or the Member's lessee's or guest's vehicles, and such other reasonable use of the driveway which would be usual and customary in the determination of the Association. The use will be to the exclusion of other members and third parties, but will not exclude the Association's right to use this area.

(c) Exclusive right of enjoyment of the area adjacent to Lot. Each Member and the Member's lessee and guests have an easement of enjoyment of a limited area surrounding their Lot. This easement of enjoyment will be for the purpose of recreational use which will not interfere with any other Member's use or enjoyment of said other Member's Lot or, the Association. The Association will have the right to determine the reasonableness and extent of said recreational use including, but not limited to the location of said recreational use.

The area to be used for said exclusive right of enjoyment will be from the front of the Lot to the curb or sidewalk, if any, whichever is less, and the area for this easement on sides of each Lot will be 10 feet or  $\frac{1}{2}$  distance to adjacent Lot if the distance is less than 20 feet, or when the Lot has a side adjacent to the curb or sidewalk until said sidewalk or curb, if any, whichever is less.

In the rear of each Lot the Member is hereby granted an exclusive easement of enjoyment for the purpose of said recreational use an area from the rear of the Lot a distance of 25 feet and only as wide as the Lot. If these areas intersect with any other adjacent easement of enjoyment, the area will be equally divided between the intersecting properties. The rear easement area will be maintained by the Association as a common element, however, any and all landscaping or other structures that are provided by the Member in addition to that landscaping provided by the Association will have to be maintained by the Member and all landscaping or other structures installed by the Member must be approved by the Association and must be in the opinion of the Association consistent with the neighborhood and character of the development. It is understood and agreed by the Members that any landscaping or other structures provided by the Member, all of which must be approved by the Association, must be maintained by the Member at its cost and any additional burden placed on the Association as a result of such landscaping or structures, including but not limited to costs for such, will be the responsibility of said Member.

The Member may place a fence around the rear easement area or as otherwise approved by the Association, which fence may only be black in color and consist of a wrought iron style of material. The fence and its, color, style, location, type, size, material, configuration and other characteristics are subject to approval of the Association.

Additionally, along the side and in the front and rear as necessary, a sidewalk may be placed to access the side or rear of the Lot from the driveway, the location, size, material, configuration and other characteristics are subject to the approval of the Association.

In the rear, side and front of this area, landscape lights may be placed including along walks, subject to approval of the Association including the number, wattage, style, location and other characteristics.

Improvements, fixtures and any other structure that extend from the Lot into this area or separately located in this area, including for example and without limitation bay windows, air conditioners, decks, stairs, porches, or other items reasonably necessary for the enjoyment of the use of the Lot and this area may be permitted subject to any restriction and approval of the Association, or are permitted to be originally installed by the Developer. The Member will have the right to repair or replace these items.

Whether or not the use has been approved by the Association, if the Association determines that the use of this area by the Member, including but not limited to any landscaping or other structures placed within this area, are creating a negative or adverse impact on the neighboring Lots, common elements, or the development the Association shall have the right to eliminate, limit or restrict the use of this easement and to determine the reasonableness of use and arbitrate any disputes or uses.

This easement is subject to right of Association over and through this easement area.

(d) Easement for Landscaping on the Lot. The Members grant an easement to the Association for the purpose of placing and maintaining landscape on the Lot, including an easement and authorization by each Owner to permit the maintaining landscaper to use the faucets and water on the Lots of landscaping of the Lot and the common elements which may be used by the adjacent Owner's as





provided in Article IV Section 1(c). Such water charges will be the responsibility of the Owner.

(e) **Easement for Stairs Connected to Decks or Patios.** Each Member has the right to construct stairs to be attached to a deck or patio, which deck or patio is located within the Member's Lot. The deck stairs or patio stairs are permitted to be placed in the common elements as reasonably necessary to access said deck or patio, except such easement for such stairs may not extend beyond a reasonable distance from the Owner's Lot and decks and patios may only be placed at the rear of the home, subject to review and approval by the Association.

Section 2. Title to Common Properties. The Association will retain the legal title to the Common Properties.

Section 3. Extent of Members' Easements. The rights and easements created by this Article IV shall be subject to the following:

(a) The right of the Association to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage them; in the event of a default upon any such mortgage, the lender shall have a 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 rights of the Members hereunder shall be fully restored; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

(c) The right of the Association to adopt uniform rules and regulations (as provided in Article VI) governing the use of the Common Properties, and to suspend the enjoyment rights of any Member, lessee or guest for non-payment of an assessment, during any period such assessment remains in default, or for any infraction of such rules and regulations; and

(d) The right of the Association to dedicate or convey all or any part of the Common Properties to any municipality or any public agency, authority or utility, and to construct improvements for any lawful purposes, all subject to such

terms and conditions as may be determined at a meeting of the Members by the vote of Members entitled to exercise 2/3<sup>rds</sup> of the voting power of the Association.

**Section 4. Encroachment Easements.** Every Owner and the Association are hereby granted in perpetuity, except as limited herein or by law, the following easements for the benefit of and to be binding upon all of the foregoing and their respective heirs, successors and assigns, which easements shall be non-exclusive:

(a) If due to the construction, settling or shifting of any structure or building or due to the partial or total destruction and/or rebuilding of any structure, any part of or any structure or improvement located on the Common Properties now encroaches or shall hereafter encroach upon any Lot or any part of a Lot or any structure or improvement located thereon or any other Lot or Lots, easements for the maintenance of such encroachments and for the use of the space and land encroached upon; provided, however, that in no event shall an easement for any encroachment be created for the benefit of any Owner or the Common Properties or any Lot if such encroachment exists due to the intentional acts of any Owner or the Association, with the intent to so encroach; and

(b) Easements into and through each Lot for the benefit of the Association and all the Owners, individually (provided, however, that the rights of any Owner under this easement may be exercised only by the Association if the Association elects to exercise them) (i) for the purposes of installing, laying, maintaining, repairing, replacing and serving all utility delivery and removal systems, including, but not limited to, water, waste water, sewage, gas, heating, air conditioning, electricity, cable television, and telephone, existing now or existing in the future, under, on and across the Lots and for ingress and egress to accomplish the above described purposes after at least a 48 hour notice to the Owner or other occupant of a Lot and only between the hours of 8:00 am. and 5:00 p.m., provided, however, that said notice and time limitations shall not apply in the event of an emergency threatening health or safety or threatening immediate harm to the structural integrity of any structure located on the Property and (ii) for the purposes of the exercise of any and all rights and the satisfaction of any and all obligations arising hereunder.

**Section 5. Easements for Benefit of Additional Land.** A perpetual easement is reserved and granted for the benefit of every Owner, lessee and occupant and every invitee and licensee of the foregoing appurtenant to all of the land described on Exhibit A under, on, over and across all of the Common

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Properties for purposes of ingress and egress by any and all vehicles, animals and pedestrians and for the installation, use, maintenance, relocation and repair of all utility pipes, lines, wires or other delivery equipment and appliances. The beneficiaries of this easement shall repair any and all damage arising due to the exercise of any rights under this easement.

## ARTICLE V COVENANTS FOR MAINTENANCE AND ASSESSMENTS

### Section 1. Creation of Liens and Personal Obligations of Assessments.

Each Owner shall pay the Association assessments. Each Lot is subject to a lien, as hereinafter provided, in favor of the Association, as security for the payment of the Assessments levied on the Lot. The assessments include: (a) an annual assessment levied in accordance herewith for the purposes of paying taxes and insurance premiums and of operating, maintaining, constructing, repairing and replacing the recreational and landscaped areas and facilities on the Common Properties, including but not limited to lights, garbage collection, snow removal, street cleaning, electricity, utility service fees, professional fees, including legal and accounting, and other expenses as reasonably necessary to operate, maintain, replace or construct facilities of the Common Properties in a manner consistent with the quality of the development, and operation, maintenance, repair and replacement of the infrastructure, including streets and utilities, including a reserve fund, and of administering the affairs of the Association; (b) special assessments levied in accordance herewith for improvements or other capital expenditures, for emergency, operating, maintenance, replacement or repair costs, and for other costs and expenses not anticipated in determining the applicable annual assessment, or for shortfalls in such. Each such assessment shall be in the same amount for each Lot. The annual assessment may be paid in monthly installments due and payable to the Association on the first of each month, or due and payable as otherwise required by the Association. If annual and/or special assessments, together with interest thereon as hereinafter provided, are not paid within 60 days after the assessment has become due and payable, said assessments, together with said interest, shall be a charge upon the Lot for which such assessment has not been paid and the Association shall have a lien upon said Lot.

Section 2. Special Assessments. The Association, by action of the Board of Directors (alone without the direct approval of the Owners), may levy a special

assessment, in an amount not to exceed \$10,000.00 (in total for all payments for all Lots), applicable to a specified number of years or part of a year. Any such assessment (beyond the Board's sole authority) shall be approved by the affirmative vote of Members entitled to exercise 2/3<sup>rd</sup>s of the voting power of the Association. Members shall be given written notice 30 days in advance of the date of the meeting at which such vote shall be taken stating that a special assessment for a stated purpose or purposes will be considered and discussed at such meeting.

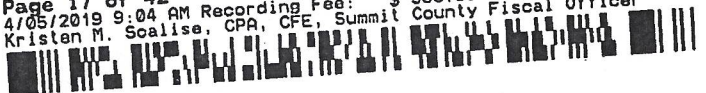
Section 3. Due Dates of Assessments; Defaults. Each annual assessment shall be due and payable in 12 equal monthly installments commencing on the second business day after January 1 of the year for which it is levied and, thereafter, on the first day of each month. The due date of any special assessment or installment thereof shall be fixed in the Resolution of the Board or Association authorizing such assessment, and written notice of such special assessment or installment thereof shall be given to each Owner subject thereto 30 days in advance of such due date. If an annual or special assessment or installment of a special assessment is not paid within 60 days after the due date, it shall be deemed to be in default, and such delinquent assessment or installment shall bear interest from the due date at a rate of interest as may be set by the Board of Directors, not in excess of the highest lawful applicable interest rate. The Association may, after such 60 days, file a notice of lien with respect thereto, stating the amount due, signed by the President of the Association, and duly acknowledged and witnessed in the office of the Recorder of Summit County, Ohio.

Section 4. Statement of Unpaid Assessments. Statements with respect to existence and amount of unpaid liens and assessments on any Lot shall be provided by the Association to any prospective purchaser or mortgagee of said Lot upon written request to the President or Secretary. Provided the recipient has acted in good faith, the recipient shall not be liable for the payment of any past due assessment not set forth in said statement nor shall the Lot in question be subject to a lien for the past due assessment not set forth.

Section 5. Cost of Collection. An Owner, who fails to pay any assessments within 10 days after same have become due and payable, shall be liable for any late charges as established by the Board and any and all costs incurred by the Association in connection with the collection of said Owner's account, including reasonable attorney fees, recording costs, title reports and/or court costs.

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ARTICLE VI  
PROTECTIVE COVENANTS

Section 1. Land Use. Each Lot shall be used only for private, single family, residential purposes, and only one single family residence, with garage attached, shall be constructed or erected on any Lot. After a structure containing only a residence for a single family is erected on a Lot, said structure may not be altered or converted into a multi-family residence.

Section 2. Architectural Control. No building, structure, improvement, or a fixture or any fixture or item intended to be attached to or incorporated on the exterior of any existing building, structure, improvement or fixture, shall be erected, constructed, reconstructed, placed, altered or suffered to remain upon any Lot unless and until the plans and specifications showing the size, height, type and materials of construction thereof and the location of the same shall have been submitted to and approved in writing as to the harmony of the external design and the location in relation to surrounding structures and topography and the general plan by the Association. The general plan shall be the construction of homes with plans and specifications substantially similar to the then existing residences. Unless approved or disapproved by the Association, within 60 days after submission, any proposal shall be deemed to be rejected.

Section 3. Out-Building; Temporary Structures. No out-building shall be built or maintained on any Lot prior to or during or after the erection of the principal structure thereon. No basement, garage or out building shall at any time be used as a residence, temporarily or permanently, nor shall any residence whatsoever of a temporary character be permitted.

Section 4. General Restrictions.

(a) No nuisance, flag, sign, marking, symbols, billboard or advertising device or activity shall be built, placed, conducted, permitted or suffered to remain or continue upon any Lot [except for "for rent" or "for sale" or political campaign signs no larger than 3 feet by 3 feet or an Ohio or American flag not larger than 4 feet by 5 feet].

(b) No Lot shall be used in whole or in part (a) for any trade or business (except for activities not directly involving the public which are otherwise lawful)

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or (b) in any way or for any purpose which may endanger the health or unreasonably disturb the quiet of any other Owner.

(c) No spirituous, vinous or fermented liquors shall be manufactured or sold either at wholesale or retail upon any Lot.

(d) Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Property, including but not limited to the common elements and Lots except that dogs, cats, or other usual and common household pets in the opinion of the Association, not to exceed a total of 3 pets, may be permitted in a Unit. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are 3 months old. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the Owner of any portion of the Property shall be removed upon request of the Association. If the Owner fails to honor such request, the pet may be removed by the Association at the Pet Owner's cost. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a home be confined on a leash held by a responsible person.

(e) No toys, bicycles or any other personal property shall be stored, parked or left upon any Lot except within a garage or residence.

(f) No activity or materials which would increase any insurance premium with respect to the Property may be conducted, placed or stored upon the Property.

(g) The minimum square footage of each single family cluster home is set forth in the Architectural Standards attached hereto and made a part hereof.

(h) The construction of each single family cluster home or any substantial improvements thereto will be subject to approval by the City of Macedonia Architectural Review Board.

(i) No satellite dishes larger than 20" in diameter shall be permitted. All satellite dishes less than 20" in diameter may only be affixed to the rear or side of



the Units as long as they cannot be viewed from the street. Only one satellite dish will be permitted per Unit.

**Section 5. Maintenance.** Except for the Association's maintenance obligations, each Owner shall maintain, repair and replace all buildings, structures, fixtures and improvements located upon the Lot owned by the Owner, in substantially the same condition as when constructed, except for the interior portions of any building or structure which are not visible from the outside of the residence. All of the foregoing required activities shall be subject to the Rules of the Association, promulgated as provided below. At the Association's expense, the Association shall maintain all buildings and improvements and landscaping located on the Common Properties in a uniform manner such that the same remain substantially the same as constructed and the Association will maintain the landscaping on the Lots, pursuant to the easements granted by Owner of each Lot for landscaping. The Owners will not landscape on the Lots which right and duty is the exclusive right and duty of the Association. Notwithstanding any provision of this Declaration to the contrary, no Owner may paint or otherwise decorate or cause to be painted or otherwise decorate any exterior portion of any building or structure located on the Owner's Lot, without approval of the Association.

**Section 6. Storage and Parking of Vehicles.** No commercial vehicle, truck, trailer, mobile home, recreational vehicle or trailer (either with or without wheels) shall be stored or kept within the Property. Private automobiles shall be stored in the garage attached to the residence or parked or paved driveway. No boat shall be stored on any Lot except in an attached garage.

**Section 7. Garbage and Refuse Disposal.** No portion of the Common Properties and no Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or any other discarded or waste material. Garbage, waste material and containers such may not be kept outside any residence except in a sanitary, plastic, clean and covered container which may only be placed outside of the garage the night before or the day of trash day, and if the trash is not collected it must be placed back in the garage. The Association is responsible for arranging and paying for garbage and refuse disposal which costs will be assessed to the Owners, in an amount determined by the Association. Owners may be assessed different amounts if in the determination of the Association the garbage and refuse costs are different as a result of an Owner's garbage and refuse production.



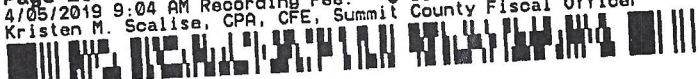
Section 8. Insurance. The Board of Directors shall choose an insurance company, licensed to do business in Ohio with a Best Insurance Rating of A- or better for fire and extended coverage and public liability insurance. Each Owner shall obtain, immediately upon acquiring an interest in any Lot, fire and extended coverage insurance for no less than the full insurable value of all buildings and structures located on the Owner's Lot, public liability insurance for an amount not less than a combined single liability limited of \$300,000.00, and upon the contents of any building or structure located on the Lot with a coverage amount determined by the Owner. Written proof of insurance must be provided to the Association by the Owner. If the Association or Owner fails to maintain such insurance, the Association, on behalf of the Owner may do so.

Section 9. Rules and Regulations of the Association.

(a) The Association, through the Board of Directors, in good faith, may adopt rules and regulations (herein called "Rules") for regulation of all activities, in, on or about the Common Properties and the Lots, which are the subject of regulation by the Association as provided herein. All Rules shall be adopted in accordance with reasonable procedures adopted by the Board from time to time. The procedures shall, at all times, include publication of a proposed rule reasonably calculated to give notice to the Owners of the content of the proposed rule and the intention to adopt it and reasonable opportunity for any Owner or representative of an Owner to appear before the Board in person and to contact the Board in writing to discuss and comment upon the proposed rule and for adoption of the proposed rule at an open meeting of the Board.

(b) The Board may, from time to time, adopt Rules setting reasonable fines proportionate to the offense for violation of these Restrictions, the Bylaws, and the Rules, and for the levying and collection of such fines as Special Assessments or by other reasonable means.

(c) In addition to any other remedies provided by law or this Declaration, the Owner who is accused of a violation of this Declaration, the Bylaws or the Rules or who is subject to a fine may request a hearing before the Board at which hearing the Owner directly or through a representative may present evidence and argument. The Board shall adopt reasonable Rules providing for a hearing mechanism, including, but not limited to, Rules requiring written notice to the Board (requesting a hearing and specifying the disputed matter) within a





reasonable period after the dispute arose and specifying a reasonable period thereafter during which a hearing must be held.

**Section 10. Substantial Damage and Reconstruction.** In the event more than 50% of the residences located on the Properties are damaged such that they are no longer reasonably habitable, the Owners holding a majority of the Votes may elect to terminate these Restrictions. Upon such termination, the Association and the Property shall be dissolved and partitioned as provided in Article VII.

**Section 11. Renting and Leasing of Lots.** Lots may only be temporarily rented or leased up to one year as follows:

(a) No Lot shall be rented for transient or hotel purposes. This shall be defined as (i) Rental for any period less than 90 days, or (ii) any rental if the occupants of the Lot are provided customary hotel services.

(b) All tenants shall be subject to the terms and conditions of this Declaration, and the Rules and regulations promulgated thereunder as though such tenant was an Owner.

(c) Each Owner agrees to cause his or her lessee, occupant or persons living with such Owner or with his or her lessee to comply with the Declaration, and the rules and regulations promulgated thereunder. Each Owner is fully responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the Lots are fully liable for any violation of the documents and regulations. Failure of the tenants or occupants to so comply shall be considered a default in the lease.

(d) In the event that a lessee, occupant or person living with the lessee violates a Provision of the Declaration, or rules and regulations adopted pursuant thereto, the Association shall have the power to bring an action or suit against the lessee to recover sums due for damages or injunctive relief. The Association shall also have all of the remedies available to a landlord upon the breach or default of the lease agreement by the lessee.

(e) The Owner of a Lot has the right to lease the Lot one time for a total period not to exceed one year. The Owner may not lease the Lot for multiple one year terms. The purpose of this lease right is to provide Owners with the ability to lease their Lot while they are attempting to sell or transfer their Lot or for

situations in which the Owner has a temporary transfer. Further, exceptions to this leasing restriction may be provided with the consent and approval of the Association, which approval will not be unreasonably withheld if the reason for such extension is consistent with the purpose of this paragraph. An Owner may not transfer or assign its rights in an attempt to gain additional leasing rights. Subsequent Owners who are bonified purchasers will be provided the right to lease the Lot as provided herein.

(f) The Owner has the right to rent or lease the Lot for an unlimited time and without being subject to Section 11(e) above only in cases when the Lot is rented or leased to immediate family members, being children, siblings or parents of the Owner, all other terms set forth in 11(a)-(d) apply.

Section 12. Occupancy Restriction. No person who is adjudicated to be a sexual predator or a habitual sex offender and required to register with a designated registering agency, thereby requiring notice to be given pursuant to the Ohio Sex Offenders Act or similar statute from another jurisdiction, as the same may from time to time be amended, may reside in or occupy a Lot and/or enter onto or remain in or on the Property for any length of time. Any violation of this restriction shall subject the Owner and/or occupant of the Lot to any and all remedies provided for by law as well as this Declaration. The Association shall not, however, be liable to any Owner or occupant, or anyone visiting any Owner or the Association, as a result of the Association's alleged failure, whether negligent, intentional or otherwise, to enforce the provisions of this restriction.

## ARTICLE VII DURATION: AMENDMENT

(a) Each provision of these Covenants and Restrictions shall be a separate covenant, and the holding of any covenant invalid for any cause shall not affect the validity of any other. Failure to enforce any provision shall not constitute a waiver of or any acquiescence or consent to any concurrent or subsequent violation of any such provisions. Said provisions shall remain in force perpetually until they are terminated or changed by consent thereto in writing, signed, and acknowledged as then required by the laws of Ohio for the conveyance of real estate, by the Owners of 65% or more of all the Lots subject to such provisions, excluding all mortgagees and lienholders and purchasers under





executory contracts; provided that they may not be terminated prior to December 31, 2025.

(b) Upon termination of these Restrictions, the Association shall be dissolved and terminated in accordance with the procedures set forth in the Ohio Revised Code. The Association's assets shall be liquidated and the proceeds (less reasonable expenses of liquidation and less all debts of the Association) shall be distributed to the Owners based on an equal allocation for each Lot. Upon dissolution of the Association, all of the Lots shall be subject to a partition action which may be brought by any Owner, with respect to which all Owners shall be parties, before the Summit County Court of Common Pleas or its successor. In the event the Court determines that physical partition is not reasonable, all of the Lots shall be sold at judicial sale in accordance with the then rules and procedures for the same. The proceeds of the sale, after deduction of court costs and the plaintiff's reasonable attorneys' fees, shall be allocated among the Owners in the proportion to which the fair market value of the Lots and all improvements located thereon at the time of the appraisal for the judicial sale bear to the total value of the Lots and all improvements located thereon at said time.

## ARTICLE VIII GENERAL PROVISIONS

Section 1. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall to have been given when mailed, prepaid, by regular mail to the last known address of said Owner as such appears on the records of the Association or delivered to the residence owned by the Owner on the Property.

Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by Ohio and federal law, as well as by the Board, now or in the future: (1) any notice required in the Declaration or Bylaws to be sent or received; (2) any signature, vote, consent, or approval required to be obtained; or (3) any payment required to be made, under the Declaration or Bylaws, may be accomplished or required using the most advanced technology available at the time provided such use is a generally accepted business practice. This includes, without limitation, the use of electronic mail or other electronic transmission in lieu of any Association required written notice to Owners, individually or collectively, to or from any Owner who has given





the Association written consent to such use of electronic mail or other electronic transmission, and for the Association to properly and effectively receive any Owner's signature, vote, consent, or approval the Association needs or requires, subject to the following:

(a) An electronic mail or other electronic transmission to an Owner is not considered delivered and effective if the Association's transmission to the Owner fails two consecutive times, e.g. the Association receives an "undeliverable" or similar message, or the inability to deliver the transmission to the Owner becomes known to the person responsible for sending the transmission. If the electronic mail or other electronic transmission is not delivered or effective, the Association will deliver such notice or other communication to the Owner in writing by regular U.S. mail to the Owner's Lot or last known address, by hand delivery to the Owner, or by leaving the notice under or attached to the front door of the Owner's Lot.

(b) Any Owner who has not given the Association written consent to such use of electronic mail or other electronic transmission will receive notices, including any notice of delinquency of any payment due, either by personal delivery to the Owner, by leaving the notice under or attached to the front door of the Owner's Lot, or regular mail to the Owner's Lot or last known address.

Section 2. Enforcement. Any Owner, the Association and the City of Macedonia may enforce the provisions of these Restrictions by injunction, and all Owners acknowledge that the failure to enforce any provision of this Declaration will result in irreparable harm and that there will be no adequate remedy at law, except with respect to the levying and collection of assessments.

This Declaration shall run with the land and shall be binding upon all Owners of any part of said real property, together with their grantee, successors, heirs, executors, administrators, or assigns, and that the City of Macedonia shall be a beneficiary of this Declaration and may compel compliance as hereafter appears.

If any Owner (either by his or her conduct or by the conduct of any occupant or guest of his or her Lot) shall violate any provision of the Declaration, Bylaws or rules and regulations adopted by the Board, said Owner shall pay to the Association, in addition to any other sums due, any enforcement assessments for violation of said provision or rule levied by the Board, all costs and expenses incurred by the Association in connection with the enforcement of said provision or

rule, including reasonable attorney fees and/or court costs. Said enforcement assessments, costs and expenses shall be charged as a special assessment against said Owner. The Association, in addition to all other remedies available, shall have the right to place a lien upon the estate or interest of said Owner as further explained and set forth in Declaration Article V, Section 1.

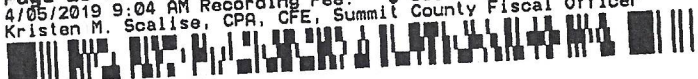
Section 3. Indemnity. Each Owner shall indemnify, defend and hold all other Owners and the Association harmless from and against any and all actions, causes of action, claims, demands, liabilities, costs and expenses (including, but not limited to, court costs and reasonable attorneys' fees) arising, directly or indirectly, as a result of any breach of any provision of this Declaration by the Owner or any failure of the Owner to satisfy any obligation under this Declaration or as a result of any damage arising, directly or indirectly, by any act or omission of the Owner or any party occupying or located upon the Lot owned by the Owner or the condition or existence of anything on the Lot owned by the Owner. Joint Owners of any Lots shall be jointly and severally liable for all obligations under this Section or any other provision of these Restrictions.

Section 4. Arbitration.

(a) Disputes. Disputes between the Association and the Members relating to this Declaration, will be first through the Association, then through arbitration.

(b) Matters Subject to Dispute Resolution. In the event of claims, disputes and other matters in question between the Association and the Members, or relating to the Declaration, the parties will attempt in good faith to resolve any such claim or dispute through the Association. The claimant will notify the other in writing of such claim or dispute and of its demand for resolution and submit it to the Association. If the matter has not been resolved pursuant to the aforesaid good faith attempt to resolve such controversy, then the matter will be decided by binding arbitration to the extent permitted by law before an arbitrator in accordance with the Arbitration Rules of the American Arbitration Association then applicable administered by the Cleveland, Ohio office. This agreement to arbitrate will be specifically enforceable. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction.

The parties acknowledge that compliance with this paragraph will be a condition precedent to the filing of any legal action or suit by said party relating to





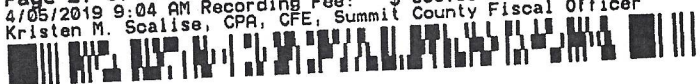
any claim or dispute between them under this Declaration, except for claims relating to nonpayment of fees or assessments may be directly brought by filing a lawsuit. The provisions of this paragraph will survive termination of this Agreement.

(c) Location. The location of the arbitration will be as selected by the Owner within Summit County, Ohio.

Section 5. Miscellaneous. All disputes arising hereunder shall be properly and exclusively venued in the Courts of Summit County, Ohio, and all Owners and all other parties holding or claiming an interest in the Property hereby submit to the personal jurisdiction of the Courts of Summit County, Ohio. All disputes arising hereunder and the interpretation of these Restrictions and any other matters relating thereto shall be enforced and construed in accordance with the laws of the State of Ohio. All titles and captions used herein are for convenience only and shall not enlarge or limit any provision of these Restrictions.

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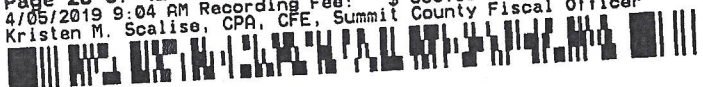


**EXHIBIT A**

**LEGAL DESCRIPTION**

SEE EXHIBIT A OF THE ORIGINAL DECLARATION RECORDED AT SUMMIT COUNTY RECORDS INSTRUMENT NO. 54330796 ON AUGUST 19, 1999.

SEE EXHIBIT A OF THE MODIFICATIONS TO THE ORIGINAL DECLARATION RECORDED AT SUMMIT COUNTY RECORDS INSTRUMENT NO. 54558836 ON JUNE 15, 2001.



## EXHIBIT "1"

### ARCHITECTURAL STANDARDS

#### THE VILLAS OF TUSCANY MACEDONIA, OHIO

### ARCHITECTURAL STYLE OF THE DEVELOPMENT

The Villas of Tuscany Development in Macedonia is a planned Community which will consist of single family dwellings.

#### I. Architectural Style of Homes

All of the homes shall be constructed by Hudson Builders, Ltd. and shall consist of one of three basic floor plans; the Sienna, the Florence and the Pisa. Eleven elevations are approved for the Sienna and Florence plans while four elevations exist for the Pisa plan. The homes are designed in the spirit of Old World architecture using today's modern materials. Hudson Builders, Ltd. reserves the right to modify or substitute plans based upon market acceptance, constructability or availability of materials. Modified or substituted plans shall conform to the overall architectural theme for the development and shall adhere to the architectural standards set forth by the City of Macedonia.

#### A. Roofs and Roof Pitches

Roof pitches should correlate with the style of the architecture. Roof pitches shall be no less than a 9/12 pitch. A house should not have more than two different roof pitches.

#### B. Windows

Windows should be properly placed and well-proportioned on all sides of the house. Windows are not required on the sides of homes unless the home is located on a corner lot, or the side is viewable from open space area.

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C. Proportion, Scale, Massing

All houses will be checked for these most important architectural criteria. Houses should be well balanced, symmetry is not always required to obtain balance. Windows, overhangs, projected areas or portions of houses are usually a desirable attribute in many styles as long as it is not overdone. Windows and decorative elements can break up large masses of the house so that a more human scale is perceived. Patterns, rhythms, and articulation of architectural elements are encouraged and these usually make the style more interesting.

D. Multiple Houses.

No more than five houses of the same elevation will be permitted adjacent to each other. Architecturally we are seeking a high degree of uniformity, with each home having similar color, exterior materials and style. Major design elements such as roof style, front porches, garage door locations and elevations shall be varied to create diversity.

II. Size and Location

- A. Any single family dwelling one-story house (ranch) located on a standard subplot shall contain at least 1,600 square feet of living space, exclusive of the attic, basement, breezeway, deck, garage or porch. Any two-story house located within the subdivision shall have a minimum of 1,600 square feet on the first floor and a total minimum of no less than 2,200 square feet of living space, exclusive of any attic, basement, breezeway, deck, garage or porch.

III. Colors for the Exterior

Exterior color shall be consistent throughout the development.

IV. Exterior Materials

- A. The following list of materials shall be acceptable:





1. Cultured stone 4" wood grain double vinyl siding.
2. Composition shingles allowed on roof only. Shingles shall be asphalt fiberglass composition and color to remain constant throughout the development.

V. Construction

- A. All foundations shall be reinforced concrete with an embossed brick texture. All exposed foundation walls to have a brick or cultured stone treatment. The color shall be coordinated with the exterior color scheme.
- B. All siding must be horizontal.
- C. Exterior stairs shall be the full width of the door. In the case of sliding doors, patio doors, french doors, and swinging door units, the stairs shall be the full width of the unit.
- D. Each dwelling unit constructed shall be landscaped with a minimum planting per lot, from the property line to the rear of the house.
- E. All homes must be designed to meet or exceed the applicable building codes and reviews of all authorities having jurisdiction over the project.
- F. No simulated box chimneys shall be permitted. All chimney boxes on or above the roof line shall be brick or cultured stone to match grade.
- G. All patios and decks shall be landscaped in accordance with the landscaping plan approved by the City of Macedonia.

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AMENDED AND RESTATED  
BYLAWS OF  
THE VILLAS OF TUSCANY CLUSTER HOMEOWNERS ASSOCIATION

The following Bylaws were adopted by the Incorporator and initial member of the Villas of Tuscany Homeowners Association, effective on the date hereof.

ARTICLE I  
The Association

Section 1. Name and Nature of Association. The name of the Association is the "Villas of Tuscany Cluster Homeowners Association".

Section 2. Membership. Each Owner of a Lot in the Villas of Tuscany Cluster No. 1 and any additions thereto as provided in the restrictions (herein called the "Restrictions") for said Allotment, originally recorded in Instrument No. 54330796 of Summit County, Ohio, Official Records, shall become a member of the Association, automatically, on the date title to the Lot transfers to the Owner. Such membership shall terminate upon the sale or the disposition of such Lot by the Owner, at which time the new Owner shall automatically become a member of the Association.

Section 3. Voting Rights. Each member shall be entitled to one vote. If two or more persons, whether fiduciaries, tenants in common or otherwise, own undivided interests in a Lot, each shall be entitled to exercise such proportion of the voting power for such Lot as shall be equivalent to such person's proportionate interest in the Lot; provided that the fiduciary has submitted evidence satisfactory to the Association of the fiduciary status.

Section 4. Proxies. Members may vote or act in person or by proxy. The person appointed as proxy need not be a member of the Association. Designation by a member or members of a proxy to vote or act on his or their behalf shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board by the member or members making such designation. Notice to the Board in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized.





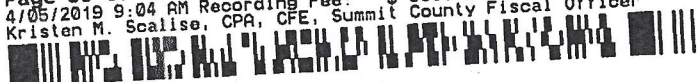
Section 5. Meetings of Members.

(a) Annual Meetings. Annual meetings of the members of the Association for the election of members of the Board, the consideration of reports to be laid before such meeting, and the transaction of such other business as may properly be brought before such meeting shall be held at the office of the Association, or at such other place as may be designated by the Board and specified in the notice of such meeting, at such time as may be designated by the Board and specified in the notice of the meeting. The annual meeting of the Association's members shall be held the last Sunday of January of each year or at such other time as designated by the Board.

(b) Special Meeting. Special meetings of the members shall be called upon the written request of the President of the Association or, in case of the President's absence, death or disability, the Vice President of the Association authorized to exercise the authority of the President, or of the Board by action at a meeting, or of members entitled to exercise at least 25% of the voting power. Calls for such meetings shall specify the time, place and purposes thereof. No business other than that specified in the call shall be considered at any special meeting.

(c) Notices of Meetings. Not less than 7 nor more than 60 days before the day fixed for a meeting of the members of the Association, written notice stating the time, place and purpose of such meeting shall be given by or at the direction of the Secretary of the Association or any other person or persons required or permitted by these Bylaws to give such notice. The notice shall be given by personal delivery or by mail to each member of the Association. If mailed, then notice shall be addressed to the members of the Association at their respective addresses as they appear on the records of the Association. Notice of the time, place and purposes of any meeting of members of the Association may be waived in writing, either before or after the holding of such meeting, by any member of the Association which writing shall be filed with or entered upon the records of the meeting. The attendance of any member of the Association at any such meeting shall be deemed to be a waiver by him of notice of such meeting.

(d) Quorum; Adjournment. At any meeting of the members of the Association, the members of the Association who are entitled to exercise more than 50% of the voting power present in person or by proxy shall constitute a quorum for such meeting; provided, however, that no action required by law, by the Declaration, or by these Bylaws to be authorized or taken by a designated





percentage of the voting power of the Association may be authorized or taken by a lesser percentage; and provided further, that the members of the Association entitled to exercise a majority of the voting power represented at a meeting of members, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

Section 6. Action Without a Meeting. All actions, except removal of a Board member, which may be taken at a meeting of the Association, may be taken without a meeting with the approval of, and in a writing or writings signed by members of the Association having the percentage of voting power required to take such action if the same were taken at a meeting. Such writing shall be filed with the Secretary of the Association.

## ARTICLE II Board of Directors

Section 1. Number and Qualification. The Board shall consist of 3 persons. All such persons shall be Owners, or in the case of a corporate owner, it shall be the chief executive officer of such corporation, or in the case of a partnership owner, a general partner of such partnership, or in the case of a fiduciary owner, a trust officer or other officer of such fiduciary or the fiduciary himself. Any Board member who ceases to be associated in one of the enumerated capacities with the Owner designating such member, shall be deemed to have resigned as of the date such association ceases. Board members shall receive no compensation.

Section 2. Election of Board; Vacancies. Board members shall be elected at the annual meeting of members of the Association or at a special meeting called for such purpose. At a meeting of members of the Association at which Board members are to be elected, only persons nominated as candidates shall be eligible for election as Board members and the candidates receiving votes representing the greatest percentage of voting power in the Association shall be elected. In the event of the occurrence of any vacancy or vacancies in the Board, however caused, the remaining Board members may act on behalf of the Board until the vacancy or vacancies have been filled at a special meeting called for that purpose by the Owners.

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Section 3. Term of Office; Resignation. Except for the initial Board Members, each Board member shall hold office for 3 years, or until his earlier resignation, removal from office or death. Any Board member may resign at any time by oral statement to that effect made at a meeting of the Board or in a writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or at such other time as the Board member may specify. The initial Board Members elected will have respective terms of 1 year, 2 years and 3 years, as a result 1 member will have a 1 year term, 1 member will have a 2 year term and 1 member will have a 3 year term. The purpose of the initial term limits is to allow Board members terms to be staggered. The initial Board members' terms will be determined by each Board member drawing numbers from a hat which hat will contain 3 pieces of paper with numbers 1 – 3. The initial term for the Board member will be the term selected by that member.

Section 4. Organization Meeting. Immediately after each annual meeting of members of the Association, the newly elected Board members shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

Section 5. Regular Meetings. Regular meetings of the Board may be held at such times and places as shall be determined by a majority of the Board, but at least 4 such meetings shall be held during each fiscal year.

Section 6. Special Meeting. Special meetings of the Board may be held at any time upon call by the President or any 2 Board members. Written notice of the time and place of each such meeting shall be given to each Board member either by personal delivery or by mail, telegram, telecopier, or telephones at least 2 days before the meeting, which notice need not specify the purposes of the meeting; provided, however, that attendance of any Board member at any such meeting shall be deemed to be a waiver by him of notice of such meeting, and such notice may be waived in writing either before or after the holding of such meeting, by any Board member, which writing shall be filed with or entered upon the records of the meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organization, regular or special meeting.

Section 7. Quorum; Adjournment. A quorum of the Board shall consist of a majority of the Board members then in office except that a majority of the Board members present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of





such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting. At each meeting of the Board at which a quorum is present, all questions and ON business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these Bylaws.

Section 8. Powers and Duties. Except as otherwise provided by law, the Restrictions, or these Bylaws, all power and authority of the Association shall be exercised by the Board. The Board shall be responsible for maintenance, repair and replacement of the Common Properties and other responsibilities described in the Restrictions or these Bylaws. In carrying out the purposes of the Restrictions and subject to the limitations prescribed by law, the Restrictions or these Bylaws, for and on behalf of the Association, may;

(a) Purchase or otherwise acquire, lease as lessee, hold, use, lease as lessor, sell, exchange, transfer, and dispose of property of any description or any interest therein;

(b) Make contracts;

(c) Borrow money and issue, sell and pledge notes, bonds and other evidence of indebtedness of the Association;

(d) Levy assessments against Owners;

(e) Collect the charges for common expenses and assessments from the Owners;

(f) Employ and fix reasonable compensation for a managing agent to perform such duties and services as the Board may authorize;

(g) Employ and fix reasonable compensation for personnel necessary for the maintenance and operation of the Common Properties;

(h) Employ and fix reasonable compensation for lawyers and accountants to perform such legal and accounting services as the Board may authorize;

(i) Pay taxes; and

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(j) Do all things permitted by law and exercise all power and authority with the purposes stated in these Bylaws or the Restrictions or incidental thereto.

Notwithstanding any provision of these Bylaws to the contrary, the Board may take no action which is not within the power of the Association as provided in Article IV.

Section 9. Action Without a Meeting. All actions, which may be taken at a meeting of the Board, may be taken without a meeting with the approval of, and in a writing or writings signed by, the Board members having the percentage of voting power required to take such action if the same were taken at a meeting. Such writing shall be filed with the Secretary of the Association.

Section 10. Removal of Members of Board. At any regular or special meeting of members of the Association duly called, at which a quorum shall be present, any one or more of the Board members may be removed with or without cause by the vote of members of the Association entitled to exercise at least 75% of the voting power of the Association, and a successor or successors to such Board member or members so removed shall then and there be elected to fill the vacancy or vacancies thus created. Any Board member whose removal has been proposed by the members of the Association shall be given an opportunity to be heard at such meeting.

Section 11. Fidelity Bonds. The Board may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate Fidelity Bonds. The premiums on such Bonds shall be paid by the Association.

### ARTICLE III Officers

Section 1. Election and Designation of Officers. The Board shall elect a President, Vice-President and Secretary-Treasurer. The officers shall be Members of the Association or officers, employees or partners of a Member.

Section 2. Term of Office; Vacancies. The officers of the Association shall hold office until the next organizational meeting of the Board and until their successors are elected, except in case of resignation, removal from office or death.



The Board may remove any officer at any time with or without cause by a majority vote of the Board members then in office. Any vacancy in any office may be filled by the Board.

Section 3. President. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of members of the Association and shall preside at all meetings of the Board. Subject to directions of the Board, the President shall have general executive supervision over the business and affairs of the Association. The President may execute all authorized deeds, contracts and other obligations of the Association, shall perform such other duties as may be determined by the Board or otherwise be provided for in the Restrictions or in these Bylaws.

Section 4. Vice-President. The Vice President shall perform the duties of the President whenever the President is unable to act and shall have such other authority and perform such other duties as may be determined by the Board. The authority of the Vice President, when acting for the President, to sign in the name of the Association all contracts, notes and other instruments shall be coordinated with like authority of the President.

Section 5. Secretary-Treasurer. The offices and duties of Secretary and Treasurer shall be held and performed by one person,

(a) In the Secretary/Treasurer's capacity as Secretary, the Secretary/Treasurer shall keep the minutes of meetings of the members of the Association and of the Board and shall make proper record of the same which shall be attested by the Secretary/Treasurer. The Secretary/Treasurer shall keep such books as may be required by the Board, shall give notices of meetings of members of the Association and of the Board required by law, the Restrictions or these Bylaws, and shall have such authority and shall perform such other duties as may be determined by the Board or otherwise be provided for in the Restrictions or in these Bylaws.

(b) In the Secretary/Treasurer's capacity as Treasurer, the Secretary/Treasurer shall receive and have custody of all money, bills, notes and similar property belonging to the Association, and shall do with the same as may be directed by the Board. The Secretary/Treasurer shall keep accurate financial accounts and hold the same open for the inspection and examination of the Board

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Kristen M. Scalise, CPA, CFE, Summit County Fiscal Officer



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and by any Owner as provided in Article V, Section 3, and shall have such authority and shall perform such other duties as may be determined by the Board.

#### ARTICLE IV General Powers of the Association

Section 1. General Authority. The Association shall have such power and authority as is set forth in the Restrictions and as otherwise provided in these Bylaws, provided, however, that the Association shall have the power and authority to take action with respect to the acquisition, construction, management, maintenance and use of the Common Properties and other property only to the extent that it is used and intended to be used for the common benefit of the Owners.

Section 2. Delegation of Duties. Nothing herein contained shall be construed so as to preclude the Association, through its Board and Officers, from delegating in accordance with the Declaration to persons, firms or corporations, including any manager or managing agent, such duties and responsibilities of the Association as the Board shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities, subject to limitations and requirements imposed by the Declaration.

#### ARTICLE V Finances of Association

Section 1. Preparation of Estimated Budget. Each year on or before the annual meeting, but not later than November 30, the Association or its Accountant or Bookkeeper shall estimate the total amount necessary to pay all the expenses of the Association for the next calendar year together with an amount necessary for an adequate reserve for contingencies and the maintenance, repair and replacement of the Common Properties and the portions of the buildings and structures located on the Lots which are the responsibility of the Association. The Association shall on or before December 15<sup>th</sup>, notify each Owner in writing as to the amount of such assessment (which amount may vary from the estimate due to the action of the Owners at the annual meeting), with reasonable itemization thereof. Said assessment shall be assessed to the Owners according to each Owner's votes in the Association. On or before the second business day after



and account of all the Owners in proportion to each Owner's votes as a member of the Association.

Section 5. Annual Audit. The books of the Association shall be audited once a year by the Board and such audit shall be completed prior to each annual meeting. If requested by two members of the Board, such audit shall be made by a Certified Public Accountant. In addition, and at any time requested by a majority of the Unit Owners, the Board shall cause an additional audit to be made.

Section 6. Common Profits. The Association may, if a majority of the members elect, disburse to the Owners, in proportion to their votes as members of the Association, funds in the custody of the Association which are not reasonably necessary for the activities of the Association. Distributions to Owners shall be reduced by the amount of any unpaid assessments due and payable on the date of the disbursement by the Owner to the Association.

Section 7. Professionals and Assistants. The Association may hire professionals and assistants in carrying out its obligations under this Article V.

## ARTICLE VI General Provisions

Section 1. Indemnification of Board Members and Officers. Each Board member and officer of the Association, and each former Board member and officer of the Association, shall be indemnified by the Association against the costs and expenses of any pending or threatened action, suit or proceeding, criminal or civil, to which the Board member is or may be made a party by reason of the Board member's being or having been such Board member or officer of the Association (whether or not the Board member is a Board member or officer at the time of incurring such costs and expenses), except with respect to matters as to which the Board member shall be adjudged in such action, suit or proceeding to be liable for misconduct or negligence in the performance of the Board member's duty as such Board member or officer. In case of the settlement of any action, suit or proceeding to which any Board member or officer of the Association, or any former Board member or officer of the Association, is made a part or which may be threatened to be brought against the Board member by reason of the Board member's being or having been a Board member or officer of the Association, the Board member shall be indemnified by the Association against the costs and



expenses (including, without limitation, the cost of settlement) reasonably incurred by the Board member in connection with such action, suit or proceeding (whether or not the Board member is a Board member or officer at the time of incurring such costs and expenses), if:

(a) The Association shall be advised by independent counsel that such Board member or officer did not misconduct himself or was not negligent in the performance of the Board member's duty as such Board member or officer with respect to the matters covered by such action, suit or proceeding, and the cost to the Association of indemnifying such Board member or officer (and all other Board members and officers, if any, entitled to indemnification hereunder in such case), if such action, suit or proceeding were carried to a final adjudication in their favor could reasonably be expected to exceed the amount of costs and expenses to be reimbursed to such Board members and officers as a result of such settlement; or

(b) Disinterested Association members entitled to exercise a majority of the voting power shall, by vote at an annual or special meeting of the Association, approve such settlement and the expenses. The phrase "disinterested members" shall mean all members of the Association other than (i) any Board member or officer of the Association who at the time is or may be entitled to indemnification pursuant the foregoing provisions, (ii) any corporation or organization of which any such Board member or officer owns of record or beneficially 10% or more of any class of voting securities, (iii) any firm of which such Board member or officer is a partner, and (iv) any spouse, child, parent, brother or sister of any such Board member or officer.

The foregoing rights of indemnification shall inure to the benefit of the heirs and legal representatives of each such Board member or officer, and shall not be exclusive of other rights which any Board member or officer may be entitled as a matter of law or under the declaration, any vote of the Association members of any agreement. Notwithstanding the foregoing to the contrary, this Section shall not apply to any action, suit or proceeding brought by the Association against any Board member or officer.

Section 2. Amendments. The provisions of these Bylaws may be amended in accordance with the laws of corporations of Ohio.