

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RESERVATION OF EASEMENTS
TINKER'S GREEN SUBDIVISION, STREETSBORO, OHIO**

Declarant, Tinker's Green Homeowner's Association, an Ohio Non Profit Corporation, owner of certain real estate in the City of Streetsboro, Portage County, Ohio, described in Exhibit A, attached hereto and incorporated herein (hereinafter referred to as "Property").

Declarant hereby declares that the Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions and reservation of easements herein, which are for the purpose of protecting the value and desirability of and which shall run with the Property submitted hereunder or which may subsequently be added, and shall be binding on all parties having any right, title or interest in the Property, its successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

1.1 Additional Land. "Additional Land" means the property described on Exhibit B which may be subject to this Declaration pursuant to Article XII of this Declaration.

1.2 Allocated Interests. "Allocated Interests" means the Common Expense Liability and votes in the Association as set forth in Article III.

1.3 Assessments. "Assessments" means those charges upon the Lots established by Article VII of this Declaration.

1.4 Association. "Association" means Tinker's Green Homeowners Association, an Ohio nonprofit corporation, its successors and assigns. Except as the context otherwise requires, "Association" shall mean the Board of Trustees acting on behalf of the Association.

1.5 Association Road. "Association Road" means any private street that is constructed on the Property, which Declarant at any time, transfers or offers to dedicate by easement, deed, plat or otherwise, to the Association or to governmental authorities having jurisdiction (whether the same is denominated as a street, avenue, boulevard, drive, place, court, road, circle, lane, walk or other designation) including any curbs, gutters, or sidewalks adjacent to any such street or other thoroughfare, and which shall include but shall not be limited to Ridgeview Court, Edgewood Court, and Ridgeside Court. An Association Road shall be titled in the name of the Association.

1.6 Board. "Board" shall mean the Board of Trustees of the Association.

1.7 Builder. "Builder" means any person or entity (including the Declarant) who acquires a Lot for the purpose of improving that Lot and erecting a Dwelling Unit thereon for resale to an Owner.

1.8 Common Area. "Common Area" shall mean any real estate owned or leased by the Association or otherwise held for the use and enjoyment of the Owners or Occupants, other than a Lot, including easements in favor of the Association. The Common Areas shall include but shall not be limited to entrances to the Property situated off of existing and future public and private streets that abut the Property and Association Roads.

1.9 Common Expense Liability. "Common Expense Liability" means the liability for Common Expenses allocated to each Lot pursuant to Article III, of this Declaration.

1.10 Common Expenses. "Common Expenses" means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves.

1.11 Declarant. "Declarant" means Tinker's Green Homeowner's Association.

1.12 Declaration. "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Tinker's Green Homeowners Association, an Ohio Non Profit Corporation, including any amendments hereto.

1.13 Dwelling Unit. "Dwelling Unit" means a building situated on the Properties designed and intended for use and occupancy as a single family residence.

1.14 Lot. "Lot" means the physical portion of the Property designated for separate ownership or occupancy, the boundaries of which are described pursuant to Article II, Section 2.1.

1.15 Member. "Member" means any person or entity entitled to membership in the Association as provided herein.

1.16 Occupant. "Occupant" means any person in possession of a Lot or Dwelling Unit whether or not such possession is lawful and shall include but not be limited to, an Owner's family members, guests, invitees, tenants and lessees.

1.17 Owner. "Owner" means the Declarant or other person or entity who owns a Lot, but does not include a person or entity having an interest in a Lot solely as security for an obligation.

1.18 Property. "Property" or "Properties" means the real estate described in Exhibit A attached hereto and any other property which may be made subject to the terms of this Declaration, together with any improvements made thereon.

1.19 Record Plan. "Record Plan" means the record plat for Tinker's Green Subdivision, Volume _____, page _____ Portage County Recorder's Plat Records.

1.20 Surface Water Management System. "Surface Water Management System" shall mean the system designed for the Property by the Declarant for storm water, soil erosion and sediment control. Such system shall include all existing watercourses, ditches, retention basins and swales located in the Property.

ARTICLE II

LOTS

2.1. Description of Lot Boundaries. The boundaries of the Lots shall be those as set forth on the Record Plan.

ARTICLE III

ALLOCATION OF ALLOCATED INTERESTS

3.1. Common Expense Liability. The allocation of Allocated Interests for Common Expense Liability shall be determined in accordance with the allocation of the various assessments as set forth in Article VII.

3.2. Votes in the Association. The allocation of Allocated Interests for voting purposes shall be one vote per Lot.

ARTICLE IV

COMMON AREA AND EASEMENTS

4.1. Description. The Common Area shall be any portion of the Property owned by the Association in fee or by easement or leased to the Association.

4.2. Easements. The Lots and Common Area shall be subject to certain easements. These easements shall be appurtenant to and pass with the title to the Lots.

4.2.1. Enjoyment. The Common Area and Lots shall be subject to an easement of enjoyment in favor of the Lots and Owners. Such easement shall be limited to the purposes for which the easements are created. Nothing herein shall be construed to provide any right of access to the Lots by any persons who are not Owners thereof.

4.2.2. Drainage. The Lots shall be subject to easements in favor of the Lots benefited for Surface Water Management as further defined in Article V. No Owner shall do anything within a Lot or Dwelling Unit which shall unreasonably increase the flow of surface water.

4.2.3. Utilities. It is hereby reserved in favor of Declarant and granted to the Association, its successors and assigns, an easement upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utilities and service lines and systems including, but not limited to, water, sewer, energy, drainage, gas, telephone, electricity, television, cable and communications lines and systems. By virtue of this easement, it shall be expressly permissible for Declarant and the Association and their successors and assigns, or the providing utility or service company, to install and maintain facilities and equipment on the Property provided that such facility shall not materially impair or interfere with

any Dwelling Unit and provided further, that any areas disturbed by such installation and maintenance are restored to substantially the condition in which they are found. Notwithstanding anything of the contrary contained in this section, no sewers, electrical lines, water lines or other utility service lines or facilities for such utilities may be installed or located except as shown on the recorded plat or approved the Architectural Review Committee of the Association. The Lots shall be subject to easements as shown on the Record Plan.

4.2.4. 185' Electric Easement Restrictions. The 185' electric easement is owned by First Energy and is occupied by an overhead power transmission line. This power line operates at 345,000 volts and is supported by steel towers. First Energy has rights to construct an additional overhead power line inside this easement. This line will be installed approximately 50 feet southwest of the northeastern easement boundary line. The power line conductors are bare aluminum wires. Contact by persons or objects with any wire, or arcing, will cause serious injury or death. Contact with the energized power lines will cause power disruptions and power line damage. The easement restrictions are as follows:

- 1) Equipment and personnel working near power lines shall maintain safe working distances from the energized conductors. A minimum distance of 16 feet from any wire to any conductive object or person working near the conductor is required by O.S.H.A. This distance is measured in any direction to the wire.
- 2) There shall be no above ground structures located inside the easement including houses, garages, barns, decks, shelters, sheds, pavilions, flag poles, lighting structures, swimming pools, baseball backstops, batting cages, playgrounds, trampolines, etc.
- 3) Vegetation planted inside the easement shall be low-growing shrubbery (10 feet maximum mature height). Any vegetation that can grow to make contact with the power line wires, either from below or from the side, shall be cut down by First Energy.
- 4) There shall be no kite flying near the power lines.
- 5) First Energy requires permanent access by vehicles and equipment to its power line facilities. Driving lanes have been provided without obstruction to facilitate First Energy's access to its towers and wires. These access points are located off of Tinkers Green Drive in Block "A" and Block "F".
- 6) There shall be no change in ground elevation inside the easement without prior permission from First Energy. The power lines are designed to meet requirements of the National Electrical Safety Code for clearance from energized wires to the ground surface. Any fill under the wires will reduce the safety clearances.

4.2.5. Emergency and Service Easements. Easements are created in favor of fire, police, health, sanitation, medical, ambulance, school buses, utility company, mail service and other public or quasi-public emergency and service personnel and their vehicles shall have an easement for ingress and egress over and across the roads or drives within the Property for the performance of their respective duties. This easement includes, but is not limited to the right of entrance to common area Association Roads, Additional Land (if part of the Association) for

emergency purposes or in the event of a non-performance of maintenance and improvements affecting the public interest. Easements are created in favor of fire, police, health, medical, ambulance and utility company for ingress and egress from Vantage Way and Creekledge Courts, being a part of the Property, that exists or will exist, and will be maintained between Lots 51A and 52A as shown on the Record Plan.

4.2.6. Easement for Ingress and Egress. It is hereby created an easement upon and across, over and through Association Roads and any sidewalks, walkways, bike paths, all purpose trails and parking areas in favor of Declarant and the Association, all owners, occupants and their respective guests, licensees and invitees for pedestrian and vehicular ingress and egress, as case may be to and from all various portions of the Property. Notwithstanding the foregoing, the Declarant and/or the Association may limit its right of ingress and egress by an amendment hereto.

4.2.7. Scope of Easements and Dedication of Roadways and Utilities. As the improvements to be located within the Property for the easement rights granted or reserved under Article IV are defined within specific areas, Declarant or the Association (with the Declarant's prior written consent so long as Declarant is a Class "B" Member) shall have the right (but not the obligation) to: (a) limit such easements to specific areas and purposes, and record a document or documents releasing the balance of the land from the burden of such easements; and/or (b) record a plat or other document or documents setting forth the specific areas subject to such easement; and/or (c) dedicate to the public or private use specific areas (and the improvements contained therein) within the Property to meet the requirements of the City of Streetsboro, Ohio and other public authorities having jurisdiction over the same. The Declarant or the Association may exercise any of such rights without the necessity of obtaining the consent or approval of Owners and other persons for whose benefit the easement rights are granted or reserved.

4.2.8. Easements for Construction, Maintenance and Repair. Easements are hereby created upon portions of the Common Areas necessary in connection with the construction, alteration, rebuilding, restoration, maintenance and repair of any Dwelling Unit or other structures and improvements within the Property or serving the Property; provided, however, that in the exercise of any rights under this easement, there shall be no unreasonable interference with the use of any Dwelling Unit or other structure or improvement on the Property. Any person benefiting from the foregoing easement shall indemnify and save harmless the Declarant, the Association, each owner and occupant from and against any and all losses, damages, liabilities, claims and expenses including reasonable attorneys' fees resulting from such construction, rebuilding, alteration, restoration, maintenance and shall repair any damage caused in connection with such activities to substantially the condition that existed prior to such activities.

4.2.9. Easements for Community Signs. Easements are created over Common Areas to install, maintain, repair, replace and eliminate signs that are for the general benefit of the Property are for the identification of Association Roads. The type, size and location of signs shall be subject to approval of the Architectural Review Committee of the Association and subject to the laws of the County, City and other governmental authorities having jurisdiction.

4.2.9. Environmental and Conservation Easement. There is hereby reserved for the benefit of Declarant, the Association and their respective agents, employees, successors and assigns, and alienable, transferable and perpetual right and easements on, over and across all vacant lots and Common Areas for the purpose of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board or any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, the right to dispense pesticides and the right to maintain designated wetland areas. A portion of the Property described on Exhibit D and depicted on Exhibit E (Conservation Area Agreement, Maintenance Plan, and Map), both attached hereto and made a part hereof (the “Protected Property”) is recognized for its scenic, natural, aesthetic and educational values and the Declarant and Association intend that the Protected Property be held for the public purpose of retaining land, water, and wetland areas predominantly in their natural, scenic, open or wooded condition and/or as suitable habitats for fish, plants, and wildlife, subject to the limitations as set forth herein. There is hereby reserved for the benefit of Declarant, the Association, owners, occupants and their respective agents, employees, successors, licensees, invitees, an easement over the Protected Property for the purposes of preserving, protecting and maintaining the Protected Property as a scenic, natural and wooded area as habitat for plants, fish, wildlife and together with the right of visual access to the view of the Protected Property, in its natural, scenic and open condition (the “Conservation Easement”). The Conservation Easement is subject to the following restrictions:

(i) No buildings or other structures or improvements including without limitation, billboards or advertising of any kind, camping accommodations, mobile homes and fences shall be hereafter erected or placed on the Protected Property. Notwithstanding the foregoing, improvements, including without limitation, detention basins, retention basins, storm sewers, ponds, canals, piping, culverts, drains, or other facilities now or hereafter situated upon a portion of the Property which are intended for the collection, retention, detention, transmittal or disposal of storm water (other than gutters, downspouts and other facilities attached to buildings) may be constructed, maintained, repaired, and replaced on and in the Protected Property.

(ii) There shall be no dumping of soil, trash, ashes, garbage, waste or other unsightly or offensive material, nor any placement or underground storage tanks, on or in the Protected Property and no changing of topography through the placing of soil or other substances and materials such as landfill or dredging spoils, except as in connection with and required by the service water management system and the construction, maintenance and repair of detention basins, storm sewers, lakes, ponds, and canals and similar improvements constructed within the Protected Property.

(iii) There shall be no fillings, excavations, construction of roads or other changes in general topography of the land on the Protected Property in any manner, except for the construction, repair, replacement and maintenance of the foot trails, bicycle trails, if any, and that caused by the forces of nature and as required to comply with paragraph 4.2.9(i) hereof.

(iv) There will be no mining or drilling of minerals, oil, gas or similar substances, nor shall the Protected Property be used as part of any drilling unit for oil or gas production.

(v) There shall be no removal or destruction of native grass in the open and wooded areas, use of fertilizers, spraying with biocides, introduction of non-native animals or plants, or disturbance or change of natural habitat except in accordance with good husbandry practices enhancement of native wildlife or plant habitats, and as required by the Surface Water Management System, and in the construction, repair, replacement and maintenance of detention basins, retention basins, lakes, canals, ponds, and storm sewers as constructed on and to the Protected Property, pursuant to paragraph 4.2.9(i) hereof.

(vi) No power transmission lines or communication power shall be erected nor shall interest in Protected Property be granted for this purpose and the Protected Property shall not be subject to the easements set forth in Section 4.2.3. hereof.

(vii) There shall be no activities, plan or uses detrimental or adverse to water conservation, erosion control, soil conservation, and fish and wildlife or habitat preservation on the Protected Property.

(viii) Except as permitted by this Declaration, and governmental authorities having jurisdiction, there shall be no manipulation or alteration of natural water courses, lakeshores, marshes or other water bodies or activities or use detrimental to water purity, provided that all ponds, lakes, detention basins, retention basins, storm sewers and canals on the Protected Property, if any, may be maintained, repaired and replaced pursuant to paragraph 4.2.9(i) hereof.

(ix) There shall be no operation of motorized vehicles including, but not limited to, automobiles, trucks, snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any recreational motorized vehicles on the Protected Property.

(x) There shall be no commercial or recreational use of the Protected Property within the meaning of Section 2031(c) of the Internal Revenue Code and Regulations promulgated thereunder.

(xi) Except as otherwise set forth herein, the Protected Property shall be managed in a manner consistent with its preservation as a natural, scenic, open and wooded area. Except as otherwise permitted by this Declaration, every other activity or construction that might endanger the natural or scenic state of the Protected Property is forbidden.

(xii) The Association shall own the Protected Property at all times.

(xiii) Declarant and the Association may transfer the Protected Property to a land conservancy or other charitable organization as referred to in Section 5301.69 of the Ohio Revised Code and Section 501(c)(3) of the Internal Revenue Code that is a

qualified conservation organization as term is defined in Section 170(h) of the Internal Revenue Code of 1986, as amended, but in all cases shall be maintained for the exclusive use by owners and occupants, their invitees, guests, successors and assigns.

(xvi) The Declarant and the Association's further commitment to protect the lands within the Conservation Area are set forth in attached Exhibit F.

4.3 Owner's Delegation Rights. Any Owner may delegate his or her easement rights and rights of enjoyment to the Common Area to any Occupants, and any guests, invitees, tenants or lessees thereof. Any Owner who has leased his or her Lot shall be deemed to have delegated such rights. Any such delegation, however, shall in accordance with and subject to reasonable rules, regulations and limitations as may be adopted by the Association in accordance with its Code of Regulations.

4.4 Limitation on Common Area and Easements. All Common Area, easements and rights granted herein are subject to:

4.4.1 Restrictions set forth in this Declaration.

4.4.2 Any rules and regulations adopted by the Association and the right to enforce such rules and regulations.

4.4.3 The right of the Association to levy assessments for the Common Expenses and other assessments as set forth herein.

4.4.4 The right of the Declarant and the Association to amend the Record Plan and to grant further rights and easements within, upon, over, under, and across the Common Area for the benefit of the Owners, the Association or Declarant.

4.4.5 The Common Area cannot be mortgaged or conveyed without the consent of two-thirds of the Owners, excluding the Declarant. During any Declarant Control Period, as set forth in Article XIII, no portion of the Common Area can be dedicated without the prior approval of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

4.4.6 If access to any residence is through the Common Area, any conveyance or encumbrance of such area is subject to the Lot Owner's easement.

4.4.7 All rights granted to the Association in this Declaration.

4.5 Easements to Run With Land. All easements and rights described herein are easements appurtenant to the Property (including the Dwelling Units) and the Common Areas, Dwelling Units, shall run with the land, perpetually and at all times shall inure to the benefit of and be binding upon the Declarant, its successors and assigns and any Owner, Occupant, purchaser, mortgagee, government authority or other person having an interest in the Property, or any part or portion thereof. Reference to the easements and rights described in any part of this Declaration, and any deed of conveyance, lease, mortgage, trusts, declaration for another type of

resident association, or other evidence of obligation, shall be sufficient to grant such easements and rights to the respective grantees, lessees, mortgagees or trustees of such property, or any portion thereof, and to reserve to the grantor or lessor, therein, their successors and assigns, as easements appurtenant to the remainder of such properties, easements created by this Declaration for the benefit of any owner, occupant, purchaser, mortgagee, governmental authority or other person in respect to any portion of the property as fully and completely as though such amendments and rights were recited fully as set forth in their entirety in such document.

ARTICLE V

SURFACE WATER MANAGEMENT

5.1. Surface Water Management System. The Surface Water Management System shall consist of the "Storm Easements" and "Stormwater Management Easements" as shown on the Record Plan. The Association shall maintain and administer the Surface Water Management System in accordance with the guidelines as may be promulgated from time to time by the City of Streetsboro, Ohio. The Association shall have primary responsibility for the maintenance of the retention basin, including any pipes, concrete gutters or mechanical devices.

5.2. Surface Water Management System Easements. Each Lot shall be subject to and shall be benefited by an easement for storm sewers, drainage and surface water management as more particularly shown on the Record Plan. Such easement shall be non-exclusive as to the Owners and shall run to the Association, which has control and responsibility for drainage and surface water management. Such easement, however, shall not run to the public at large.

5.3. Access to Lots. For the purpose solely of performing the maintenance required or authorized herein, the Association, through its duly authorized agents or employees, or subcontractors, shall have the right, after reasonable notice to the Owner, to enter upon the Lot at reasonable hours on any day.

5.4. Individual Maintenance. Each Owner shall maintain that portion of the Surface Water Management System which serves only that Owner's Lot. Each Owner shall have primary responsibility for grass-cutting and vegetation control within the easements located on his or her Lot. Such responsibility shall include keeping these easements clean and unobstructed. Maintenance of the Surface Water Management System shall be in accordance with the guidelines and standards set forth by the City of Streetsboro, Ohio. If any portion of the Surface Water Management System which serves only one Lot is damaged, the Owner of that portion shall promptly cause it to be repaired.

5.5. Retention Basin, Pond and Lake Maintenance. The Association shall provide for all repair, replacement, maintenance of the retention basin, ponds, lakes, canals, streams, culverts, piping, drains and other facilities now or hereafter situated upon any portion of the Property that is intended for the collection, retention, detention, transmittal or disposal of storm water (other than gutters, downspouts and other facilities attached to buildings in clean and sanitary condition and in good order and repair and to make replacements and renewals necessary to maintain the same), including without limitation vegetation control and debris removal.

5.6. Restriction on use. No Owner shall use or permit any other persons to use the Surface Water Management System in any manner that would constitute a nuisance, hazard or unsanitary condition or be in violation of any local, state, or federal law ordinance, rule, regulation or statute.

ARTICLE VI

OWNERS ASSOCIATION

6.1. Formation. The Declarant has caused or will cause to be chartered in accordance with Chapter 1702 of the Ohio Revised Code, a nonprofit corporation named Tinker's Green Homeowners Association. The purposes for the Association are to provide for the administrative governance, maintenance and upkeep of the Property and to promote the health, safety, and welfare of the Owners and Occupants of the Property.

6.2. Membership. The membership of the Association shall at all times consist exclusively of Owners of the Lots. All such Owners shall be Members. Membership shall be appurtenant to and may not be separated from such ownership.

6.3. Powers of the Association. Subject to special Declarant rights hereinafter set forth, the Association may:

6.3.1. adopt and amend a Code of Regulations for the government of the Association, the conduct of its affairs and the management of the Property;

6.3.2. adopt rules and regulations for the use and occupation of the Common Area and to enforce violations of the rules and regulations and the provisions and restrictions of the Declaration as against the Owners and Occupants.

6.3.3. adopt and amend budgets for revenues, expenditures and reserves and levy and collect Assessments from Owners;

6.3.4. hire and discharge managing agents and other employees, agents and independent contractors;

6.3.5. institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the community;

6.3.6. make contracts and incur liabilities;

6.3.7. regulate the use, maintenance, repair, replacement and modification of the Common Area for which the Association has maintenance responsibility and other rights as set forth herein;

6.3.8. cause additional improvements to be made as part of the Common Area except that this power shall be limited to improvement required solely for surface water management;

6.3.9. acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property;

6.3.10. grant easements, liens, licenses and concessions through or over the Common Area;

6.3.11. impose and receive any payments, fees or charges for the use, rental or operation of the Common Area and for services provided to Owners;

6.3.12. impose charges for late payments of Assessments and after notice and an opportunity to be heard, levy reasonable fines for violations of the Declarations, Code of Regulations, Rules and Regulations of the Association;

6.3.13. impose reasonable charges for the preparation and recordation of amendments to the Declaration or for statements of unpaid Assessments;

6.3.14. provide for indemnification of its officers and Board and maintain directors' and officers' liability insurance;

6.3.15. assign its right to future income, including the right to receive Common Expense Assessments, except that this power shall be limited to the purposes of repair of existing structures or improvements;

6.3.16. exercise any other powers conferred by the Declaration, Code of Regulations or Articles of Incorporation;

6.3.17. exercise all other powers that may be exercised in this state by nonprofit corporations;

6.3.18. exercise any other powers necessary and proper for the governance and operation of the Association.

6.4. Voting Rights. Subject to special Declarant rights, as set forth in Article XIII, Members shall be entitled to vote on matters properly before them in accordance with this Article, the Code of Regulations and the laws of the State of Ohio.

6.5. Number of Votes. Each Lot shall have one vote. If only one of several Owners for a Lot is present at a meeting of the Association, that Owner is entitled to cast the vote allocated to that Lot. If more than one of the Owners is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any one of the Owners casts the vote allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot.

The Association may adopt rules regarding deadlocks. No votes allocated to any Lots owned by the Association may be cast.

6.6. Proxies. A vote allocated to a Lot may be cast pursuant to a proxy duly executed by an Owner. If an Owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. Except as hereinafter provided, a proxy shall terminate one year after its date, unless it specifies a shorter time. If a first mortgagee has been designated a proxy under the terms of a first mortgage covering the Lot, its presentation to the Board of a copy of the mortgage shall be notice of the proxy designation, and if the mortgage so states, of the irrevocability of that designation. Written notice to the Board or notice in a meeting of a revocation of a proxy designation shall not affect any vote or act previously taken. Each proxy shall automatically cease upon conveyance of the Lot.

Unless expressly reserved and the Association is notified of such reservation, a land contract vendee as defined in Chapter 5313 of the Revised Code, shall be deemed the proxy of a land contract vendor for purposes of this section.

6.7. Annual Meeting. A meeting of the Members of the Association must be held at least once each year.

6.8. Management Agent. The Board may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to the managing agent or manager, subject to the Board's supervision, certain powers granted to the Board by this Declaration. The Declarant, or an affiliate of the Declarant, may be employed as a managing agent or manager.

No management contract may have a term in excess of three (3) years and any management contract must permit termination by either party without cause and without termination fee on ninety (90) days or less written notice.

ARTICLE VII

ASSESSMENTS

7.1. Establishment of Assessments. There are hereby established for the benefit of the Association, its successors and assigns, as a charge on each Lot, certain Assessments for Common Expenses and other expenses. Each Owner, by acceptance of a deed, covenants and agrees to pay such Assessments.

7.2. Purpose of the Assessments. The Assessments are established for the benefit and use of the Association and shall be used in covering the costs of its Common Expenses and for other such purposes as hereinafter set forth.

7.3. Annual General Assessment. There is hereby established an Annual General Assessment for the purpose of the Common Expenses of the Association. The Common Expenses shall be, but are not limited to, (1) operation, maintenance, repair and replacement as required by this Declaration; (2) the cost of any insurance required by this Declaration; (3) reasonable reserves for contingencies and replacement; and (4) administrative, accounting, legal and management fees; and (5) all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration.

7.4. Individual Assessment. The Association after approval by two-thirds (2/3) vote of all members of the Board shall have the right to assess an individual Lot for any of the following:

7.4.1. any costs incurred by the Association in the performance of any maintenance in accordance with Article VIII, Section 8.3.

7.4.2. any charges or fines imposed or levied in accordance with Article IX, Section 9.3.1.1.

7.4.3. any costs incurred for maintenance or repair caused through the willful or negligent act of an Owner or Occupant or their family, tenants, guests or invitees, including attorney fees, court costs and other expenses incurred.

7.4.4. any costs associated with the enforcement of this Declaration or the Rules and Regulations of the Association, including, but not limited to attorneys' fees, witness fees and costs, and court costs.

7.5. Working Capital Fund; Initial Assessment. At the time of closing of a Lot from a Builder, the purchaser of such Lot shall be assessed the sum of \$300.00 as such purchaser's initial capital contribution to the working capital fund of the Association. This Assessment shall be used by the Association for its operating expenses. Such Assessment is not an advance payment of the Annual General Assessment, and it will not be held in any sort of trust or reserve account. Neither Declarant nor Builder shall be subject to or required to pay such Working Capital Fund Assessment.

7.6. Computation and Payment of Annual General Assessment. The Annual General Assessment shall be computed and levied in accordance with the budget adopted by the Board pursuant to the Code of Regulations. This Assessment shall be effective as to each Lot on the first day of the Association's fiscal year. The initial Annual General Assessment as to each Lot shall commence on the first day of the month following the earlier of (i) its conveyance to an Owner other than a Builder; or (ii) occupation of the Dwelling Unit. The initial Annual General Assessment shall be prorated on a monthly basis to the end of the Association's fiscal year, and shall be collected at closing of the conveyance of the Lot from the Builder. So long as there has been no default in payment of the Assessment, it shall be payable in annual installments due on the first day of each fiscal year. The Board shall have the power from time to time to adopt such billing, collection and payment procedures, charges and other payment time schedules as it deems appropriate. Declarant and Builder shall not be subject to or required to pay the Annual General Assessment.

7.7. Maximum Annual Assessment. Beginning with the recording of this Declaration and until December 31, 2005, the maximum Annual General Assessment shall be **Three Hundred Dollars (\$300.00)** Dollars. Beginning with Assessments levied as of January 1, 2006, and annually thereafter, the Board, without a vote of the Owners, may increase or decrease the Annual General Assessment. If the Board increases the Annual General Assessment, then, within Thirty (30) days of notice of such increase, Members in good standing exercising ten (10%) percent of the voting power of the Association, may petition the Board for a special meeting of the Association to reconsider such increase. At such meeting, the Members in good standing, in person or by proxy, exercising sixty-six and two thirds (66 2/3%) percent of the voting power of the Association, may vote to reduce the increase by any amount therein proposed, but not lower than the previous years maximum amount.

7.8. Allocation of Assessments. The Common Expense Liability of each Lot shall be its portion of the Common Expense. The Common Expense Liability and the Annual General Assessment shall be allocated equally to each Lot. The other Assessments shall be allocated as applicable to the respective Lots and as determined by the Board. Declarant and Builder shall not be subject to or required to pay any Common Expense Liability.

7.9 Sidewalk Construction and Reserves. The Association shall create a reserve and apply a portion of the Annual General Assessment to a reserve for the construction of sidewalks along State Route 43 adjacent to the Property. If the City of Streetsboro requires the construction of sidewalks, then the Association and Declarant shall each pay a proportionate share of the construction costs of the sidewalk. Proportionate share will be determined as follows: the Declarant's portion of the construction costs of sidewalks will be determined by the following ratio: the number of unsold Lots of the Property divided by one hundred sixty-one (161), being the total number of Lots situated on the Property, multiplied by the actual out-of-pocket cost of construction of the sidewalk. The Association will pay its share of the expenses not the responsibility of Declarant.

7.10 Lien for Assessments. The Association shall have a lien for any Assessment levied against a Lot, for fines imposed against an Owner or Occupant, and for interest, costs and reasonable attorneys' fees.

7.10.1. Creation. The lien for Assessments is created by this Declaration and shall be a charge and a continuing lien on each Lot which shall run with the land. All persons or entities acquiring an interest in a Lot after the filing of this Declaration take such interest subject to the lien.

7.10.2. Effective Dates. The lien for the Common Expense Liability for each Lot as set forth in the Annual General Assessment shall be effective on the first day of the fiscal year of the Association. The lien for other Assessments shall be effective on the first day of the month following the notice of its levy on the Owners affected.

7.10.3. Perfection. Recording of this Declaration constitutes notice and perfection of the Lien.

7.10.4. Notice of Lien. The Association may file a notice of lien with the Recorder of Cuyahoga County. Such notice shall not be required for the Association to enforce its lien.

7.10.5. Priority of the Lien. The lien created by this Section shall be prior to all liens and encumbrances recorded subsequent to this Declaration except the lien for real estate taxes and assessments and the lien of any bona fide first mortgage filed of record.

7.10.6. Subordination and Mortgagee Protection. Notwithstanding any of the provisions hereof to the contrary, the lien of any Assessment levied pursuant to this Declaration (and any late charges, interest, costs and attorneys' fees) shall be subordinate to, and shall in no way affect the rights of, the holder of a first mortgage made in good faith for value received; provided, however, that such subordination shall apply only to Assessments, or installments thereof, which have become due and payable prior to the date of Sheriff's sale of such Lot pursuant to a foreclosure or the date of a deed in lieu of foreclosure. Such sale or transfer shall not relieve the mortgagee or the purchaser of a Lot at such sale from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment. Mortgagees are not required to collect Assessments on behalf of the Association. Failure to pay Assessments shall not constitute a default under any mortgage insured by FHA/VA.

7.10.7. Extinguishment of the Lien. A lien for unpaid Assessments is extinguished unless proceedings to enforce it are instituted within five (5) years after the full amount of the Assessment becomes due. If an Owner of a Lot subject to a lien files a petition for relief under the United States Bankruptcy Code, then the period of time to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay under Section 362 of the Bankruptcy Code is lifted.

7.10.8. Estoppel Certificate. Upon request of any mortgagee or Owner and upon payment in full of all Assessments and other charges permitted by this Declaration that are due to the Association, the Association shall execute and deliver to such mortgagee or Owner an Estoppel Certificate. Such certificate shall be in recordable form and shall note the payment of the outstanding Assessments and charges and that the Association is estopped from the enforcement of its lien with respect to Assessment and charges becoming due and payable prior to the date of the Certificate. The Association may charge a reasonable fee for the preparation of such certificate.

7.11. Delinquency and Acceleration. Any installment of an Assessment provided for by this Declaration shall become delinquent if not paid on the due date as established by this Declaration or by the Board. With respect to each installment of an Assessment not paid within five (5) days of its due date, the Board may, at its election, require the Owner to pay a reasonable late charge, costs of collection, reasonable attorneys' fees and interest at the rate provided in Section 1343.03 of the Ohio Revised Code (and as amended from time to time). Interest shall be calculated from the date of delinquency to the date full payment is received by the Association. If any installment of an Assessment is not paid within thirty (30) days of its due date, the Board may, at its election, declare all of the unpaid balance of the Assessment without further notice or demand to the Owner. The Association may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law or this Declaration. The filing of any petition for relief pursuant to the United States Bankruptcy Code by an Owner whose Assessment has

been accelerated shall operate as a restoration of the Assessment to its prior status as if it has not been accelerated.

7.12. Remedies Cumulative. A suit to recover money judgment for unpaid Assessments and charges may be maintained without foreclosing or waiving the right to enforce the lien. A foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

7.13. Personal Obligation. The Assessments, including fines, if any, payable by each Owner, together with any penalty, interest, costs and reasonable attorney fees shall be the personal obligation of the Owner of the Lot at the time incurred. The personal obligation shall not pass to any successors in title unless expressly assumed by them.

7.14. Statement of Unpaid Assessments. The Association shall upon written request of the Owner, contract purchaser, or first mortgagee, furnish a statement setting forth the amount of unpaid Assessments against the Lot. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Board and every Owner. The Association may charge a reasonable amount for this statement.

7.15. No Waiver of Liability for Common Expenses. No Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot against which the Assessments are made. Notwithstanding the foregoing, neither Declarant nor Builder shall be obligated to pay Common Expenses.

7.16. Loan. In the event that sufficient funds are not on hand to pay Common Expenses as and when the same become due, Declarant may loan the Association such sums as may be required to pay said Common Expenses. All such sums shall draw interest at the prime rate charged by National City Bank at the time said loan is made.

ARTICLE VIII

UPKEEP OF THE PROPERTY

8.1. Lots. Each and every Lot, its Dwelling Unit and any improvement erected thereon shall be maintained in a reasonable manner in accordance with the standard generally prevailing throughout the Properties.

8.2. Common Area. The Association shall maintain the Common Area per the maintenance plan that is attached as Exhibit "C", such plan can be revised by the HOA at any time.

8.3. Association's Right to Maintain. In the event that an Owner shall fail to provide maintenance as required by this Declaration in a manner satisfactory to the Association, and such Owner has failed to comply for ten (10) days after being so notified of such failure and upon being provided an opportunity to be heard concerning such failure, then the Association shall have the right, through its agents and employees, to enter upon said lot and repair, maintain and

restore the Lot. In the event that such failure poses a health, safety or security risk, then no notice or hearing need be given. The cost of such maintenance and repair shall be assessed against the subject Lot in accordance with Article VII, Section 7.4. Nothing in this Section shall be construed as giving the Association any right to repair, maintain or restore any Dwelling Unit.

8.4. Access to Lots. For the purpose solely of performing the maintenance required or authorized herein, the Association, through its duly authorized agents or employees, or subcontractors, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours on any day.

ARTICLE IX

RESTRICTIONS

9.1. Use and Occupancy. The following restrictions are applicable to the use and occupancy of the Property.

9.1.1. Compliance with Laws. No improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the Owner.

9.1.2. Harmful Discharges. There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances into the atmosphere (other than normal residential chimney emissions), no production, storage or discharge of hazardous wastes on the Property or discharges of liquid, solid wastes or other harmful matter into the ground or any body of water, if such emission, production, storage or discharge may adversely effect the use or intended use of any portion of the Property or may adversely effect the health, safety or comfort of any person. No waste nor any substance or materials of any kind shall be discharged into any public sewer or the Surface Water Management System serving the Property or any part thereof in violation of any regulation of any public body having jurisdiction over such public sewer, or Surface Water Management System.

9.1.3. Noise. No person shall cause any unreasonably loud noise (except for security devices) anywhere on the Property, nor shall any person permit or engage in any activity, practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Property.

9.1.4. Signs. No signs of any character shall be erected, posted or displayed upon the Property, except: (i) marketing signs installed by the Declarant while actively marketing the Lots for sale; (ii) street and identification signs installed by the Association or the Declarant; and (iii) one temporary real estate sign not to exceed six square feet in area advertising that such Lot is on the market.

9.1.5. No Trade or Business. No trade or business of any kind may be conducted in or from any Lot or Dwelling Unit except that an Owner or Occupant of a Lot or Dwelling Unit may conduct such business activity within the Lot or Dwelling Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the Lot or Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming on to the Lot who do not reside in the Property; and (d) the business activity is consistent with the residential character of the Property.

The terms "business" and "trade" as used in this provision shall be construed to have their ordinary generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (i) such activity is engaged in full-time or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. The term "trade" or "business" for purposes of this restriction shall not include the construction, operation and maintenance of any model home or homes and sales offices by any Builder during reasonable hours.

9.1.6. Trash. Except in connection with construction activities, no burning of any trash and no accumulation or storage of litter, refuse, bulk materials, building materials or trash of any other kind shall be permitted on any Lot. Trash containers (except during construction) shall not be permitted to remain in public view except on days of trash collection. No incinerator shall be kept or maintained upon any Lot.

9.1.7. Parking; Vehicle Repairs. Except in connection with construction activities, trucks, trailers, campers, recreational vehicles, boats and other large vehicles may be parked on the Property only if in garages. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any portion of the Property. Vehicle repairs and storage of vehicles are permitted on the Property only if in garages. Recreational vehicles and boats may be parked in the driveways for a period not to exceed twenty-four (24) hours for the purpose of cleaning, loading or unloading.

9.1.8. Animals. The maintenance, keeping, boarding or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited on any Lot or upon any portion of the Property, except that the keeping of guide animals and orderly domestic pets (e.g., dogs, cats or caged birds), is permitted, subject to the Rules and Regulations adopted by the Board. Such pets are not to be kept or maintained for commercial purposes or for breeding. No external compound cages, kennels or hutches shall be permitted.

Any pet causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Property upon ten (10) days written notice from the Board. Pets shall not be permitted on the Common Area unless accompanied by someone who can control the pet and unless carried or leashed. No pets shall be tethered in a way as to be construed to be outside a Unit. Any Owner or Occupant who keeps or maintains any pet on any portion of the Property shall be deemed to have indemnified and agreed to hold the Association harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or

maintaining such pet within the Property. All pets which may leave the Dwelling Unit or Lot must be inoculated as required by law.

9.1.9. Open Fires. Open burning is not permitted on the Property, except outdoor fireplaces, grills, and properly contained campfires so as not to impact surrounding residents.

9.1.10 Occupancy Restriction. No person who is adjudicated to be a sexual predator or a habitual sexual offender and required to register with a designated registering agency, thereby requiring notice to be given pursuant to the Ohio Sex Offenders Act (Chapter 2950 of the Ohio Revised Code) or similar statute from another jurisdiction, as the same may from time to time be amended, may reside in or occupy a Dwelling Unit and/or enter onto or remain in or on the Property. Any violation of this restriction shall subject the Owner and/or any occupant of the Dwelling Unit permitting such behavior 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.

Any conflict between this and any other provisions of the Declaration shall be interpreted in favor of this restriction on the occupancy of Dwelling Units. Upon the recording of this Amendment, only Owners of record at the time of such filing have standing to contest the validity of this Amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of this Amendment.

9.2. Architectural Restrictions. The following architectural restrictions shall be applicable to the Lots.

9.2.1. Plan Approval. No structure shall be placed, erected or installed upon any Lot, no construction (which term shall include within its definition staking, clearing, excavation, grading, and other site work), no exterior alteration or modification of existing improvements shall take place until the requirements of this section have been fully met. Prior to any construction, the Owner or Builder shall first submit to the Declarant (which for the terms of this section shall include its designee) a complete set of building plans for the proposed construction. The Declarant shall approve, reject or modify such plans in a writing sent to the Owner or Builder in question not more than thirty (30) days after the plans are submitted to the Declarant. The thirty (30) day period shall commence upon execution of a written notice by the Declarant acknowledging receipt of plans and specifications and all information required therewith. The Declarant shall review the plans as to the quality of workmanship and design and harmony of external structures with existing structures and as to location in relation to surrounding structures, topography and finish grade elevation. The Declarant shall not unreasonably withhold approval of any plans that conform in every way with the Declaration and with the general character of the development on neighboring Lots within the Property. If the Declarant fails to approve, reject, or modify the plans within the thirty (30) day period, the Declarant's approval shall be deemed to have been given, and no further permission shall be needed before the improvements described in such plans may be constructed or installed. However, in no event shall any improvements be constructed or installed that violate any terms of this Declaration.

9.2.1.1. Declarant's Plan Approval Period. Declarant's right of plan approval shall exist for as long as Declarant owns any Lot in the Properties. Declarant's right of plan approval shall include any alterations to existing Lots or Dwelling Units and/or items requiring prior approval by this Declaration. In any items or matters that are discretionary, the Declarant's decision shall be conclusive upon all parties.

9.2.1.2. Design Guidelines. The Declarant shall prepare and, on behalf of itself and the Association, shall promulgate design and development guidelines governing construction within the Properties, which shall include application and review procedures to be followed in submitting an application for approval hereunder ("Design Guidelines"). The Design Guidelines shall be those of the Association, and the Declarant and/or the Association shall have sole and full authority to modify and to amend them from time to time without the consent of any Owner. The Declarant and/or the Association shall make the Design Guidelines available to Builders and Owners who seek to engage in construction upon all or any portion of the Property. A copy of the current Design Guidelines is attached as Exhibit B.

9.2.1.3. Declarant's Control of New Construction. The Declarant shall have exclusive control of new construction within the Properties. No provision of this Declaration or the Design Guidelines, as the same relates to new construction, may be modified without Declarant's consent.

9.2.1.4. Association's Right of Plan Approval. After Declarant's right of plan approval has expired, the Association shall be responsible for plan approval. The Declarant may assign its right of plan approval, or any portion thereof, to the Association.

9.2.1.5. No Liability. Each Owner and Builder is responsible to insure that all construction or any modifications, are in compliance with the restrictions and approved plans. If the Declarant or the Board has acted in good faith on the basis of such information possessed by them, neither the Declarant, the Board nor any trustee shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed due to: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; or (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications.

9.2.2. Dwelling Type. No building shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling and a garage for at least two cars.

9.2.3. Dwelling Floor Areas. The living area of the Dwelling Unit exclusive of porches, decks, attics, basements, areas not heated year round and garages shall be no less than the areas set forth in the Design Guidelines.

9.2.4. Roof Requirements. The roof and gables of each Dwelling unit shall be in accordance with the Design Guidelines

9.2.5. Set Back, Minimum Elevation and Yard Requirements. All Dwelling Units shall be located in accordance with the building set back lines, minimum basement elevation and yard requirements as shown on the Record Plan and as set forth in the City of Streetsboro, Ohio Zoning Resolution. The Owner or Builder shall be responsible for compliance with these standards. Declarant shall not be responsible for any failure to comply with these standards.

9.2.6. Front Yards and Driveways. Front yards shall be landscaped within ninety (90) days after closing, weather permitting. All driveways shall be paved with concrete, asphalt, brick, or paving stone.

9.2.7. Construction Materials. No Dwelling Units shall be constructed of concrete block, cinder block or other similar materials unless the exterior of the Dwelling Unit is covered with brick and/or siding. No underground Dwelling Units shall be permitted.

9.2.8. Exterior Siding. Any wooden sheeting materials must have prior approval.

9.2.9. Front Storage. No front porch shall be used for the storage of any items except normal porch furniture. No front yard shall be used for storage of any kind of items. This restriction shall not apply to building materials and/or equipment stored on the Lot during construction of the Dwelling Unit.

9.2.10. Radio and Television Antennas. With the exception of eighteen inch home satellite dishes, no exterior antennas, aerials, satellite dishes, or other apparatus for the reception or transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Dwelling Unit, without the prior written approval as provided in Section 9.2.1, and in accordance with the Design Guidelines established by the Declarant or the Association. Nothing herein shall be construed so as to be in conflict with current Federal Communications Commission's rules and regulations for antennas.

9.2.11. Air Conditioning and Heat Pump Equipment. Air-conditioning and heating equipment should be located and screened in such a manner so as to provide minimum visual impact from other Lots.

9.2.12. Awnings. No metal or plastic awnings for windows, doors or patios may be erected or used.

9.2.13. Exterior Carpeting. No exterior carpeting shall be permitted if it is visible from the street or any neighboring Lot.

9.2.14. Fences. No fence of any sort, may be erected unless the same is in accordance with the Design Guidelines and until prior approval in accordance with Section 9.2 of the Declaration has been obtained. The Declarant reserves the right to prohibit all fences or types of fences on certain Lots. Chain link fences shall not be permitted. Invisible pet fences are permitted.

9.2.15. Other Structures. No structure of a temporary character, trailer, or shack shall be permitted on any Lot. Barns, storage sheds or other outbuildings must have prior approval in accordance with Section 9.2. Such outbuildings must be located in the rear yard only; shall not exceed 120 square feet in floor area, not exceed 12 feet in height, must be constructed with siding materials and shingles to match the Dwelling Unit or be constructed of Vinyl material. Vinyl sheds do not require shingles. Construction trailers and/or storage sheds shall be permitted only during construction.

9.2.16. Pools and Spas. In-ground swimming pools, hot tubs and spas shall be permitted in the Rear Yard only. No above ground swimming pools shall be permitted. All hot tubs and spas must be either incorporated into a deck with enclosed sides, resting on a deck or patio with the manufacturers provided side enclosures, or in-ground integrated with-in a patio. All hot tubs and spas must be screened with a privacy fence in accordance with the Design Guidelines.

9.2.17. Play Equipment and Basketball Hoops. All play equipment and basketball hoops must comply with the Design Guidelines.

9.2.18. Clothes Drying. No outdoor clothes drying apparatus of any sort shall be permitted.

9.2.19. Mailboxes, Lampposts. All mailboxes must comply with the Design Guidelines. All lampposts must be of uniform design, style and color as determined by Declarant.

9.2.20. Completion. Construction of a Dwelling Unit on any Lot shall be completed within one (1) year from the date construction is started.

9.2.21. Lot Maintenance. All lots must be kept mowed and free of debris and clutter. During construction, each Owner and builder shall be responsible for keeping the streets and adjacent Lots clean and free of debris. The Declarant shall have the right to assess and Owner or Builder for the cost of mowing or clean up in the event that the Owner or Builder fails to do so.

9.2.22 Wetlands. No activity (including without limitation, “weed eating”, mowing, plant removal, plant trimming, dredging or filling) shall be conducted at the Property which would in any manner disturb or potentially disturb either (i) designated wetlands within the Property or (ii) wetland vegetation within three (3) feet of the high water mark of any water body within the Property without the prior written consent of the Association and unless all permits required to conduct such activity has been obtained from any governmental authorities having jurisdiction over wetlands. Portion of the Property designated wetlands are set forth on the Recorded Plan and any other plat that is subsequently recorded, and as designated by the Association or any governmental authority having jurisdiction over wetlands. Lots 1A through 4A located on Tinker’s Green Drive, and Lots 5A through 10A located on Creekview Court have wetlands at the rear of such Lots.

9.3. Remedies for Breach of Covenants and Restrictions. The violation of any covenant or restriction, contained in this Declaration or violation of any rule or regulation duly adopted by the Board shall give the Board the authority to enforce the covenants, restrictions, rules and regulations in accordance with this Section.

9.3.1. Actions. The Board may take any of the following actions.

9.3.1.1. levy a fine against the Owner or Occupant which shall also be an Individual Assessment under Section 7.4.

9.3.1.2. enter upon a Lot or portion thereof upon which or, as to which, such violation or breach exists and summarily abate and remove at the expense of the Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration, and the Board, or its agents shall not be thereby deemed guilty in any manner of trespass or wrongful act.

9.3.1.3. institute appropriate legal proceedings to enjoin, abate or remedy the continuance of any breach.

9.3.1.4. undertake such dispute resolution methods such as mediation and arbitration, except that this provision shall not be construed as any requirement to do so as a condition precedent to legal proceedings.

9.3.2. Notice and Opportunity to be Heard. Prior to any action, the Board shall give the Owner and/or Occupant reasonable notice of the violation and an opportunity to be heard. Such notice and opportunity shall not be required in emergency situations or for repeated or continuing violations.

9.3.3. Individual Actions. Each Owner is empowered to enforce the covenants by appropriate legal proceedings or alternative dispute resolution methods.

ARTICLE X

INSURANCE AND CASUALTY LOSSES

10.1. Insurance. The Board or its duly authorized agent shall have the authority to and shall obtain such insurance as it may deem necessary to protect the Common Area, the Owners, the Association and the Board.

10.2. Repair and Restoration. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from

insurance exceed the cost of repair, such excess shall be deposited to the benefit of the Association.

ARTICLE XI

CONDEMNATION

11.1. Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on its behalf or on the written direction of all Owners of Lots subject to the taking, if any) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, unless otherwise prohibited by law. The award made for such taking shall be payable to the Association, as trustee for all Owners, to be disbursed as follows:

11.2. If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) percent of the Members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area, to the extent lands are available therefor, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above provisions in Article X hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE XII

EXPANSION OF THE PROPERTY

12.1. Annexation of Additional Land. The Declarant reserves the right for itself, successors and assigns, and any purchaser of the Additional Land to annex all or any portion of the Additional Land to the term of this Declaration. This reservation shall be perpetual. The annexation shall be accomplished by the filing of a supplemental declaration identifying the Additional Land.

12.1.2. Annexation Without a Previous Class "A" Membership. Declarant, successors and assigns, shall have the right, privilege and option from time to time at any time until all of the Additional Land has been subjected to this Declaration to subject the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall be accomplished by filing in the public records in the County in which the Additional Land and Property is situated a supplemental declaration annexing the Additional Land. Such supplemental declaration shall not require the consent of Voting Members (other than the Declarant whose prior written consent shall be required as long as Declarant is a Class "B"

Member) and shall require the consent of the Owner of the Additional Land, if other than Declarant. Such annexation shall be effective upon the filing of record of such supplemental declaration, unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person the right, privilege and option to annex the Additional Land which is herein reserved to Declarant, provided that such transferee or assignee shall be the Owner of at least a portion of the Additional Land and that such transfers is memorialized in a written, recorded instrument executed by Declarant.

12.1.3. Other Land. Declarant may convey to the Association additional real estate, approved or unapproved, which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all the Members.

12.2. Additional Land Disclosure. The Additional Land and ground water are subject to certain contamination. The contamination has been remediated to certain levels permitted by law. The Declarant intends to obtain a No Further Action Letter from the Ohio Environmental Protection Agency with regard to the corrective measures taken and to be taken with regard to the Additional Land.

12.3. Use Restrictions. The Additional Property is subject to the Declaration of Use Restrictions listed on Exhibit E attached hereto and made a part hereof.

ARTICLE XIII

SPECIAL DECLARANT RIGHTS

13.1. Use for Sale Purposes. Declarant reserves for itself, its successors and assigns, and any Builder the right to maintain sales offices and models on the Lots.

13.2. Signs and Marketing. Declarant reserve the right for itself and any Builder to post signs and displays in the Property to promote sales of Lots, and to conduct general sales activities, in a manner as will not unreasonably disturb the rights of Owners.

13.3. Control of the Association.

13.3.1. Appointment of Trustees and Officers. Declarant reserves the right to appoint and remove the members of the Board and the Officers of the Association during the “Declarant Control Period” which commences upon the recording of this Declaration and shall terminate no later than the earlier of:

13.3.1.1. sixty (60) days after the conveyance of seventy-five (75%) percent of the Lots to Owners other than Declarant or any Builder; and

13.3.1.2. seven (7) years after recording of this Declaration.

13.3.2. Transition from Declarant Control. Not later than sixty (60) days after the conveyance of thirty-three (33%) percent of the Lots to Owners other than Declarant or any Builder, one Owner shall be elected to the Board by a vote of Owners other than Declarant or any Builder, at which time four (4) persons shall constitute the Board. Not later than sixty (60) days after the conveyance of sixty-seven (67%) percent of the Lots to Owners other than Declarant or any Builder, an additional Owner shall be elected to the Board by a vote of Owners other than Declarant or any Builder, at which time five (5) persons shall constitute the Board.

13.3.3. Early Termination of Control. Declarant may voluntarily surrender the right to appoint and remove trustees and officers before the termination of the period set forth above. In that event, the Declarant may require, for the duration of that period, that specified actions of the Association or the Board, be approved by Declarant before they become effective. Such voluntary termination shall be evidenced by a recorded instrument executed by the Declarant setting forth the termination of right to appoint and the actions that require Declarant's approval.

13.4. Declarant's Personal Property. Declarant and any Builder reserve the right to retain all personal property and equipment used in sales, management, construction and maintenance of the premises that has not been represented as property of the Association. Declarant and Builder reserve the right to remove, within one (1) year after the sale of the last Lot, from the Property any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

13.5. Right to Amend Documents. Notwithstanding anything above to the contrary, this Declaration may be amended at any time without the vote of Owners by a written instrument executed by the Declarant for the purpose of eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarant's original intent; making any change necessary or desirable to meet the requirements of any institutional lender, the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any other agency which may insure or purchase loans on a Lot. No such amendment, however, shall materially affect any Owner's interest in the Association or the Common Area. Each Owner and his mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering such Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration by Declarant as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by a Declarant to be necessary or proper to effectuate the provisions of this paragraph.

ARTICLE XIV

DURATION, AMENDMENT AND TERMINATION

14.1. Duration. This Declaration, and its provisions, shall be covenants running with the land and shall bind the property and shall (regardless of whether any such beneficiary owns an interest in any Lot) inure to the benefit of and be enforceable by Declarant, the Association, and each Owner, Occupant and their legal representatives, heirs, devisees, successors and assigns and shall continue in full force and effect for twenty (20) years from the date on which this Declaration is recorded. Thereafter, this Declaration shall be automatically renewed for successive ten-year periods unless amended or terminated as provided in this Article.

14.2. Amendment. Except as provided in Section 13.5, prior to the end of the Declarant Control Period, any provision of this Declaration may be amended in whole or in part by a recorded instrument executed by Declarant, approved by the Owners of at least 75% of all Lots, and the prior approval of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

14.2.1. Except as provided in Section 13.5, after the end of the Declarant Control Period, any provision of this Declaration may be amended in whole or in part by a recorded instrument approved by the Owners of at least seventy-five (75%) percent of all Lots.

14.2.2. All Amendments shall be executed by the Declarant, and any Builder, if required, and shall be executed by the President and Secretary of the Association. Each such Amendment shall certify that the proper notices were sent and that the requisite vote was obtained. Amendments need not be signed by the Owners nor the Federal Housing Administration or the Veterans Administration.

14.3. Termination. This Declaration and the regime created hereby may be terminated only in accordance with this Section.

14.3.1. Consent Required. This Declaration may be terminated only upon the consent of eighty (80%) percent of the Owners, and if during the Declarant Control Period, by consent of the Declarant and the prior approval of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Lot.

14.3.2. Agreement to Terminate. No termination shall be effective unless an agreement to terminate is filed for record with the Cuyahoga County Recorder. This agreement shall be executed in the same manner as a deed by the requisite number of Owners. The agreement shall provide for disposition of the Common Area, disposition of Association funds and other resolutions and provisions necessary to terminate the regime and wind up the affairs of the Association.

ARTICLE XV

MISCELLANEOUS

15.1. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Ohio.

15.2. No Reverter. No covenant, condition, restriction or reservation of easement contained in this Declaration is intended to create, or shall be construed as creating, a condition subsequent or a possibility of reverter.

15.3. Notices. Any notice required or permitted to be given to an Owner or resident by the Board pursuant to the provisions of this Declaration shall be deemed given when mailed by United States mail, postage prepaid, addressed to such person's last address as it appears on the records of the Association.

15.4. Construction. The Board shall have the right to construe the provisions of this Declaration, and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, such construction shall be final and binding as to all persons and entities benefited or bound by the provisions of this Declaration.

15.5. Invalidity. The determination by a court of competent jurisdiction that any provision of this Declaration is invalid for any reason shall not affect the validity of any other provision hereof.

15.6. Headings. The headings of the Articles and Sections are for conveyance only and shall not affect the meaning or construction of the contents of this Declaration.

15.7. Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural and vice versa.

15.8. Conflict. In the event of a conflict between the Restrictions or any one or more of them and the restrictions of any Declaration which may be recorded subsequent to this Declaration, the more restrictive restriction, covenant, condition, easement or other obligation shall control.

Tinker's Green Homeowner's Association has caused this Declaration to be signed by _____, this _____ day of _____, 2009.

TINKER'S GREEN HOMEOWNER'S ASSOCIATION

By: _____

STATE OF OHIO)
)ss:
COUNTY OF PORTAGE)

The foregoing instrument was acknowledged before me, this 31st day of March, 2009, by _____, an Ohio limited liability company.

Notary Public

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EXHIBIT A

Lots to be Submitted

EXHIBIT B

Design Guidelines