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MASTER DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
AND RESTRICTIONS

OF

MAC INTOSH FARMS, A PLANNED RESIDENTIAL COMMUNITY

BEING DEVELOPED AND BUILT BY:

Zaremba-MacIntosh Co.
an Ohio Corporation
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COUNTY AUDITOR

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		<u>Page</u>
<u>PREAMBLE</u>		1
<u>Article I</u>	<u>Preamble; Property Subject to This Declaration;</u>	
	<u>Declarant's Right to Add and Delete Land</u>	2
Section 1.1	Preamble	2
Section 1.2	Property	2
Section 1.3	Expansion and Contraction of Property	2
<u>Article II</u>	<u>Exhibits and Definitions</u>	3
Section 2.1	Exhibits	3
Section 2.2	Definitions	3
<u>Article III</u>	<u>Easements</u>	9
Section 3.1	Utility Easements	9
Section 3.2	Easement for Ingress and Egress	9
Section 3.3	Open Spaces	10
Section 3.4	Easements for Construction, Alteration, etc.	10
Section 3.5	Scope of Easements	10
Section 3.6	Easements to Run With the Lands	10
Section 3.7	Easement to Maintain Sales Offices, Models, etc.	11
Section 3.8	Dedication of Utilities and Roadways	11
<u>Article IV</u>	<u>Development, Ownership and Operation of the</u>	
	<u>Recreation Property, Recreation Facilities,</u>	
	<u>Entrances and Lakes and Other Common Areas</u>	11
Section 4.1	Construction of Recreation Facilities	11
Section 4.2	Use of Recreation Property	12
Section 4.3	Title to Recreation Property, MacIntosh Lane	
	Entrance and Lakes	12
Section 4.4	Limitations on Right of Use and Enjoyment of	
	the Recreation Property	13
Section 4.5	Reservation of Right to Add Additional Land to	
	the Recreation Property and to Grant Use of	
	Recreation Facilities to Others	13
Section 4.6	Additional Recreation Facilities	14
Section 4.7	Use of Common Areas	14
<u>Article V</u>	<u>The Master Association</u>	14
Section 5.1	Existence	14
Section 5.2	Membership and Voting Rights	14
Section 5.3	Board and Officers of the Master Association	15
Section 5.4	Rights of the Association	15

<u>Article VI</u>	<u>Responsibilities of the Master Association</u>	17
Section 6.1	Maintenance of Areas of Common Responsibility, Including Recreation Property and Recreation Facilities, Roadways and Utilities	17
Section 6.2	Sub-Associations	17
Section 6.3	Taxes and Assessments	18
Section 6.4	Utilities and Sewer Plant	18
Section 6.5	Insurance	18
Section 6.6	Management	22
Section 6.7	Upgrading	23
Section 6.8	Construction of Additional Recreation Facilities and Other Amenities	23
Section 6.9	Enforcement	24
Section 6.10	Disputes Between Associations	24
Section 6.11	Rules and Regulations	24
Section 6.12	General	25
Section 6.13	Original Declarant's Rights	25
<u>Article VII</u>	<u>Covenants and Restrictions</u>	25
Section 7.1	Covenant of Good Maintenance	25
Section 7.2	Trailers	26
Section 7.3	Fences, Walls, Hedges, Etc.	26
Section 7.4	Nuisance	26
Section 7.5	Animals	26
Section 7.6	Signs	26
Section 7.7	Storage of Material and Trash Handling	26
Section 7.8	Pipe Lines, Utility Lines and Drilling	27
Section 7.9	Commercial or Professional Uses	27
Section 7.10	Storage of Vehicles and Machinery	27
Section 7.11	Firearms; Preservation of Wildlife	28
Section 7.12	Control of Trucks, Commercial Vehicles and Motorcycles	28
Section 7.13	Poles, Wires, Antennae, Etc.	28
Section 7.14	Exterior Appearance	28
Section 7.15	Window Treatments	28
Section 7.16	Grading	29
Section 7.17	Drainage Ditches - Access by the City	29
Section 7.18	Lights on Exterior or Residence	29
Section 7.19	Waiver of Subrogation	29
Section 7.20	Violation of This Article	29
Section 7.21	Restrictions of Other Documents	30
Section 7.22	Certificate of Compliance with Restrictions	30
<u>Article VIII</u>	<u>Design Review Committee</u>	31
Section 8.1	Structure of Committee	31
Section 8.2	Approval of Plans	31
Section 8.3	Grounds of Disapproval	31
Section 8.4	Right of Appeal	32
Section 8.5	Violation of Article	32
Section 8.6	Cost of Design Review Committee	33
Section 8.7	Liability of Members of the Design Review Committee	33

<u>Section IX</u>	<u>Assessments</u>	33
Section 9.1	Definition of Assessments	33
Section 9.2	Responsibility for Payment of Assessments; Parcel Assessments	34
Section 9.3	No Exemption for Non-Use of Facilities	35
Section 9.4	Uniformity and Payment of Assessments	35
Section 9.5	Creation of Lien and Personal Obligation	35
Section 9.6	Non-Liability of Foreclosure Sales Purchaser for Past Due Assessments	35
Section 9.7	Liability for Assessments on Voluntary Conveyance	35
<u>Article X</u>	<u>Liens</u>	36
Section 10.1	Perfection of Lien	36
Section 10.2	Duration of Lien	36
Section 10.3	Priority	36
Section 10.4	Dispute as to Assessment	37
Section 10.5	No Waiver Implied	37
Section 10.6	Personal Obligations	37
<u>Article XI</u>	<u>Remedies of the Association</u>	37
Section 11.1	Denial of Use of Recreation Facilities	37
Section 11.2	Specific Remedies	37
Section 11.3	Cost of Collection	38
Section 11.4	Binding Effect	38
<u>Article XII</u>	<u>No Partition</u>	38
<u>Article XIII</u>	<u>Condemnation</u>	39
<u>Article XIV</u>	<u>Mortgagees' Rights</u>	39
Section 14.1	Notices of Action	39
Section 14.2	Other Provisions for First Lien Holders	40
Section 14.3	Amendments to Documents	40
Section 14.4	Special Federal Home Loan Mortgage Corporation Provisions	41
<u>Article XV</u>	<u>General Provisions</u>	42
Section 15.1	Covenants Run With the Development Property and Recreation Property; Binding Effect	42
Section 15.2	Duration	42
Section 15.3	Notices	42
Section 15.4	Enforcement-Waiver	43
Section 15.5	Construction of the Provisions of this Declaration	43
Section 15.6	Reservations by Original Declarant - Exempt Property	43
Section 15.7	Assignability by Original Declarant	44
Section 15.8	Severability	45
Section 15.9	Arbitration	45
Section 15.10	Validity of Mortgages	45
Section 15.11	Amendment of Declaration	45
Section 15.12	Interest Rates	47
Section 15.13	Headings	47
Section 15.14	Rule Against Perpetuities	47

MASTER DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS OF
MAC INTOSH FARMS, A PLANNED RESIDENTIAL COMMUNITY

This Declaration made as of the 29th day of July, 1986 by ZAREMBA MAC INTOSH CO., an Ohio corporation (the "Declarant").

PREAMBLE

A. Declarant is the owner of real property in the City of Broadview Heights, Cuyahoga County, Ohio (the "City"), legally described in Exhibit "A" (the "Property").

B. The City has re-zoned the Property and certain neighboring properties ("Neighboring Properties") to "Class B-3--Condominiums", said properties being described in a document recorded in Volume 15205, Page 305 of Cuyahoga County Records.

C. Declarant expects to develop the Property and Neighboring Properties in phases, the initial phase containing approximately two hundred eleven (211) acres, comprising the site for single and cluster home condominium development to be known as MacIntosh Farms Condominium No. 1 situated off of MacIntosh Lane, a duly dedicated public street. It is anticipated that the Property will be expanded to include all or part of the Neighboring Properties and additional properties situated within Broadview Heights, Richfield Township, Summit County, and Hinckley Township, Medina County. The term "Additional Land" shall mean and refer to real property subject to Declarant's unilateral right of annexation as provided elsewhere in the Declaration, a portion of which property is shown on Exhibit "B" and legally described in Exhibit "C" and the balance of which property would include all lands situated within a radius of one (1) mile of the boundry of any portion of the real estate shown on Exhibit "B" and described in Exhibit "C". The Property and the Additional Land are collectively referred herein as the "Total Property". In addition, the Property, is expected to have recreation facilities for use in common of all residents of the Property and additional areas of land which are intended to remain as entrances, open areas and buffer zones.

D. The residences and other improvements serving the Property, the Neighboring Properties and certain other properties are to be served on a temporary basis by a sanitary sewage treatment plant situated within a portion of the Total Property ("Sewer Plant").

E. The Additional Land may be developed in whole or in part as one or more condominium properties and submitted to condominium declarations; as one or more subdivisions or other non-condominium forms of ownership and submitted to homeowner or other residential declarations; for recreational purposes available to the general public or in the form of private/equity membership that may include non-residents of the Property; for commercial purposes to serve the residents of the Property and others; or any combination of the foregoing.

F. Declarant desires to provide for the orderly development of the Property, the establishment and maintenance of architectural and design controls and standards, the preservation of open space, the use and maintenance of the Areas of Common Responsibility (hereinafter defined) and the protection of values within the Property so that the residents of the Property may enjoy a fine environment for their families. For such purpose, Declarant has prepared this Master Declaration to define the manner in which the Property and the balance of the Total Property shall be governed and administered if and when said balance or any portion therein is submitted to this Master Declaration.

G. A central authority or agency will be required to regulate, administer and govern the Property for the fulfillment of the foregoing purposes with the power to levy and collect assessments from owners within the Property, to pay the cost and expenses of operating, maintaining, repairing and replacing the Areas of Common Responsibility. Declarant has assigned such functions to the MacIntosh Farms Community Association, Inc., a corporation not for profit, which Declarant has caused to be created under the laws of the State of Ohio.

NOW, THEREFORE, Declarant declares the Property and any other portion of the Total Property as may by subsequent amendment be added to and subjected to this Declaration shall be owned, held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, assessments, charges and liens (collectively, "Covenants and Restrictions") provided in this Master Declaration, which Covenants and Restrictions shall run with the land and shall be binding on and inure to the benefit of all persons having any right, title or interest in any part of the Property, and any other portion of the Total Property as may by subsequent amendment be added to and subjected to this Declaration, and their respective heirs, personal representatives, successors and assigns.

ARTICLE I

PREAMBLE; PROPERTY SUBJECT TO THIS DECLARATION; DECLARANT'S RIGHT TO ADD AND DELETE LAND

Section 1.1 - Preamble

The Preamble is incorporated in and made a part of this Declaration.

Section 1.2 - Property

The Property initially which is and shall be owned, held, transferred, sold, conveyed, used and occupied subject to this Declaration is the real Property described in Exhibit "A".

Section 1.3 - Expansion and Contraction of Property

(a) The Declarant reserves the right from time to time to add all or any portion of the Additional Land to the Property and to subject the same to the provisions of this Declaration. To add any portion of the Additional Land, Declarant shall execute and record a Subsequent Amendment which expressly provides that the land described therein shall become a part of the Property and subject to the Covenants and Restrictions set forth in this Declaration, except as the same may be modified by the Subsequent Amendment.

(b) The Declarant reserves the right from time to time to delete lands from the Property and thereby to free such lands from the provisions of this Declaration. To delete such lands, Declarant shall execute and record a Subsequent Amendment which expressly provides that the land described therein shall no longer be a part of the Property and shall no longer be subject to the Covenants and Restrictions set forth in this Declaration.

ARTICLE II EXHIBITS AND DEFINITIONS

Section 2.1 - Exhibits

The following Exhibits are attached to and made a part of this Declaration:

- EXHIBIT "A": A legal description of the Property which may be enlarged, contracted or changed as herein provided.
- EXHIBIT "B": A site plan of the Total Property, exclusive of all lands located within a one (1) mile radius of the boundry of any of the property shown on such exhibit.
- EXHIBIT "C": A legal description of the Total Property, exclusive of all lands located within a one (1) mile radius of the boundry of the property described in said exhibit.
- EXHIBIT "D": A legal description of: (a) the Recreation Property upon which the Initial Recreation Facilities are to be constructed; and (b) two parcels situated at the Broadview Road/MacIntosh Lane entrance of the Property, each of which parcels contains a pond.

Section 2.2 - Definitions

For the purposes of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

(a) "ACT". Ohio Revised Code Chapter 5311 being the Condominium Property Act of the State of Ohio as the same may be amended from time to time.

(b) "ADDITIONAL LAND". The property shown on Exhibit "B", described in Exhibit "C" and all lands situated within a radius of two (2) miles of such property.

(c) "AREAS OF COMMON RESPONSIBILITY" shall mean and refer to (a) the "Common Areas"; (b) the "Recreation Facilities"; (c) the "Recreation Property"; (d) the entrances and ponds as described in Exhibit "D", (e) the office of any property manager employed by or contracting with the Association and located on the Property; (f) the Sewage Plant; (g) real and personal property not owned by the Association but determined by the Board to be the responsibility of the Association; (h) together with those areas, if

any, which by contract with any homeowners or Condominium Association or other residential association, with any commercial establishment or association, or with any apartment building owner or with any local governmental authority become the responsibility of the Association.

(d) "ASSESSMENTS". The share of Common Costs referred to in Article IX, and Special Assessments as permitted herein together with "Other Charges" which from time to time are levied by the Board and are required to be paid by an Owner. "Other Charges" shall include, without limitation, (i) interest upon each Assessment and Other Charges as determined from time to time by the Board, but in no event greater than the highest legal rate which may be charged to an individual without being usurious from the date the Assessments or Other Charges first become due to the date the Assessments are paid in full; (ii) a late payment charge if any Assessment shall not be paid within five (5) days from the due date, as established from time to time by the Board but in no event higher than ten percent (10%) of the amount due; and (iii) the reasonable costs of collection of any unpaid Assessments and Other Charges (including court costs and reasonable attorneys' fees). The interest rate and late payment charge referred to above is subject to adjustment in accordance with Section 15.12 hereof.

(e) "BOARD". The Board of Trustees of the Master Association (hereinafter defined). The Board is sometimes also referred to as the "Trustees".

(f) "BYLAWS". The Bylaws of the Master Association.

(g) "CITY". The City of Broadview Heights, a municipal corporation organized and existing under the laws of the State of Ohio.

(h) "COMMON AREAS". All real and personal property now or hereafter owned by the Master Association or otherwise held for the common use and enjoyment of the Owners of Occupants. Common Areas shall include those areas of land intended to remain as open areas, the Recreation Facilities and the land on which the Recreation Facilities are located, and buffer zones for the common use, benefit and enjoyment of all Occupants of the Property. Any Owner may delegate, in accordance with the Bylaws of the Master Association and subject to reasonable rules, regulations, and limitations as may be adopted in accordance therewith, his or her right of enjoyment to the Common Areas and facilities to the members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the Occupants of any leased Dwelling Unit.

(i) "COMMON EXPENSES". The actual and estimated expenses or operating the Master Association, both for general and Parcel purposes, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Master Declaration, the Bylaws, and the Articles of Incorporation of the Master Association.

(j) "COMMUNITY-WIDE STANDARD". The standard conduct, maintenance, or other activity generally prevailing within the Property. Such standard may be more specifically determined and set forth by the Design Review Committee.

(k) "CONDOMINIUM ASSOCIATION(S)". The organization(s) of owners of Condominium Units within the Condominium Developments that administer each Condominium.

(l) "CONDOMINIUM BUILDING". A single-family detached or single-family attached residential building containing individually owned Dwelling Units declared under the Act.

(m) "CONDOMINIUM DEVELOPMENTS". Portions of the Property that are submitted from time to time to the provisions of the Act.

(n) "CONDOMINIUM OWNERSHIP INTEREST". A fee simple estate or a ninety-nine (99) year leasehold estate, renewable forever, in a Dwelling Unit, together with an undivided interest in the Common Areas and Facilities appurtenant thereto.

(o) "DECLARANT". Zaremba MacIntosh Co., an Ohio corporation, and the specifically designated successors or assigns of any of its rights as Declarant under this Declaration or under any supplemental Declaration involving the Property as the same may from time to time be expanded to include additional portions of the Total Property. No person, real or corporate, shall be deemed to be a successor, alternate or additional Declarant for the purposes of this Declaration unless such person or entity has been specifically so designated by Declarant herein, by instrument in writing and placed of record. The Declarant is also sometimes referred to herein as the "Original Declarant".

(p) "DECLARATION OF CONDOMINIUM OWNERSHIP". The instrument by which property is submitted to the provisions of the Act.

(q) "DESIGN REVIEW COMMITTEE". The Committee created by this Master Declaration and granted original jurisdiction to review and approve or disapprove all plans and specifications for proposed construction, alterations, replacements, certain repairs and maintenance, and for any change of use or any improvements.

(r) "DEVELOPER". A Person acquiring title to a portion or all of the Property for the sole purpose of engaging in the business of improving the Property with Dwelling Units for sale or rental and designated a Developer by Declarant.

(s) "DEVELOPMENT PROPERTY". All the land, property and space comprising portions of the Property, as the same may from time to time be expanded, upon which Declarant intends (but is not obligated) to construct Dwelling Units and other improvements thereto together with any additional land annexed thereto in accordance with the provisions of this Master Declaration, said Development Property may be otherwise enlarged, contracted or changed as herein provided.

(t) "DWELLING UNITS". All units or residential housing (attached or detached) to be situated on the Development Property, whether they are condominium units or rental units or any other type of living unit permitted to be constructed upon the Development Property under any applicable zoning code that now exists or may hereafter be amended. Without limiting the generality of the foregoing, Dwelling Unit shall mean a portion of the Development Property intended for any type of independent ownership for use and occupancy as a single family residence and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) condominium units, apartment units, patio or zero lot line homes, and single family houses on separately platted lots, as may be developed, used and defined as herein provided or as provided in Subsequent Amendments covering all or a part of the Development Property; provided, further, the term shall also include all portions of the lot owned as a part of any structure thereon; and provided, further, each apartment unit within an apartment building shall be a Dwelling Unit, but the apartment building itself shall not be or constitute a Dwelling Unit.

For the purposes of this Declaration, a Dwelling Unit shall come into existence when substantially complete or upon the issuance of a certificate of occupancy by the appropriate local governmental entity or, in the case of a Condominium Development, when the Unit is declared as a condominium property under the Act.

(u) "ELECTORIAL DISTRICT". Electoral District shall mean a geographical area composed of one or more housing types and representing a political unit for the purpose of electing Board Members. Districts shall not be required to be equal in population. The Declarant may at any time and from time to time until the termination of Class B Membership as provided in Section 5.2 of this Declaration establish and alter or re-establish the boundaries of Electoral Districts by the recordation of an exhibit to this Declaration setting forth the metes and bounds or other legal description of the land contained within each Electoral District. After termination of the Class B Membership, the Board may prepare and record such exhibit. Such recordation shall not constitute an amendment to this Declaration and shall not require the formality thereof.

(v) "FLOOR AREA". The square footage of Units shall be measured to interior faces of all walls, excluding garages, basement areas which are a full level below grade and any exterior porches, decks, patios, balconys, etc. as shown on the plans and specifications submitted to the Design Review Committee in connection with the construction of the Unit.

(w) "INITIAL RECREATION FACILITIES". Swimming pool, outdoor tennis court, clubhouse and amphitheater.

(x) "MACINTOSH FARMS CONDOMINIUM NO. 1". The Condominium Development to be constructed on all or a portion of the Property described in Exhibit "A".

(y) "MANAGERS". The Boards of Managers of the Condominium Associations for the Condominium Developments that may be constructed on the Development Property.

(z) "MASTER ASSOCIATION". MacIntosh Farms Community Association, Inc., a non-profit Ohio corporation, its successors and assigns, created to govern, operate, control and administer the Areas of Common Responsibility and to supervise and enforce the Covenants and Restrictions.

(aa) "MEMBER". A person or entity entitled to membership in the Master Association, as provided herein.

(bb) "NON-CONDOMINIUM RESIDENTIAL BUILDING". A residential building containing Dwelling Units other than Condominium Units.

(cc) "ORIGINAL DECLARANT". Zaremba MacIntosh Co., an Ohio corporation.

(dd) "OWNER". The record Owner of fee simple title or a ninety-nine (99) year leasehold estate, renewable forever in any Dwelling Unit, including the Declarant (except as otherwise provided herein) with respect to any unsold Dwelling Unit, but Owner shall exclude in all cases any party holding an interest merely as security for the performance of an obligation. If a Dwelling Unit is sold under a land installment contract, the purchaser (Vendee) (rather than the fee Owner) will be considered the Owner. For the purpose of this Master Declaration, the Owner of Dwelling Units within an apartment shall be as follows: For the purpose of votes and assessments, the record Owner of the apartment building or buildings; for the purpose of use and enjoyment of common facilities and amenities which are part of the Common Areas, the Tenant residing in the Dwelling Unit. Every owner shall be treated for all purposes as a single Owner for each Dwelling Unit held irrespective of whether such ownership is joint, in common, or tenancy by entirety. Where such ownership is joint, in common, or tenancy by entirety, the majority vote of such Owners shall be necessary to cast any vote to which such Owners are entitled.

(ee) "OWNERSHIP INTEREST". The entire right, title and interest of any Owner in all of the freehold and leasehold estates of such Owner in his Dwelling Unit.

(ff) "PARCEL". Separately designated, developed residential areas comprised of various types of housing initially or by amendment made subject to this Master Declaration; for example, and by way of illustration and not limitation, condominiums, fee simple townhomes, single family detached houses. In the absence of specific designation of separate Parcel status, all Property made subject to this Master Declaration shall be considered a part of the same Parcel; provided, however, the Declarant may designate in any Subsequent Amendment adding property to the terms and conditions of this Master Declaration that such property shall constitute a separate Parcel or Parcels; and provided, further, by a two-thirds (2/3) vote, the Board may also designate Parcel status to any area so requesting.

(gg) "PARCEL ASSESSMENTS". Assessments for Common Expenses provided for herein or by any Subsequent Amendment which shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Dwelling Units against which the specific Parcel Assessments is levied and of maintaining the portion of the Property within a given Parcel, all as may be specifically authorized from time to time by the Board and as more particularly authorized below.

The Parcel Assessment shall be levied equally against Owners of Dwelling Units in a Parcel for such purposes that are authorized by this Declaration or by the Board from time to time, provided that in the event of assessments for exterior maintenance of Dwelling Units, or insurance on Dwelling Units, or replacement reserves which pertain to particular Dwelling Units (pursuant to an amendment to this Master Declaration), such assessments (that are for the use and benefit of particular lots/Dwelling Units) shall be levied upon a pro rata basis among benefited Owners.

(hh) "PERSON". A natural individual, corporation, partnership, limited partnership, trust or other entity to which the law attributes the capacity of having rights and duties.

(ii) "PROPERTY". The land described in Exhibit "A" as the same may from time to time be amended to include portions of the Total Property.

(jj) "RECREATION FACILITIES". Improvements in the Recreation Property including the Initial Recreation Facilities referred to in Section 4.1 hereof and any additional Recreation Facilities.

(kk) "RECREATION PROPERTY". All the land, property and space comprising the real estate described in Exhibit "D" hereof, upon which real estate Declarant intends to construct the Initial Recreation Facilities.

(ll) "RULES". Such Rules and Regulations to govern the operation and use of the Dwelling Units and the Areas of Common Responsibility, including the Common Areas and any other property owned by the Master Association as may be adopted from time to time by the Board or the Design Review Committee to implement and carry out the provisions and intent of this Master Declaration.

(mm) "SPECIAL CHARGES". All costs, expenses and charges (excluding Assessments) which the Master Association shall charge against an Owner or Dwelling Unit pursuant to this Master Declaration.

(nn) "SUBSEQUENT AMENDMENT". An amendment to this Master Declaration which adds additional property to that covered by this Master Declaration or deletes property from that that is covered by this Master Declaration. A Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land submitted by that Amendment to the provisions of this Master Declaration.

(oo) "SUBSIDY PERIOD". The Subsidy Period for the Areas of Common Responsibility shall commence on the date of filing of the Declaration of Condominium Ownership for MacIntosh Farms Condominium No. 1 and shall continue thereafter for a period of two (2) years or until one hundred fifteen (115) Dwelling Units have been sold and conveyed, whichever event occurs first.

(pp) "TENANT". Any person(s) having a possessory leasehold estate in a Dwelling Unit, other than an Owner.

(qq) "TOTAL PROPERTY". The real property consisting of the Property and the Additional Land.

(rr) "UNIT". A part of the Condominium Development consisting of one or more rooms on one or more floors of a Condominium Building and designated as a Unit in a Declaration of Condominium Ownership.

(ss) "UNIT OWNER". A person who owns a Condominium Ownership Interest in a Unit.

ARTICLE III EASEMENTS

Section 3.1 - Utility Easements

There is hereby reserved in favor of Declarant and granted to the Association and each Developer, their successor and assigns, a blanket 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 communication lines and system. By virtue of this easement, it shall be expressly permissible for Declarant, the Master Association and each Developer and their successors and assigns, or the providing utility or service company, to install and maintain facilities and equipment on the Property provided that any such disturbed areas are substantially restored to the condition in which they were found if such restoration is financially feasible and physically possible. Notwithstanding anything to 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 approved by the Design Review Committee.

A non-exclusive easement is being granted to the Declarant for use of the Sewer Plant. The Sewer Plant shall be a temporary waste water treatment plant to be abandoned if and when Cuyahoga County ("County") installs a gravity interceptor sewer, sanitary pump station, sanitary forced main and a gravity outflow interceptor known as Project 1601 to serve the portion of the City south of the Ohio Turnpike and other lands or if and when an alternative pump station is constructed that connects to the Medina County 300 Waste Water Treatment Facility. The County shall operate and maintain the Sewer Plant and the County shall be paid for such services the sum of Ten Thousand Dollars (\$10,000) for the first year of operation in equal quarterly installments and adjusted annually thereafter based on the County's actual cost of operation and maintenance for each preceeding year. In addition, the Owners of the properties benefitted by the Sewer Plant are responsible for payment of the cost of all repairs to the Sewer Plant. The cost of the operation, maintenance and repair of the Sewer Plant is a Common Expense.

Section 3.2 - Easement for Ingress and Egress

There is hereby created a blanket easement upon, across, over and through any sidewalks, walkways, roads, bike paths, all-purpose trails and parking areas in favor of Declarant and the Master Association, all Owners and Occupants and the guests, licensees and invitees of such parties for pedestrian and vehicular ingress and egress to and from all of the various portions of the Property. Notwithstanding the foregoing, the Declarant may limit this blanket right of ingress and egress with respect to any Parcel submitted by a Subsequent Amendment. Declarant further reserves easement

rights over sidewalks, walkways, roads, bike paths and all purpose trails for ingress and egress to and from the Recreation Facilities for the benefit of the general public and other non-Members if the Declarant exercises its right to make the Recreation Facilities available to non-Members.

Section 3.3 - Open Spaces

Declarant, all Owners, Occupants and the guests of such parties shall have the right to enter upon, use and enjoy the Common Areas for their intended purposes in accordance with this Master Declaration and the applicable Rules.

Section 3.4 - Easements for Construction, Alteration, etc.

Easements are hereby created upon portions of the Common Areas necessary in connection with the construction, alteration, rebuilding, restoration, maintenance and repair of any Condominium Building, Non-Condominium Residential Building, Dwelling Unit and other structure and improvement within the Property or serving the Property; provided that in the exercise of any rights under this easement, there shall be no unreasonable interference with the use of any Condominium Building or other structure or improvement on the Property, any Person benefitting from the foregoing easement shall indemnify and save harmless the Declarant, the Master Association and each Owner and Occupant from and against any and all losses, damages, liabilities, claims and expenses, including reasonable attorneys' fees resulting from any such construction, rebuilding, alternation, restoration, maintenance and repair and shall repair any damage caused in connection with such activities.

Section 3.5 - Scope of Easements

As the improvements to be located within the Property for the easement rights granted or reserved hereunder are definable within specific areas, the Declarant or the Master Association (with the Declarant's prior written consent so long as Declarant is a Class B Member) shall have the right to: (a) limit such easements to specific areas and record a document or documents releasing the balance of the lands from the burden of such easements; and/or (b) record a document or documents setting forth the specific areas subjected to such easements. The Declarant or the Master Association may exercise either or both of such rights without the necessity of obtaining the consent of Owners and other Persons for whose benefit the easement rights are granted or reserved.

Notwithstanding anything to the contrary contained herein, the construction, use, maintenance and repair of the Condominium Buildings, Non-Condominium Residential Buildings, Dwelling Units, Recreation Facilities and similar improvements and additions to and replacements of such improvements shall not be materially impaired or interfered with by the granting and reservation of the aforesaid easement rights.

Section 3.6 - Easements To Run With the Lands.

All easements and rights described herein are easements appurtenant to the Development Property (including the Dwelling Units) and the Recreation

Property and other Common Areas running with said lands, perpetually and in full force and effect, and at all times shall inure to the benefit of and be binding upon the Declarant, its successors and assigns, and any Owner, Tenant, Occupant, purchaser, mortgagee 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, in any deed of conveyance, lease, mortgage, trust deed, Declaration of Condominium Ownership, declaration for another type of residential 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 real estate, or any portion thereof, and to reserve to the grantor or lessor therein, their successors and assigns, as easements appurtenant to the remainder of the such properties, easements created by this Declaration for the benefit of any Owner, Tenant, Occupant, purchaser, mortgagee or other Person in respect to any portion of the Total Property as fully and completely as though such easements and rights were recited fully as set forth in their entirety in such document.

Section 3.7 - Easement to Maintain Sales Offices, Models, etc.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and sale of Dwelling Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Areas such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Dwelling Units, including, but not limited to, administrative/customer services, construction offices/trailers, parking signs, signs, model units, and sales and resales offices, and the Declarant, its guests, licensees and invitees shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Dwelling Units owned by the Declarant and the Recreation Facilities which may be owned by the Master Association, as models and sales offices. Declarant further reserves the right for itself and its successors, assigns, contractors, material suppliers and others performing work and furnished materials to construction of Dwelling Units and other improvements upon the Property to conduct business and carry on construction/site development activities during business hours that are customary within the Greater Cleveland Area. This Section may not be amended without the express written consent of the Declarant.

Section 3.8 - Dedication of Utilities and Roadways

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate all or a part of the utilities or roadways to the City or other local, county, state or federal governmental entity having jurisdiction of the same.

ARTICLE IV DEVELOPMENT, OWNERSHIP AND OPERATION OF THE RECREATION PROPERTY, RECREATION FACILITIES, ENTRANCES AND LAKES AND OTHER COMMON AREAS

Section 4.1 - Construction of Recreation Facilities.

The Declarant shall pay for and construct the Initial Recreation

Facilities on the Recreation Property at its sole cost and expense. The Initial Recreation Facilities shall be constructed in accordance with the following schedule:

(a) The tennis court shall be substantially completed by December 31, 1987.

(b) The swimming pool, clubhouse and amphitheater shall be substantially completed by December 31, 1987.

The completion of the Initial Recreation Facilities by the Declarant is subject to availability of land improvements, materials and labor and is further subject to work stoppages due to strikes, acts of God, acts of national emergency and other acts which are beyond the reasonable control of the Declarant. Notwithstanding anything in this Declaration to the contrary, the Declarant may construct additional Recreation Facilities upon the Recreation Property, or upon any other property that is subject to the Declaration, and/or may alter, renovate, modify, enlarge and improve the Recreation Facilities existing thereon at any time and from time to time without following or being subject to any provisions of this Declaration.

Section 4.2 - Use of Recreation Property.

Each Member shall have the right to use and enjoy the Recreation Property in common with all other Members. The rights herein granted shall extend to Members and their immediate families, guests and other invitees. The use of the Recreation Property shall be subject to and governed by the provisions of this Declaration, the Bylaws and Rules promulgated from time to time by the Master Association, its Trustees and/or officers, subject to the easements herein declared. The Declarant reserves the right on behalf of itself and the Master Association to make the Recreation Facilities available to the general public or available to other non-Members on private/equity basis, provided, however, the use of the Initial Recreation Facilities shall be limited to the Members of the Master Association.

Section 4.3 - Title to Recreation Property, MacIntosh Lane Entrance and Lakes.

The Declarant is the fee simple owner of the Recreation Property, the MacIntosh Lane entrance, including certain lakes situated on the Property; the same being described in Exhibit "D" hereof. Declarant agrees to convey the Recreation Property, entrance and lakes to the Master Association free and clear of all liens and encumbrances whatsoever except the easements, covenants, restrictions and provisions of this Declaration; easements, covenants, restrictions, conditions and other similar matters of record; real estate taxes and assessments which are a lien, but are not due and payable at the time of said conveyance, and zoning and other municipal ordinances, if any. The Declarant may retain legal title to the Recreation Property until the date when five hundred fifty (550) Dwelling Units have been sold and conveyed by the Declarant or until five (5) years from the date of the first sale and Conveyance of a Dwelling Unit in MacIntosh Farms Condominium No. 1, whichever occurs first, provided, however, Declarant may convey said parcels to the Master Association prior to said date. The Master Association shall hold title to said parcels subject to the provisions of this Master Declaration.

Section 4.4 - Limitations on Right of Use and Enjoyment of the Recreation Property.

The rights of use and enjoyment hereby created shall be limited by and subject to the following:

(a) The right of the Declarant and of the Board to prescribe reasonable rules and regulations for the use of the Recreation Facilities.

(b) The right of the Board, as provided in its Bylaws, or its Rules promulgated thereunder, to suspend the enjoyment of rights of any Member for any period during which any Assessment remains unpaid and for any period during which an infraction of its Rules continues, provided, however, that the Board may not, for any reason, deny to any Member the easements rights created pursuant to Article III hereof.

(c) The right of the Declarant to grant and reserve easements as provided in Article III hereof.

(d) The right of the Declarant to use the Recreation Property and Recreation Facilities for marketing, merchandising, promotional and sales purposes.

Section 4.5 - Reservation of Right to Add Additional Land to the Recreation Property and to Grant Use of Recreation Facilities to Others.

In addition to the other rights of the Declarant set forth in this Declaration, the Declarant shall have the right, but not the obligation, from time to time to add land to the Recreation Property, by delivering to the Master Association a deed conveying fee simple title to such lands to the Master Association. In addition to the foregoing, the Declarant shall have the right in its sole discretion to add or cause lands to be added to the Recreation Property which by virtue of a lease, easement, condition, agreement or other arrangement may be used by Members and others in perpetuity or lesser time periods for recreation and/or other leisure purposes, by deed, lease, assignment or other instrument which Declarant, in its sole discretion, deems sufficient to transfer such rights. Notwithstanding that Declarant may not own the fee simple title to such lands, said lands shall for all purposes of this Declaration constitute a part of the Recreation Property, subject to the provisions of said lease, easement, condition, agreement or other arrangement; and upon notification by the Declarant, the Master Association agrees to assume, in writing, for itself, its successors and assigns, and for its Members all of the duties, obligations and provisions of such lease, easement, condition, agreement or other arrangement and to indemnify the Declarant from all claims, liabilities, demands, damages and expenses which may be incurred as a result of the failure of the Master Association to comply therewith. In addition, added lands shall, ipso facto, become part of the Recreation Property and be subject to all of the easements, covenants and restrictions affecting the Recreation Property set forth in this Declaration in addition to any other matters referred to above. The Declarant and each subsequent Owner and subsequent Declarant agree to execute any other documents or instruments which may be necessary or desirable to assure proper addition to the Recreation Property and to carry out the intent evidenced by this Article

4.5. Added lands need not be contiguous to any existing Recreation Property. Furthermore, Declarant reserves the right on behalf of itself and the Master Association to make recreation facilities available to the general public or available to other non-members on a private/equity basis, provided, however, the use of the Initial Recreation Facilities shall be limited to the Members.

Section 4.6 - Additional Recreation Facilities.

Declarant may construct addition recreation facilities upon the Property and/or alter, renovate, modify, enlarge and improve the Recreation Facilities existing thereon at any time and from time to time without following or being subject to any provision of this Declaration, provided that: (a) Declarant shall pay for the work performed by it without contribution from any Member entitled to use of the same (the portion [if any] of the sale price of a Dwelling Unit earmarked by the Declarant for recreation purposes shall not be deemed a contribution by a Member hereunder); and (b) the work shall be performed in a good and workmanlike manner.

Section 4.7 - Use of Common Areas

Any Owner may delegate, in accordance with the Bylaws of the Master Association and subject to reasonable rules, regulations, and limitations as may be adopted in accordance therewith, his or her right of enjoyment to the Common Areas to the members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the Occupants of any leased Dwelling Unit.

ARTICLE V THE MASTER ASSOCIATION

Section 5.1 - Existence.

The Master Association is an Ohio not-for-profit corporation. The Master Association is not a Condominium Association or Unit Owners Association as defined in the Act.

Section 5.2 - Membership and Voting Rights.

(a) Membership.

(1) Every Owner, as defined in Article II, shall be deemed to have a membership in the Master Association. No Owner, whether one or more persons, shall have more than one membership per Dwelling Unit owned.

(2) In the case of an Owner such membership shall terminate upon the conveyance, transfer or assignment of record by such Owner of his Ownership Interest, at which time the new Owner shall immediately and automatically become a Member of the Master Association.

(b) Classes of Membership.

The membership of the Master Association is and shall be divided into the following classes:

(1) Class A Members. Class A Members shall be all Owners of Dwelling Units with the exception of the Class B Members, if any.

(2) Class B Members. Class B Members shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale and is designated as such in a recorded instrument executed by Declarant.

(c) Voting Rights.

(1) Class A Members. Each Class A Member shall be entitled to cast one vote for each Dwelling Unit owned by said Member. When any Dwelling Unit is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same Dwelling Unit, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, such Owner shall select one official representative to qualify for voting in the Association and shall notify the Secretary of the Association of the name of such individual. The vote of such individual shall be considered to represent the will of all the Owners of that Unit. There shall be no cumulative voting.

(2) Class B Members. Notwithstanding anything herein to the contrary, until five thousand (5000) Dwelling Units have been sold and conveyed on the Development Property or until the year 2011, whichever occurs first (or sooner as the Class B Member may decide), the Class B Member shall have a total number of votes equal to not less than the number of votes cumulatively held by all other Members, plus one (1), providing the Class B Member with a majority of the votes of the membership. Upon expiration of the stated period, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Dwelling Unit in which it holds the interest required for membership under (1) above. At such time the Declarant shall call a meeting, as provided in the Bylaws for special meetings, to advise the membership of termination of Class B status. It is the intent of this Section that the Declarant shall possess exclusive control of the Association until the expiration of the stated period.

Section 5.3 - Board and Officers of the Master Association.

The Board and Officers of the Master Association shall be elected as provided in the Bylaws and shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, the Articles of Incorporation and Bylaws of the Master Association, except as otherwise specifically provided.

Section 5.4 - Rights of the Association.

Notwithstanding the rights and easements of enjoyment and use created in Article III of this Declaration, and in addition to any right the Master

Association shall have pursuant to this Declaration or in law, the Master Association shall have the right:

(a) To borrow money from time to time for the purpose of improving the Recreation Property and Recreation Facilities (including constructing Recreation Facilities, subject to limitation of Section 6.8 hereof) and Common Areas, and to secure said financing with a mortgage or mortgages upon all or any portion of property owned by the Master Association in accordance with its Articles and Bylaws and subject to the provisions of this Declaration.

(b) To take such steps as are reasonably necessary to protect the Recreation Property, the Recreation Facilities and the Common Areas against foreclosure.

(c) To suspend the enjoyment and use rights in the Recreation Property of all of the Owners or Occupants of any Dwelling Unit for which an Assessment or Other Charge is delinquent during the period of delinquency; and to suspend the use and enjoyment rights in the Recreation Property of any Person in violation of any of the covenants or restrictions of this Declaration or the Rules adopted under this Declaration for any period during which said violation exists.

(d) To charge reasonable admission and other fees for use by guests of Occupants or of Members who are natural persons, and to levy Special Charges for the extraordinary use of Recreation Facilities by Members (such as fees for cleaning the recreation building, if any, used by a Member, but not for normal use of the clubhouse, amphitheater, the swimming pool, the tennis court, and any other Recreation Facilities) as more fully defined in Rules adopted by the Board; provided, however, that nothing herein shall authorize or permit the establishment of a commercial business or enterprise relating to the use of the Recreation Property and Recreation Facilities except cable television service, coin-operated vending machines, sale of clothing and equipment for the users of the Recreation Facilities or other commercial enterprises operated primarily for the convenience and welfare of the Members and other permitted users of the Recreation Facilities may be operated from the Recreation Property.

(e) To convey the Recreation Property or a portion thereof, to a successor; provided, however, that any such conveyance shall require the affirmative vote of the Class B Member and at least a majority of the Class A Members and provided further that such successor shall agree, in writing, to be bound by the easements, covenants, restrictions and spirit of this Master Declaration.

(f) To enter or authorize its agents to enter in or upon the Development Property, or any part thereof, when necessary in connection with any maintenance, repair or construction for which the Master Association is responsible or has a right to maintain, repair or construct. Such entry shall be made with as little inconvenience to the Owner and Occupants thereof as practicable and any damage caused thereby shall be repaired by the Master Association.

(g) To grant or obtain easements and rights-of-way for access and easements for the construction, extension, installation, maintenance or replacement of utility services and facilities or to or from a public utility

or governmental authority, and to or from any body or agency which has the power of eminent domain or condemnation.

ARTICLE VI
RESPONSIBILITIES OF THE MASTER ASSOCIATION

The Master Association shall have the exclusive duty to perform the following functions:

Section 6.1 - Maintenance of Areas of Common Responsibility, Including Recreation Property and Recreation Facilities, Roadways and Utilities.

The Master Association shall maintain the entire Recreation Property, the entrances (including the island at the intersection of MacIntosh Lane and Broadview Road), lakes and all of the Recreation Facilities and any other Areas of Common Responsibility in a clean, safe, neat, healthy and workable condition, and in good repair, and shall promptly make all necessary repairs and replacements, structural and nonstructural, ordinary as well as extraordinary, subject only to the provisions of this Declaration. The Master Association shall provide equipment and supplies necessary for the maintenance (including landscape maintenance) and enjoyment of the Recreation Property and the Recreation Facilities, and any other property which the Master Association may own or operate from time to time. In case of damage or destruction to any of the Recreation Facilities, the Master Association shall promptly restore the Recreation Facilities to a condition at least equal to the condition in which they existed prior to the damage or destruction unless the cost of such repair or restoration is fifty percent (50%) or more of the replacement value thereof and seventy-five percent (75%) of Class A Members of the Master Association affirmatively vote not to rebuild or restore the damaged Recreation Facilities. All work performed by the Master Association under this Article shall be performed in a good and workmanlike manner.

The Master Association shall further operate, maintain and repair MacIntosh Lane until acceptance of dedication thereof is accepted by the City and shall further operate, maintain and repair the non-dedicated streets, drives, driveways and walkways (including snow plowing of roadways and walkways), the sewers, drainage lines, water mains and other utilities (but not the laterals to Condominium Buildings or Non-Condominium Residential Buildings that run off the said lines, the same being the responsibility of the Condominium Associations or Owners, as the case may be) located within the Development Property that serve two (2) or more Condominium Developments, provided, however, that the cost thereof shall be assessed to the Condominium Associations containing such roadways on a pro-rata basis by comparing the number of units in each Condominium Development containing such facilities to the total number of units containing such facilities. The Master Association shall further maintain the roadways and utilities that serve the Recreation Property and Recreation Facilities.

Section 6.2 - Sub-Associations

The Master Association may, in the discretion of its Board, assume the maintenance responsibilities set out in any Subsequent Amendment or

Declaration subsequently recorded which creates any residential association or Parcel (including, but not limited to, homeowner or condominium associations) for all or any portion of the Property, including, but not by way of limitation, the mowing and watering of grass along the MacIntosh Lane right-of-way. In such event, all costs of such maintenance shall be assessed only against those Members residing in the association to which the services are provided. This assumption of responsibility may take place either by contract or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Property. The provision of services in accordance with this Section shall not constitute discrimination within a class.

Section 6.3 - Taxes and Assessments.

The Master Association shall pay all taxes and assessments levied against the Sewer Plant (if conveyed to the Master Association), Recreation Property, the Recreation Facilities and any other property which the Master Association may own, including, without limitation, personal property taxes, general real estate taxes and special assessments certified by the applicable public authority following conveyance of the Recreation Property to the Master Association, the same to be prorated to the date of conveyance.

Section 6.4 - Utilities and Sewer Plant.

(a) The Master Association shall pay all charges for water, gas, sewer, electricity, light, heat or power, telephone and other services used, rented or supplied to or in connection with the Recreation Property, the Recreation Facilities and any other property owned by the Master Association. All such utility services shall be contracted for, metered and billed by and to the Master Association.

(b) The Master Association shall further pay all charges for maintenance and repair of the Sewer Plant.

Section 6.5 - Insurance.

(a) Insurance. The Board, or the Master Association's duly authorized agent, shall have the authority to and shall obtain insurance for all insurable improvements on the Common Areas and may, but shall not be obligated to, by written agreement with any Parcel Committee as defined in the Bylaws, assume the insurance responsibility for the Property contained within the Parcel against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

In addition to casualty insurance on the Common Areas, the Master Association may, but shall not, under any circumstances, be obligated to, obtain and continue in effect adequate blanket all-risk casualty insurance in such form as the Board deems appropriate for the full replacement cost of all Dwelling Units. Costs of such coverage shall be a Common Expense, if carried on all Dwelling Units. If the Master Association elects not to obtain such insurance, then an individual Parcel Committee may obtain such insurance as a common expense of the Parcel to be paid by Parcel Assessments. In the event

such insurance is obtained by either the Association or a Parcel Committee, the provisions of this Section shall apply to policy provisions, loss adjustment, and all other subjects to which this Section applies to insurance on the Common Areas. All such insurance shall be for the full replacement cost. All such policies shall provide for a certificate of insurance for each Member to be furnished to the Master Association or Parcel Committee, as applicable.

The Board shall also obtain a public liability policy covering the Common Areas, the Master Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a Five Hundred Thousand (\$500,000.00) Dollar single person limit as respects bodily injury and property damage, a One Million (\$1,000,000.00) Dollar limit per occurrence, and a Two Hundred Fifty Thousand (\$250,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the Common Areas shall be a Common Expense of the Master Association; premiums for insurance provided to other associations or Parcels shall be charged to those associations or Parcels. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

Cost of insurance coverage obtained by the Association for the Common Areas or for Dwelling Units shall be included in the Assessments.

All such insurance coverage obtained by the Board shall be written in the name of the Master Association as trustee for the respective benefitted parties, as further identified in (ii) below. Such insurance shall be governed by the provisions hereinafter set forth:

(i) All policies shall be written with a company licensed to do business in Ohio and holding a rating of XI or better in the Financial Category as established by A. M. Best Company, Inc. if reasonably available, or, if not available, the most nearly equivalent rating.

(ii) All policies on the Common Areas shall be for the benefit of the Owners and their mortgagees as their interests may appear; all policies secured at the request of a Parcel Committee shall be for the benefit of the Owners and their Mortgagees of Dwelling Units within the Parcel.

(iii) Exclusive authority to adjust losses under policies obtained by the Master Association shall be vested in the Association's Board; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(iv) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their mortgagees.

(v) All casualty insurance policies shall have an "inflation guard" endorsement, if reasonably available, and an "agreed amount" endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Greater Cleveland area.

(vi) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(A) a waiver of subrogation by the insurer as to any claims against the Board, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(B) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;

(C) that no policy may be cancelled, invalidated or suspended on account of any one or more individual Owners;

(D) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any Board member, officer, or employee of the Master Association or its duly authorized manager without prior demand in writing delivered to the Master Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Master Association, its manager, any Owner, or mortgagee;

(E) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(F) that no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Master Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on Board Members, officers, employees, and other persons handling or responsible for the Master Association's funds. The amount of fidelity coverage shall be determined in the Board's best business judgment, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Master Association.

(b) Individual Insurance. By virtue of taking title to a Dwelling Unit subject to the terms of this Master Declaration, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all-risk casualty insurance on the Dwelling Units and structures constructed thereon as provided for in Subsection (a) of this

Section 6.5, unless the Master Association or the Parcel Committee of the Parcel in which the Dwelling Unit is located carries such insurance, which they are not obligated to do. Each individual Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the individual Owner determines not to rebuild or to reconstruct, the individual Owner shall clear the Dwelling Unit of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction. A Parcel Committee may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Dwelling Unit and the standard for returning the Dwelling Unit to its natural state in the event the Owner decides not to rebuild or reconstruct.

(c) Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

(i) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Areas or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Master Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of a Dwelling Unit and may be enforced by such mortgagee.

(ii) If it is determined, as provided for in Subsection (a) of this Section, that the damage or destruction to the Common Areas for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Subsection (c)(i) above.

(d) Damage and Destruction.

(i) Immediately after the damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Master Association, the Board, or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damage or destruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Property to substantially the same condition in which they existed prior to the fire or other casualty.

(ii) Any damage or destruction to the Common Areas shall be repaired or reconstructed unless the Class B Member and at least seventy-five percent (75%) of Class A Members shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or

destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Master Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the Common Areas so damaged or destroyed shall be repaired or reconstructed.

(iii) In the event that it should be determined by the Master Association in the manner described above that the damage or destruction of the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event such property shall be restored to its natural state and maintained as an undeveloped portion of the Common Areas by the Master Association in a neat and attractive condition.

(e) Repair and Reconstruction. 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 in proportion to the number of Dwelling Units owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Section 6.6 - Management.

The Master Association shall provide the management and supervision for the operation of the Areas of Common Responsibility. The Master Association shall establish and maintain such policies, programs and procedures to fully implement this Declaration for the purposes intended and for the benefit of the Members and may, but shall not be required to:

- (a) Adopt Rules;
- (b) Engage employees and agents, including without limitation, lifeguards and other attendants, security personnel, sports instructors, "social directors", attorneys, accountants and consultants, maintenance firms and contractors;
- (c) Delegate all or any portion of its authority and responsibilities to a manager, managing agent, or management company. Such delegation may be evidenced by a management contract which shall provide for the duties to be performed by the managing agent and for the payment to the managing agent of a reasonable compensation. Upon the expiration of each management agreement, the Master Association may renew said management agreement or enter into a different agreement with the same or a different managing agent, provided that no management agreement or renewal thereof shall be for a period longer than three (3) years, and provided, further, that the Board may designate a different managing agent with whom the Master Association shall enter into an agreement after the end of the then existing management agreement; and
- (d) The management agreement may be with an entity owned by or associated with Original Declarant or owned by, associated with, controlled

or employed by any shareholder, officer, director, agent or employee of Original Declarant, and may be for a period of time not to exceed three (3) years, in Original Declarant's sole discretion.

Section 6.7 - Upgrading.

The Master Association shall continuously attempt to upgrade the Areas of Common Responsibility for the good and welfare of all of its Members. In so doing the Master Association is authorized to expend reasonable sums of money for such purpose and intent, subject to the provisions of this Declaration and reasonable monetary considerations.

Section 6.8 - Construction of Additional Recreation Facilities and Other Amenities.

In addition to the right reserved by the Declarant to construct additional Recreation Facilities, the Master Association may authorize the construction, alteration, renovation, modification or reconstruction of the Recreation Facilities and other amenities. If such work costs in the aggregate in excess of Twenty-Five Thousand Dollars (\$25,000.00) and if it is not necessitated by a fire or other casualty or by reason of ordinary wear, tear or depreciation, and the construction thereof is not funded by Declarant, it shall be known as a "Construction Project" and shall be undertaken only in accordance with the following provisions:

(i) The Master Association shall cause complete working plans and specifications to be prepared including, among other things required by the Master Association, a narrative description of the Construction Project and the reason it is necessary or desirable, plans, specifications and a site plan showing the proposed location, and the anticipated cost and proposed method of payment of same (the "Plans"). The Secretary of the Master Association shall notify the Members and the Chairman of the Design Review Committee as to the location where the Plans may be examined. Delivery of such notice may be made by personal delivery or by ordinary mail sent to the last known address of those persons entitled to review said Plans. The Master Association shall keep additional copies of the Plans at a convenient place, available for inspection by all Members. A failure to make delivery as herein required shall not be defective or defeat the right to construct additional Recreation Facilities or other amenities if reasonable efforts to effect delivery, as herein provided, are made and if the other procedures herein provided for are followed.

(ii) The Master Association shall discuss the proposed Construction Project and Plans at a regular or special meeting called for such purpose, as provided in the Bylaws.

(iii) Notice of a regular or special meeting of Members wherein a vote is taken to approve a Construction Project and Plans shall, in addition to any meeting, specifically state that a vote will be taken at such meeting on the Construction Project. The Master Association shall not undertake a Construction Project unless Class A Members possessing at least a majority of the total Class A Members' voting power present or represented by proxy at a meeting duly called for such purpose, shall

have voted approval of the Plans and the Construction Project and (B) the Plans shall have been submitted to and approved by the Board.

(iv) After requisite approvals have been acquired as provided above and all required governmental authorizations have been secured, the Master Association shall submit the Plans (exclusive of the anticipated cost and proposed method of payment of same, but plus such additional specifications and conditions as may be reasonably necessary for bidding and performance purposes) to not less than three (3) contractors for bids and the work on the Construction Project shall be awarded to the lowest reputable and responsible bidder. The bid of such contractor shall become the "contract sum" for the work. The Construction Project may be financed by making a special "construction assessment" against the Class A Members payable at such time or times as the Board deem necessary or desirable, or by the Master Association obtaining a loan for the costs, which may be evidenced by a promissory note executed by the officers of the Master Association on behalf of the Master Association and secured by a mortgage and such other security instruments upon all or part of the real and/or personal property of the Master Association as are necessary to obtain the loan.

Anything in this Section 6.08 to the contrary notwithstanding, any work required by reason of fire or other casualty or by reason of ordinary wear, tear or depreciation, or any capital additions funded entirely by the Declarant, shall not be deemed to be a "Construction Project" even though costing more than Twenty-Five Thousand Dollars (\$25,000.00). Such work shall be performed by the Master Association as required of it under Section 6.01.

Section 6.9 - Enforcement.

The Master Association shall take all actions reasonably necessary under the circumstances to enforce the covenants and restrictions set forth in Article VII hereof.

Section 6.10 - Disputes Between Associations.

The Master Association shall have the right to mediate or arbitrate disputes between sub-associations, including Homeowner and Condominium Associations, provided, however, no members of the sub-associations involved in such disputes shall mediate or arbitrate the same on behalf of the Master Association.

Section 6.11 - Rules and Regulations.

The Master Association, through its Board, may make and enforce reasonable rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the Recreational Facilities. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the Bylaws of the Master Association. In addition, the Master Association, through the Board, may, by contract or

other agreement, enforce county ordinances or permit the City or other governmental authority having jurisdiction to enforce ordinances on the Property for the benefit of the Master Association and its Members.

Section 6.12 - General.

The Master Association shall perform and carry out all other duties and acts reasonably necessary to give effect to and implement the intent of the provisions of this Declaration.

Section 6.13 - Original Declarant's Rights.

So long as the Original Declarant is exercising all of the voting rights of the Master Association pursuant to Article 5.02(c)(2) of this Declaration, the Original Declarant shall exercise all or any of the powers, rights, duties and functions of the Master Association (except the right to construct additional Recreation Facilities under Article 6.08 hereof), including, without limitation, the right to levy special assessments as authorized herein, the right to enter into a management contract, the right to obtain insurance under Original Declarant's blanket policy (if any), the right to perform each duty and obligation of the Master Association set forth herein, the right to collect assessments and disburse all funds of the Master Association, and the right to have a lien (and to foreclose said lien) on a Dwelling Unit for unpaid assessments in the manner and to the extent granted to the Master Association as hereinafter provided.

ARTICLE VII
COVENANTS AND RESTRICTIONS

The intent of this Declaration is to cause the Development Property to be kept and maintained as a high quality residential development. Therefore, the covenants and restrictions hereinafter provided in this Article shall be applicable to the Owners, Land Contract Vendees, Lessees, Tenants and Occupants of the Development Property. The following Covenants and Restrictions shall be broadly construed and interpreted in furtherance of this intent.

Section 7.1 - Covenant of Good Maintenance.

Each Owner, Condominium Association or other residential association and the Master Association, as the case may be, shall keep and maintain the property owned, leased to or controlled by or in the possession of such person and all improvements, buildings and structures therein or thereon, in a clean and safe condition and in good order and repair, including but not limited to the seeding, watering and mowing of all lawns; the pruning and cutting of all trees, shrubbery and grass, the painting (or other appropriate external care) of all buildings, structures and other improvements located thereon, and the absence of conditions constituting violations of applicable building, fire and health codes, all in a manner and with such frequency as is consistent with good property management.

Section 7.2 - Trailers.

No temporary buildings, trailer, recreation vehicle, garage, tent, shack, barn, or any similar structure shall be used, temporarily or permanently, as a residence on any part of the Development Property at any time, unless approved by the Design Review Committee.

Section 7.3 - Fences, Walls, Hedges, Etc.

Fences, walls, trees, hedges, and shrub plantings shall be maintained in a sightly and attractive manner, and shall not obstruct the right-of-way sight lines for vehicular traffic. Fences or walls of any kind shall not be erected, begun or permitted to remain upon any portion of the Development Property unless approved by the Design Review Committee or unless originally constructed by Declarant or with the written approval of Declarant.

Section 7.4 - Nuisance.

No noxious or any activity constituting an unreasonable source of discomfort or annoyance shall be carried on upon any portion of the Property (including the Dwelling Units situated thereon), nor shall anything be done thereon that may be or become a nuisance or annoyance to other Owners. The Board shall have absolute power to determine what is "reasonable" and what is "unreasonable" under this Section.

Section 7.5 - Animals.

No animals, livestock or poultry of any kind shall be raised, bred or kept on any portion of the Property (including the Dwelling Units situated thereon) without the approval of the Board, except that dogs, cats and other normal household pets may be kept, subject to Rules adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose and provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance or annoyance shall be permanently removed from the Property upon three days' written notice from the Board. The Rules may limit the number of pets which may be kept in any one Dwelling Unit. The Board shall have absolute power to prohibit a pet from being kept on the Property or within a Dwelling Unit if the Board finds a violation of this Section.

Section 7.6 - Signs.

No sign or other advertising device of any nature shall be placed upon any portion of the Property except for signs and advertising devices installed by or at the direction of the Design Review Committee, or which the Design Review Committee approves as to color, location, nature, size and similar characteristics.

Section 7.7 - Storage of Material and Trash Handling.

No lumber, metals, bulk material, refuse or trash shall be burned, whether in indoor incinerators or otherwise (excluding the burning of firewood in a fireplace), kept, stored or allowed to accumulate on any portion of the Property, except normal residential accumulation pending

pick-up and except building materials during the course of construction or reconstruction of any approved building or structure and except firewood may be stored within Units, patio areas or other areas designated by the Board. If trash or other refuse is to be disposed of by being picked up and carried away on a regular recurring basis, containers may be placed in the open on any day that a pick-up is to be made, so as to provide access to persons making such pick-up. At all other times such containers shall be stored in such manner that they cannot be seen from adjacent and surrounding property. No dumping shall be permitted on any part of the Property. Anything herein to the contrary notwithstanding, the Association or the Board may adopt a Rule or Rules which permit burning, incineration or storage of refuse or trash if the same becomes reasonably necessary for the safety, health or welfare of the Occupants, and is permitted by law.

Section 7.8 - Pipe Lines, Utility Lines and Drilling.

No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any portion of the Property above the surface of the ground, except hoses and movable pipes used for temporary irrigation purposes, and except structures and metering devices serving such pipe lines. Furthermore, no electrical, telephone and other cable lines shall be installed or maintained on any portion of the Property above the surface of the ground.

Section 7.9 - Commercial or Professional Uses.

Except as expressly permitted in this Master Declaration, or by Rules adopted in accordance with this Master Declaration, no industry, business, trade or full-time occupation or profession of any kind, commercial, educational, or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Development Property; provided, however, an Occupant may use a portion of his Dwelling Unit for his office or studio, provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Occupant and that such use does not result in the Dwelling Unit becoming principally an office, school or studio as distinct from a Dwelling Unit. The Board may adopt Rules which intensify, relax or amend the prohibitions of this Article. Nothing in this Section shall preclude: (a) the establishment of shops and service establishments within areas established by the Master Association as "accessory uses" permitted by the Planning and Zoning Code of the City; (b) the leasing of a Dwelling Unit by the Declarant or any other Owner; or the right of the Declarant to use the Recreation Facilities for marketing, merchandising, promotional and sales purposes; the right of the Declarant or the Board (or a firm or agent employed by the Declarant or Board) to approve commercial activities such as charity events, sporting events requiring admission, temporary food and beverage operations and brokerage offices for new sales and resales.

Section 7.10 - Storage of Vehicles and Machinery.

No truck, camper, recreation vehicle, boat, airplane or other vehicle of any kind, licensed or unlicensed, shall be stored on any driveway in or upon the Development Property except in the confines of garages or parking areas approved by the Board. No machinery of any kind shall be placed or operated upon any portion of the Property except such machinery which is customarily

required for the maintenance of the Property, related improvements, lawns and landscaping. Such permitted machinery shall be stored out of sight of adjoining Condominium Buildings or Non-Condominium Residential Building, provided, however, that this provision shall not apply to vehicles and machinery necessary for the construction, reconstruction or repair of any building or other structure.

Section 7.11 - Firearms; Preservation of Wildlife.

Firearms, ammunition and explosives of every kind shall not be discharged nor shall any traps or snares be set, nor shall any fishing, hunting or poisoning of wildlife of any kind be permitted in or upon the Property, except for rodent control or except upon prior written approval of the Board.

Section 7.12 - Control of Trucks, Commercial Vehicles and Motorcycles.

No tractor trailers, commercial tractors, commercial vehicles, road machinery or excavating equipment shall be permitted to remain on any portion of the Development Property or on the public right-of-way adjoining any portion of the Development Property for any period of time whatsoever, except while making deliveries or performing services thereon and except as necessary for the construction, reconstruction or repair of buildings or structures in the Development Property. The Board shall have the right to adopt rules with respect to the use or storage of motorcycles or motorbicycles or similar vehicles within the Development Property.

Section 7.13 - Poles, Wires, Antennae, Etc.

Subject to applicable easement rights, no facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground in any portion of the Development Property without the prior approval of the Design Review Committee. No television antennae may be maintained upon any Condominium Building or Non-Condominium Residential Building. This provision shall not apply for temporary facilities for the construction or repair of any building or other structure.

Section 7.14 - Exterior Appearance.

The exterior of any building or structure in the Development Property shall not be altered, modified, changed or redecorated in such a way as to change the appearance or decor of the structure, nor shall any of the landscaping appurtenant to such building or structure be materially changed without the express written authorization of the Design Review Committee.

Section 7.15 - Window Treatments.

No Person shall install in any building any drapery, venetian blind, or other window cover or treatment which may be seen from the outside of the building without complying with the Rules to be adopted by the Design Review Committee with respect to the color of such window treatment.

Section 7.16 - Grading.

No Person shall change the grade on any portion of the Property without first obtaining the consent of the Design Review Committee.

Section 7.17 - Drainage Ditches - Access by the City.

No Person shall interfere with the free flow of water through any drainage ditches within the Common Areas of the Property. The City or other governmental authority having jurisdiction shall have the right to enter upon the Common Areas of the Property to repair and maintain all storm, drainage, courses, ditches, structures and appurtenances, including, without limitation, the lake(s) within the Property, for the purpose of relieving any flooding condition or threatened flooding condition which might be harmful to the property within the City or other governmental authority having jurisdiction.

Section 7.18 - Lights on Exterior of Residence.

Each Owner shall provide one light of the kind designated by the Design Review Committee on the exterior of each attached and detached single family Dwelling Unit within the Development Property which shall automatically go on at dusk and remain on until dawn. Each Owner shall keep and maintain said light in good condition and repair and shall replace any burned out bulbs promptly as required. The Design Review Committee shall further have the right to require owners of other buildings and facilities within the Development Property to construct exterior lighting and if so required, the owners of said buildings shall keep said lighting on during all hours of darkness and in good working condition at all times. The Design Review Committee may adopt Rules in connection with said lighting. The type, size, design and shielding of any lighting shall be established in the Design Review Manual or otherwise approved by the Design Review Committee.

Section 7.19 - Waiver of Subrogation.

Each Person as a condition of accepting title and/or possession of a Dwelling Unit and the Master Association agree for themselves, and their respective successors, heirs, executors, administrators, personal representatives, assigns, and lessees, provided said agreement does not invalidate or prejudice any policy of insurance, that in the event that any building, structure or improvement within the Property or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance, the rights, if any, of any of them against the other, or against the employees, agents, licensees or invitees of any of them with respect to such damage or destruction and with respect to any loss resulting therefrom are hereby waived to the extent of the proceeds of insurance covering said damage or destruction.

Section 7.20 - Violation of This Article.

If any Person required to comply with the foregoing Covenants and Restrictions is in violation of any one of same, including design review criteria or standards established by the Design Review Committee, the

Declarant (as long as the Declarant is a Class B Member of the Master Association) or the Board and/or the Design Review Committee shall have the right to give written notice to such Person to terminate, remove or extinguish such violation. Such notice shall expressly set forth the facts constituting such violation.

If within fifteen (15) days after written notice of such a violation reasonable steps have not been taken toward the removal, alleviation or termination of same or if such remedial action is not prosecuted with due diligence until satisfactory completion of same, the Declarant of the Master Association shall have the right, through their respective agents and employees, to enter upon the land where the violation exists and to summarily terminate, remove or extinguish the violation. In addition to the foregoing, the Declarant or the Master Association shall have the right to obtain an injunction from any Court having jurisdiction for the cessation of such violation of this Article. The rights and remedies of the Master Association and Declarant contained in this Article shall be nonexclusive and in addition to any other right or remedy available at law or in equity. Subject to the provisions of Section 24 of the Bylaws entitled, "Hearing Procedure", a Person in violation of this Article VII shall be obligated to the Master Association and/or Declarant for the amount of all costs and expenses, including attorneys' fees, incurred to remedy any such violation. If said amounts are not paid within ten (10) calendar days following said notification, then said amount shall be "delinquent" and together with the Other Charges, as defined in Article 2.1(d), shall, upon perfection as provided in Section 9.5, become a continuing lien upon the portion of the Property owned or occupied by such Person(s) and a personal obligation of the Person(s) violating this Article. In addition, the Owner of any portion of the Property shall be liable jointly and severally for any obligations of any Occupant of such Owner's property.

Section 7.21 - Restrictions of Other Documents.

Nothing contained in these Restrictions shall preclude the imposition of more stringent restrictions in the Declarations of Condominium Ownership and other condominium documents for the Condominium Developments created on the Development Property, homeowners association documents, and in deeds conveying the Development Property or portions thereof.

Section 7.22 - Certificate of Compliance with Restrictions.

Upon the conveyance of a Dwelling Units or Non-Condominium Residential Building or an interest therein, the grantor shall have the right to request the Master Association to inspect the Dwelling Units or Non-Condominium Residential Building and if the Master Association finds that there has been no violation of this Article, a Board Member, officer or agent of the Master Association shall promptly issue a Certificate of Compliance with Restrictions that may be relied upon by all persons for all purposes.

ARTICLE VIII
DESIGN REVIEW COMMITTEE

Section 8.1 - Structure of Committee.

The "Design Review Committee" (sometimes referred to as the "Committee") shall be composed of three (3) natural persons who need not be Members of the Association or Occupants. It is recommended, but not required, that one (1) member of the Design Review Committee be an architect. The persons who shall serve on the Committee shall be designated from time to time by (a) Declarant for so long as the Declarant is a Class B Member of the Master Association (unless Declarant shall sooner notify the Board in writing that Declarant has waived its rights under this subsection) and (b) the Board of the Master Association thereafter. The affirmative vote of two (2) members of the Design Review Committee shall be required in order to adopt or promulgate any Rule or to issue any permit, authorization or approval pursuant to this Article.

Section 8.2 - Approval of Plans.

No building or structure shall be commenced, erected, placed, moved unto or permitted to remain on the Property nor shall any building or structure be altered, modified or changed in any way which changes the exterior or the appearance thereof, nor shall any new use be commenced or made on the Property or any part thereof, nor shall any grading be commenced or changed or landscaping installed or changed unless an application, plans and specifications for the proposed construction, installation or change, including the description of any proposed new use thereof, shall have been submitted to and approved in writing by the Committee.

Such plans and specifications shall conform to a manual entitled "Design Review Manual" to be prepared by the Design Review Committee and approved by the Declarant or the Board, which shall be on file with the Association, as the same may be amended by the Committee from time to time. The plans and specifications submitted to the Committee shall be in such form and shall contain such information as may be reasonably required by the Committee and set forth in the manuals. PROVIDED, HOWEVER, the provisions of this subsection requiring submission of plans and specifications to and obtaining approval from the Design Control Committee shall not be applicable to the Declarant nor any entity related to or affiliated with the Declarant.

Declarant or the Association may at any time cause to be prepared and to be made applicable to the Property design and construction criteria for other structures within MacIntosh Farms including, without limitation, recreation structures and commercial structures.

The decision of the Committee shall be based upon the applicable manual (as then amended) in effect of the time that the plans and specifications are submitted to the Committee.

Section 8.3 - Grounds for Disapproval.

The Committee shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following: (a)

Failure of such plans and specifications to comply with any covenants and restrictions contained in this Declaration or in any other prior Declaration or design and construction criteria adopted by Declarant or the Association; (b) Failure to include information in such plans and specifications as may have been reasonably requested; (c) Incompatibility of design or appearance of any proposed structure or building with any existing or contemplated structures or buildings upon the same or other property in the vicinity; (d) Objection to the location of any proposed structures or buildings upon any portion of the Property with reference to any other area in the vicinity; (e) Objection to the grading plan; (f) Objection to the color scheme, finish, proportions, style or architecture, height, bulk or appropriateness of any proposed building or structure; (g) Objection based solely on aesthetic reasons; or (h) any other matter, in the reasonable judgment of the Committee, that will render the proposed building or structure or use inharmonious with the general plan of the improvement of the Property or the buildings, structures or uses located upon other portions or on the vicinity of the proposed building, structure or use.

In any case where the Committee shall disapprove any plans and specifications submitted hereunder or shall approve the same only as modified or under specified conditions, such disapproval or qualified approval shall be accompanied by a written statement of the grounds upon which such action was based. In any such case, the Committee shall, if requested, make reasonable efforts to assist and advise the applicant to enable the applicant to provide an acceptable proposal for submission for approval.

Section 8.4 - Right of Appeal.

The Committee shall disapprove any plans and specifications submitted hereunder, there shall be a right to appeal such decision to the Board. Such appeal must be submitted to the Board by the applicant, in writing, within thirty (30) days after receipt of notice of the decision from the Committee. No later than thirty (30) days after receipt of notice of appeal, the Board shall examine the plans and specifications submitted, as well as the grounds upon which the Committee disapproves such plans and specifications. The affirmative vote of two-thirds (2/3rds) of the members of the Board shall be required to reverse or modify a decision of the Committee.

Section 8.5 - Violation of Article.

(a) If any building or structure shall be altered, erected, placed or maintained upon any portion of the Property, or any new use commenced or any portion thereof otherwise than in accordance with plans and specifications approved by the Committee (unless exempt pursuant to the provisions of this Article VIII), such alteration, erection, placement or maintenance of use shall be deemed to have been undertaken in violation of this Article and without the approval required herein. Upon written notice from either the Committee, any Board member or officer of the Master Association or the Declarant, any such building so altered, erected, placed or maintained upon any portion of the Property in violation hereof shall be promptly removed or altered and any such use shall be terminated as to extinguish such violation.

(b) If within fifteen (15) days after written notice of such a violation reasonable steps have not been taken by the applicant toward the alleviation

or termination of the same or if such remedial action is not prosecuted with due diligence until satisfactory completion of the same, the Master Association and/or Declarant shall have the right, through agents and employees, to enter upon the land and/or Dwelling Unit and to summarily abate and/or remove any building or structure, or to take such steps as may be necessary to extinguish such use, or to cure the violation. In addition to the foregoing, the Master Association and/or Declarant shall have the right to obtain an injunction from any court having jurisdiction for the cessation of such alteration, erection, maintenance or use which is in violation of this Article. The rights and remedies of the Master Association and Declarant contained in the Article shall be non-exclusive and in addition to any other rights or remedies available at law or in equity. Subject to the provisions of Section 24 of the Bylaws entitled "Hearing Procedure", a Person in violation of this Article VIII shall be obligated to the Master Association and/or Declarant for the amount of all costs and expenses, including attorneys fees, incurred to remedy any such violation. If said amounts are not paid within ten (10) calendar days following said notification, then said amount shall be "delinquent" and together with the Other Charges, as defined in Article 2.1(d), shall, upon perfection as provided in Section 9.5, become a continuing lien upon the portion of the Property owned or occupied by such Person(s) and a personal obligation of the Person(s) violating this Article. In addition, the Owner of any portion of the Property shall be liable jointly and severally for any obligations of any Occupant of such Owner's property.

Section 8.6 - Cost of Design Review Committee.

The Declarant and the Master Association shall establish an annual budget for the cost and expenses of the Committee which may include, among other things, compensation for its members, support staff and the employment of professional consultants. The budget shall be part of the "Commons Cost" (as later defined). The Board and/or the Committee shall have the right to charge fees for the processing of applications, plans and specifications whether or not the same are approved or disapproved. The Declarant shall be exempt from any such fees.

Section 8.7 - Liability of Members of the Design Review Committee.

No Member of the Design Review Committee shall be liable to the Association, any Member or any Person for his acts or omissions or failure to act.

ARTICLE IX ASSESSMENTS

Section 9.1 - Definition of Assessments.

As used in this Declaration, Assessments shall mean all of the costs and expenses incurred by the Master Association in the exercise of its obligations with respect to the Areas of Common Responsibility, including, without limitation:

(a) All expenditures required to fulfill the responsibilities of the Master Association;

(b) Principal and interest under a Note or other financing arrangement employed by the Master Association to finance a "Construction Project" but pursuant to Article 6.08 of this Declaration;

(c) All amounts incurred in collecting "Assessments", including all legal and accounting fees;

(d) Reasonable reserves for uncollectable Assessments, unanticipated expenses, replacements, major repairs and contingencies;

(e) Capital additions and improvement and/or capital acquisitions not funded by Declarant having a total cost in excess of Twenty-Five Thousand Dollars (\$25,000.00) without in each case the prior approval of a majority of the Class A Members.

(f) Such other costs, charges and expenses which the Master Association determines to be necessary and appropriate within the meaning and spirit of this Declaration.

(g) The Assessments referred to in this Declaration are separate and distinct from the Common Assessments referred to in Declarations of Condominium Ownership for the Condominium Developments.

Section 9.2 - Responsibility for Payment of Assessments; Parcel Assessments.

Each Owner shall be responsible for his prorata share of Assessments. Payments of such Owner's share of Assessments shall commence on the date the Owner acquires title to his Dwelling Unit. During the Subsidy Period the Declarant shall contribute funds and/or services toward the Assessments ("Subsidy Amount") based on the difference between the number of Dwelling Units from time to time completed on the Development Property and one hundred fifteen (115) Dwelling Units. By way of example, when fifty (50) Dwelling Units are sold and conveyed in a Condominium Development leaving a balance of sixty-five (65) Dwelling Units that have not been constructed, the Subsidy Amount to be contributed by the Declarant toward the Assessments shall be approximately fifty-six and one-half percent (56.5%) of the Assessments ($65/115 = 56.5\%$). The Declarant shall also be responsible for payment of such Assessments attributable to Dwelling Units owned by Declarant. As Dwelling Units are constructed, sold and conveyed by Declarant during the Subsidy Period, the Subsidy Amount shall correspondingly be decreased. After the expiration of the Subsidy Period, the owner of each Dwelling Unit, including the Declarant with respect to Dwelling Units owned by Declarant, shall pay his pro-rata share of the Assessments.

Parcel Assessments shall be levied against the Dwelling Units in particular portions of the Property or in Condominium Association or other residential associations for whose benefit Common Expenses are incurred which Parcel Assessments benefit less than the Association as a whole. Parcel Assessments shall be levied in accordance with the provision of Subsequent Amendments submitted the Parcels to the same.

Section 9.3 - No Exemption for Non-Use of Facilities.

No Member may exempt himself from liability for Assessments levied against him by waiver of the use of the Recreation Facilities or any other Common Areas that are owned and/or operated by the Master Association.

Section 9.4 - Uniformity and Payment of Assessments.

The Assessments and Other Charges hereunder shall be made in the manner established from time to time by the Board.

Section 9.5 - Creation of Lien and Personal Obligation.

Each Owner hereby covenants and agrees by acceptance of the deed to a Dwelling Unit or Non-Condominium Residential Building whether or not it shall be so expressed in any such deed or other conveyance, to pay to the Master Association all Assessments levied against such Owner in accordance with this Declaration on or before the due date for any such Assessment. In the event that the Assessment is not paid by the tenth (10th) day of the month, then such Assessment shall be "delinquent" and the Assessment, together with interest thereon at the rate of ten percent (10%) per annum from the date said payment was due and Costs of Collection, as hereinafter defined in Section 11.3 shall, upon "Perfection" as provided in Section 10.1, become a continuing lien upon the interest of such Person in his Dwelling Unit or Non-Condominium Residential Building and shall bind such Owner, his heirs, devisees, personal representatives, successors and assigns. A co-owner of a Dwelling Unit or Non-Condominium Residential Building shall be personally liable, jointly and severally, with all other co-owners for all Assessments made by the Master Association with respect to said Dwelling Unit or Non-Condominium Residential Building.

Section 9.6 - Non-Liability of Foreclosure Sale Purchaser for Past Due Assessments.

Where the mortgagee of a first mortgage of record acquires an Ownership Interest as a result of foreclosure of the mortgage or of an acceptance of a deed in lieu of foreclosure, such mortgagee, its successors and assigns, shall not be liable for the Assessments levied against the Owner of such Ownership Interest prior to the acquisition of the Ownership Interest. The Owner or Owners of an Ownership Interest prior to the judicial sale thereof shall be and remain personally and primarily liable, jointly and severally, for the Assessments accruing against the judicially sold Ownership Interest prior to the date of the judicial sale as provided in Section 10.3, but any unpaid part of the Assessments shall be assessed and levied against all of the Owners, including the Owner of the Ownership Interest foreclosed, his successors or assigns, at the time of the first Assessment next following the acquisition of title by such mortgagee, its successors and assigns.

Section 9.7 - Liability for Assessments on Voluntary Conveyance.

In a voluntary conveyance of an Ownership Interest the grantee of the Ownership Interest shall be jointly and severally liable with the grantor for all unpaid Assessments levied pursuant to this Declaration against the

grantor of his Ownership Interest prior to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such prospective grantee, upon written request delivered to the Master Association, shall be entitled to a statement from the Board or officers of the Master Association setting forth the amount of all unpaid Assessments due the Master Association with respect to the Ownership Interest to be conveyed and such grantee shall not be liable for, nor shall the Ownership Interest conveyed be subject to a lien, for any unpaid Assessments which become due prior to the date of the making of such request if the same are not set forth in such statement. The statement referred to herein may be included in the Certificate of Compliance with Restrictions referred to in Section 7.22 of this Declaration. A devise of an Ownership Interest or the distribution of said Ownership Interest pursuant to the Statute of Descent and Distribution shall be deemed to be a voluntary conveyance. An unpaid assessment shall not be deemed a charge or lien against the Ownership Interest until perfected as such pursuant to Article X.

ARTICLE X LIENS

Section 10.1 - Perfection of Lien.

If any Owner shall fail to pay when due an Assessment levied in accordance with this Declaration (such Owner hereinafter referred to as the "Delinquent Owner") and such Assessment is delinquent, the Board may authorize the perfection of a lien on the Ownership Interest of the Delinquent Owner by filing for record with the recorder of the County in which the Dwelling Unit is situated, a Certificate of Lien. The Certificate of Lien shall be in recordable form and shall include the following:

- (a) The name of the Delinquent Owner.
- (b) A description of the Ownership Interest of the Delinquent Owner.
- (c) The entire amount claimed, including the amount of any delinquency, interest thereon and Cost of Collection (defined in Section 11.3).
- (d) A statement referring to the provisions of this Declaration and Lien Authorization.

Section 10.2 - Duration of Lien.

Said Lien shall remain valid for a period of five (5) years from the date of filing of said Certificate of Lien, unless sooner released or satisfied in the same manner provided by law for the release or satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in action brought to discharge such Lien.

Section 10.3 - Priority.

A Lien perfected under this Article X shall take priority over any Lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments, liens of bona fide mortgagees which have been

heretofore filed for record and liens filed by a Condominium Association or other residential association against the Ownership Interest. A Lien perfected pursuant to this Article may be foreclosed in the same manner as a mortgage on real property in an action brought by the Master Association after authorization from the Board. In any such foreclosure action, the Owner affected shall be required to pay reasonable rental for such Ownership Interest during the pendency of such action and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. Any funds received at the judicial sale of the Delinquent Owner's Ownership Interest in excess of the mortgage lien, Condominium Association or other residential association liens, court costs and the taxes and assessment liens shall be paid over to the Master Association to the extent of its lien.

Section 10.4 - Dispute as to Assessment.

The Declarant or any Owner who believes that an Assessment levied by the Master Association against him for which a Certificate of Lien has been filed by the Master Association has been improperly determined, may bring an action under the Arbitration Provisions contained in Section 15.9 of this Declaration or in the Court of Common Pleas of county in which the Ownership Interest is situated for discharge of all or any portion of such lien; but the lien shall continue until the actual amount of the lien so determined is paid in full; and the Master Association may counterclaim in such action for foreclosure of the amount of lien found to be due.

Section 10.5 - No Waiver Implied.

The creation of a lien upon an Ownership Interest owned by a Delinquent Owner shall not waive, preclude nor prejudice the Master Association for pursuing any and all other remedies granted to it elsewhere in this Declaration, at law, or in equity.

Section 10.6 - Personal Obligations.

The obligations created pursuant to this Article X shall be and remain the personal obligations of the Delinquent Owner until fully paid, discharged or abated and binding on the heirs, personal representatives, successors and assigns of such Delinquent Owner.

ARTICLE XI REMEDIES OF THE ASSOCIATION

Section 11.1 - Denial of Use of Recreation Facilities.

If any Owner fails to pay an Assessment when due, such Owner and the Occupants of any and all Dwelling Units of such Owner shall not be entitled to use the Recreation Property and Recreation Facilities and shall not be entitled to vote on Master Association matters until said Assessment is paid in full.

Section 11.2 - Specific Remedies.

The violation of any Rule, or the breach of any restriction, covenant or provision contained in this Declaration or in the Bylaws of the Master

Association shall give the Master Association and the Original Declarant the right, in addition to all other rights herein set forth and those provided by law, (a) to enter upon the Dwelling Unit 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 of the Ownership Interest where the violation or breach exists, any structure, thing, or condition that may exist thereon, contrary to the intent and meaning of this Declaration, the Bylaws of the Association, or the Rules, and the Master Association, their respective agent shall not thereby be deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; and/or (c) to commence and prosecute an action to recover any damages which may have been sustained by the Master Association or any of its Members.

Section 11.3 - Cost of Collection.

If any Owner fails to pay any Assessment when due or upon delinquency in payment of any sums or cost due under this Declaration, the Master Association may pursue any and all of the following remedies, which shall be in addition to any other remedy available in this Declaration, at law or in equity:

(a) Assess against such Owner, liquidated damages, not to exceed fifteen percent (15%) of the amount of the delinquency or One Hundred Dollars (\$100.00), whichever is greater, said amount to be determined by the Board provided, however, in no event shall said sum exceed the highest interest rate chargeable to individuals under applicable law. Said liquidated damages shall be in addition to the expenses of collection actually incurred by the Master Association, such as attorneys fees, court costs, etc. The actual expenses of collection and the "liquidated damages" shall hereinafter be referred to as "Cost of Collection".

(b) Sue and collect from such Owner the amount due and payable, together with interest thereon as provided in this Declaration and Costs of Collection.

(c) Foreclose a lien filed in accordance with Article X of this Declaration in the same manner as provided by the laws of the State of Ohio for the foreclosure of real estate mortgages.

Section 11.4 - Binding Effect.

The remedies provided in this Article XI against a Delinquent Owner may also be pursued against the heirs, executors, administrators, successors and assigns and grantees of such Owner, except as provided in Section 9.6 of this Declaration.

ARTICLE XII NO PARTITION

Except as is permitted in this Master Declaration or amendments thereto, there shall be no physical partition of the Common Areas or any part thereof, nor shall any person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the Property has been removed

from the provisions of this Declaration. This Article shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Master Declaration.

ARTICLE XIII CONDEMNATION

Whenever all or any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Master Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five percent (75%) of the Class A 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 Areas to the extent lands are available therefore, in accordance with plans prepared by the Design Review Committee and approved by the Board. If such improvements are to be repaired or restored, the above provisions in Section 6.5 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 Areas, 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 XIV MORTGAGEES' RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of first mortgages on Dwelling Units. To the extent applicable, necessary, or proper, the provision of this Article apply to both this Declaration and to the Bylaws. Where indicated, these provisions apply only to "eligible holders", as hereinafter defined; provided, however, voting percentages set forth herein are subject to and controlled by higher percentage requirements, if any, set forth elsewhere in this Master Declaration for specific actions.

Section 14.1 - Notices of Action.

An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the unit number), (therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any proposed termination of the Master Association;

(b) any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Dwelling Unit on which there is a first mortgage held, insured, or guaranteed by such eligible holder;

(c) any delinquency in the payment of assessments or charges owed by an Owner of a Dwelling Unit subject to the mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of sixty (60) days;

(d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Master Association; or

(e) any proposed action which would require the consent of eligible holders, as required in Sections 14.2 and 14.3 of this Article.

Section 14.2 - Other Provisions for First Lien Holders.

To the extent possible under Ohio law:

(a) Any restoration or repair of the Property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of the eligible holders of first mortgages on Dwelling Units to which at least fifty-one percent (51%) of the votes of Dwelling Units, subject to mortgages held by such eligible holders are allocated, is obtained.

(b) Any election to terminate the Master Association after substantial destruction or a substantial taking in condemnation must require the approval of the eligible holders of first mortgages on Dwelling Units to which at least fifty-one percent (51%) of the votes of Dwelling Units, subject to mortgages held by such eligible holders, are allocated.

Section 14.3 - Amendments to Documents.

The following provisions do not apply to amendments to the constituent documents or termination of the Master Association made as a result of destruction, damage, or condemnation pursuant to Section 14.2(a) and (b) of this Article.

(a) The consent of at least sixty-seven percent (67%) of the Class A Members and of the Declarant so long as it owns any land subject to this Master Declaration and the approval of the eligible holders of first mortgages on units to which at least sixty-seven percent (67%) of the votes of units subject to a mortgage appertain, shall be required to terminate the Master Association.

(b) The consent of at least sixty-seven percent (67%) of the Class A Members and of the Declarant so long as it owns any land subject to this Declaration and the approval of eligible holders of first mortgages on Dwelling Units to which at least fifty-one percent (51%) of the votes of Dwelling Units subject to a mortgage appertain, shall be required materially to amend any provisions of the Declaration, Bylaws, or Articles of Incorporation of the Master Association, or to add any material provisions

thereto, which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance for fidelity bonds;
- (v) rights to use of the Common Areas;
- (vi) responsibility for maintenance and repair of the Property;
- (vii) expansion or contraction of the Property or the addition, annexation, or withdrawal of Property to or from the Master Association;
- (viii) boundaries of any Dwelling Unit;
- (ix) leasing of Dwelling Units;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Dwelling Unit;
- (xi) establishment of self-management by the Master Association where professional management has been required by an eligible holder; or
- (xii) any provisions included in the Declaration, Bylaws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first mortgages on Dwelling Units.

Section 14.4 - Special Federal Home Loan Mortgage Corporation Provisions.

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply to this Declaration:

- (a) Unless two-thirds (2/3) of the first mortgagees or Owners give their consent, the Master Association shall not: (i) by act or omission seek to abandon, become a partition, subdivide, encumber, sell or transfer any portion of the Property owned by the Master Association (the granting of easements for public utilities or for public purposes consistent with the intended use of the property shall not be deemed a transfer); (ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner; (iii) by act or omission change, waive or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance or maintenance of a Dwelling Unit, and of the Common Areas; (iv) fail to maintain fire and extended coverage insurance as required by this Declaration; or (v) use hazard insurance proceeds for any Common Area losses for other than repair, replacement or reconstruction of such properties.

(b) The provisions of this Section shall not be construed to reduce the percentage vote that must be obtained from mortgagees or owners or a larger percentage vote as otherwise required for any of the actions contained in this Article.

(c) First mortgagees may, jointly or singularly, pay taxes or other charges which are in default or which may or have become a charge against the Common Area and may pay overdue premiums of casualty insurance policies or secure new casualty insurance coverage upon the lapse of a policy, for the Common Areas and first mortgagees making such payments shall be entitled to immediate reimbursement from the Master Association.

ARTICLE XV GENERAL PROVISIONS

Section 15.1 - Covenants Run With the Development Property and Recreation Property; Binding Effect.

All of the Easements, Covenants and Restrictions which are imposed upon, granted and/or reserved in this Declaration constitute Easements, Covenants and Restrictions running with the Property and are binding upon every subsequent transferee of all or any part thereof, including, without limitation, grantees, tenants and Owners.

Each grantee accepting a deed or Tenant accepting a lease (whether oral or written) which conveys any interest in any portion of the Total Property that is submitted to all or any portion of this Master Declaration, whether or not the same incorporates or refers to this Declaration, covenants for himself, his heirs, personal representatives, successors and assigns to observe, perform and be bound by the provisions of this Declaration and to incorporate said Declaration by reference in any deed, lease or other agreement of all or any portion of his interest in any real property subject hereto.

Section 15.2 - Duration.

Unless sooner terminated or amended as hereinafter provided, the covenants and restrictions of this Declaration shall continue for a term of fifty (50) years from the date this Declaration is recorded, after which time, said covenants and restrictions shall automatically be extended for successive periods of ten (10) years each unless repealed as provided in this Declaration.

Section 15.3 - Notices.

Any notices required to be given to any Person under the provisions of this Declaration shall be deemed to have been given when personally delivered to such Person's Dwelling Unit or mailed, postage prepaid, to the last known address of such Person or principal place of business if a corporation, provided, however, that a notice of "delinquency" of any payment due hereunder shall be made by personal delivery to such Dwelling Unit or principal place of business if a corporation, or by certified or registered mail, return receipt requested, or by telegram. The effective date of such a notice shall be the date said notice is personally delivered, or postmarked, or the date the telegraph company receives the message, as the case may be.

Notices to the Declarant shall be deemed given only when received and must be either hand delivered or mailed by certified or registered mail, postage prepaid, to Declarant c/o Zaremba Corporation, 14700 Detroit Avenue, Lakewood, Ohio 44107 with a copy to Richard A. Rosner, Esquire, Kahn, Kleinman, Yanowitz & Arnson Co., L.P.A., 1300 Bond Court Building, Cleveland, Ohio 44114.

Section 15.4 - Enforcement-Waiver.

Enforcement of the Easements, Covenants and Restrictions may be by any proceeding at law or in equity against any Person or Persons violating or attempting to violate any Easement, Covenant or Restriction, either to restrain violation or to recover damages and against the Person or Ownership Interest, or to enforce any lien perfected pursuant to this Declaration. The failure by the Master Association or any one permitted by this Declaration to enforce any Easement, Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 15.5 - Construction of the Provisions of this Declaration.

The Declarant, the Master Association or the Design Review Committee, where specifically authorized herein to act, shall have the right to construe and interpret the provisions of this Declaration and in the absence of an adjudication by arbitrator(s) or a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all Persons or property which benefit or which are bound by the provisions hereof. Any conflict between any construction or interpretation of the Declarant, the Master Association or the Design Review Committee and that of any Person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Declarant, the Master Association or the Design Review Committee, as the case may be.

The Master Association and the Design Review Committee to the extent specifically provided herein may adopt and promulgate Rules regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting Rules and in making any finding, determination, ruling or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Master Association and the Design Review Committee, as the case may be, shall take into consideration the best interests of the Declarant(s), Owners, Tenants and Occupants of the Development Property to the end that the Development Property shall be preserved and maintained as a high quality, residential community.

Section 15.6 - Reservations by Original Declarant - Exempt Property.

(a) Original Declarant reserves the right and easement for itself and owners of nearby lands to whom Original Declarant, in Original Declarant's sole discretion, shall grant the same right and easement, to tie into, use, repair, maintain and replace without charge any and all common lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way in, on, or over the Property (as same may be expanded) or any part thereof that will not materially interfere with the use or operation of a building or structure or other improvement thereon, in connection with the development

and/or operation of real property. Any damage to buildings, improvements and real estate (including landscaping, if any) caused thereby shall be promptly repaired and restored to its prior condition.

(b) Original Declarant hereby reserves the right to grant to or enter into any easements or covenants for the installation, maintenance, service or operation of any and all common lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way in, on, or over the Property (as the Property may be expanded), or any part thereof that will not materially interfere with the use or operation of a building, or other improvement thereon. Any damage caused thereby shall be promptly repaired and the land shall be restored to its prior condition.

(c) Original Declarant reserves the right to enter into covenants and easements with any utility or public authority which Original Declarant believes, in its sole discretion, to be in the best interests of the development of the Property.

(d) Original Declarant reserves the right to perform or cause to be performed such work as is incident to the completion of the development and improvement of the Property (as same may be expanded), owned or controlled by the Original Declarant, notwithstanding any covenant, easement, restriction or provision of this Declaration or its exhibits, which may be to the contrary.

(e) Original Declarant reserves the right to impose, reserve or enter into additional covenants, easements and restrictions with grantees of Dwelling Units or other real property as long as such additional easements, covenants and restrictions are not in conflict with the rights, duties and obligations of Owners as set forth in this Declaration.

(f) Each reservation, right and easement specified or permitted pursuant to this Article shall include the right of ingress and egress for the full utilization and enjoyment of the rights reserved and/or granted herein. The word "common" as used in this paragraph shall mean any and all lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way intended for the use of or used by more than one Owner. Any easements or rights alluded to in this Article, whether granted by Original Declarant prior to the filing of this Declaration or subsequent thereto, shall at all times have priority over the provisions of this Declaration and any lien created under this Declaration.

Section 15.7 - Assignability by Original Declarant.

The Original Declarant, and its successors, shall have the right from time to time to assign all or any part of its rights as a Declarant under this Declaration (but not the rights expressly conferred upon the Original Declarant), provided that a deed or other writing as shall be selected by Original Declarant, in Original Declarant's sole discretion, shall expressly state that the rights of a Declarant shall be assigned. Any such assignment may provide that said assignee shall have the rights of a Declarant (other than those rights reserved by the Original Declarant in any such assignment) set forth in this Declaration with respect to the Dwelling Units and/or real property owned by such designee.

Section 15.8 - Severability.

Invalidation of any one of the easements, covenants, restrictions or provisions contained herein shall in no way affect any other provision which shall remain in full force and effect.

Section 15.9 - Arbitration.

Unless otherwise provided in this Declaration, any controversy, dispute or claim arising out of or relating to this Declaration or the breach thereof shall be settled by arbitration in Cleveland, Ohio in accordance with the Commercial Rules of the American Arbitration Association and the judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction hereof.

Section 15.10 - Validity of Mortgages.

No violation of any Easement, Covenant or Restriction of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Development Property; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagees' foreclosure sale shall be bound by and subject to this Declaration as fully as any other Owner of any portion of the Development Property.

Section 15.11 - Amendment of Declaration.

Except as expressly provided to the contrary in this Declaration, this Declaration may be amended as follows:

(a) For a period of twenty (20) years from the date this Declaration is filed for record, or so long as the Declarant or a successor designated by the Declarant is the Owner of a fee simple interest in the Total Property, whichever occurs later, the Original Declarant shall be entitled from time to time to amend or modify any of the provisions of this Declaration or to waive any of the provisions, either generally or with respect to particular real property, if in its judgment, the development or lack of development of the Development Property requires such modification or waiver, or if in its judgment the purposes of the general plan of development of the Dwelling Units will be better served by such modification or waiver, provided no such amendment, modification or waiver shall materially and adversely affect the value of existing Dwelling Units or shall prevent a Dwelling Unit from being used by the Owner in the same manner that said Dwelling Unit was used prior to the adoption of said amendment, modification or waiver. To modify such Declaration in accordance with this paragraph, Original Declarant shall file a Supplemental Declaration setting forth the Amendment, which Supplemental Declaration need not be but shall at Original Declarant's request, be executed by the Master Association and all Owners of real property within the Development Property. Each such Owner hereby appoints Original Declarant his attorney-in-fact, coupled with an interest, by accepting a deed to his Dwelling Unit or other real property, to execute on his behalf any such amendments. Each amendment shall be effective when signed by the Original Declarant and filed for record with the recorder(s) of The county(ies) in which the Property or portion thereof is situated.

(b) This Declaration may also be amended by Original Declarant at any time and from time to time for the purpose of: (1) Complying with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (2) including any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Condominium Ownership Interests, (3) bringing this Declaration into compliance with the Act, (4) correcting clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment hereto, or (5) complying with the underwriting requirements of insurance companies providing casualty insurance, liability insurance or other insurance coverages for the Master Association. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant and/or to the Board to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting any portion of the Property and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of the power to the Original Declarant to vote in favor of, make and record a Special Amendment. To effect said amendment, Original Declarant shall file a supplement to the Declaration setting forth the Amendment(s) which shall be signed by Original Declarant and shall be effective upon the filing of said Supplement with the recorder(s) of the county(ies) in which the Property or portion thereof is situated.

(c) Original Declarant shall have the right to amend this Declaration at any time and from time to time in accordance with or in implementation of any of the rights granted to or reserved by Original Declarant in this Declaration.

(d) Except as expressly provided in this Declaration, and after expiration of the period set forth in (a) of this Article, any provision of this Declaration may be amended or repealed following a meeting of the Members held for such purpose, by the affirmative vote of Members entitled to exercise a majority of the voting power of the Master Association unless a greater percentage of vote is required pursuant to this Declaration or in accordance with the statutes of the State of Ohio; provided, however, that any amendment which would terminate or materially affect the easements set forth in Article III of this Declaration shall not be amended (except as expressly provided to the contrary in this Declaration) unless all persons whose rights are terminated or materially affected shall affirmatively consent to such amendment and, provided further, that any amendment affecting the rights of Declarant in this Declaration shall not be effective without the prior written consent of Declarant. Written notice shall be given each Member at least thirty (30) days in advance of the date of the meeting held for the purpose of amending this Declaration, which notice shall expressly state the modification to be considered at such meeting. Each Amendment shall be effective when signed by the President and one other officer of the Master Association, signed by the Declarant if the amendment affects the

rights of the Declarant and filed for record with the recorder(s) of county(ies) in which the Property or portion thereof is situated.

Section 15.12 - Interest Rates.

After this Declaration shall have been recorded for five (5) years or more, the Board shall have right to change any interest rate or late payment charge referred to herein by majority vote, but in no event shall said interest rate or late payment charge exceed the highest interest rate chargeable to individuals under applicable law.

Section 15.13 - Headings.

The heading of each Article and of each paragraph in this Declaration is inserted only as a matter of convenience and for reference and in no way defines, limits or describes the scope or intent of this Declaration or in any way affects this Declaration.

Section 15.14 - Rule Against Perpetuities.

If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common-law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of Ronald Reagan, President of the United States of America, and George Bush, Vice President of the United States of America.

IN WITNESS WHEREOF, The Zarembo-MacIntosh Co. has signed this document this 29 day of JULY, 1986.

Signed in the presence of:

ZAREMBA MACINTOSH CO.

By:

Robert Hartshorn Pres.

STATE OF OHIO)
) SS.
CUYAHOGA COUNTY)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named ZAREMBA MACINTOSH CO., an Ohio corporation, by Robert Hartshorn, its President, who acknowledged that he executed the within instrument and further acknowledged that he did examine and read the same, that such execution was the free act and deed of said

corporation and was his free act and deed both individually and in his capacity as an officer of said corporation.

IN TESTIMONY WHEREOF, I have herein set my hand and notarial seal this 29th day of July, 1986.


Notary Public

This instrument prepared by:
Richard A. Rosner, Attorney at Law
Kahn, Kleinman, Yanowitz & Arnson Co., L.P.A.
1300 Bond Court Building
Cleveland, Ohio 44114
(216) 696-3311

LEGAL DESCRIPTION

PARCEL NO. 3B

VOL. 86-4892 PAGE 1

(POND "A")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

Situated in the City of Broadview Heights, County of Cuyahoga, State of Ohio, and being known as part of Original Royalton Township Lot No. 25, further known as being part of a parcel of land conveyed to Headwaters Development Co. by deed recorded in Volume 8867, Page 463 of Cuyahoga County Records, further bounded and described as follows:

Beginning in the centerline of Broadview Road, 60 feet wide, at the Northeasterly corner of land conveyed to D. Millard, et. al., by deed recorded in Volume 30886, Page 62 of Cuyahoga County Records, said point lying North $0^{\circ}30'00''$ West along said centerline, a distance of 1644.88 feet from its intersection with the centerline of Boston Road, said intersection also being the ~~SS~~ Southeasterly corner of said Original Lot No. 25;

Thence South $89^{\circ}03'05''$ West along the Northerly line of land so conveyed to D. Millard, et. al., a distance of 30.00 feet to the Westerly sideline of said Broadview Road and the Principle Place of Beginning of the premises herein intended to be described:

Thence North $0^{\circ}30'00''$ West along said Westerly sideline of Broadview Road, a distance of 20.00 feet to its intersection with the Southerly sideline of MacIntosh Lane

Thence South $89^{\circ}03'05''$ West along said Southerly sideline of MacIntosh Lane, a distance of 185.64 feet to a point of curvature;

Thence Northwesterly along said curved Southerly sideline of MacIntosh Lane, deflecting to the right, an arc distance of 92.35 feet to a point of reverse curvature, said curve having a radius of 360.00 feet and a chord which bears North $83^{\circ}35'58''$ West. a distance of 92.10 feet;

Thence continuing Northwesterly along said curved Southerly sideline of MacIntosh Lane, deflecting to the left, an arc distance of 137.06 feet to a point of reverse curvature, said curve having a radius of 300.00 feet and a chord which bears North $89^{\circ}20'19''$ West. a distance of 135.87 feet;

LEGAL DESCRIPTION

VOL. 86-4892 PAGE 2

PARCEL NO. 3B

(POND "A")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

(Page Two)

Thence Southwesterly, continuing along said curved Southerly sideline of MacIntosh Lane, deflecting to the right, an arc distance of 156.26 feet to a point of tangency, said curve having a radius of 780.00 feet and a chord which bears South $83^{\circ}18'44''$ West, a distance of 156.00 feet;

Thence South $0^{\circ}56'55''$ East, a distance of 147.00 feet to a point;

Thence North $89^{\circ}21'25''$ East, a distance of 156.36 feet to a point in the Westerly line of land conveyed to W. Kilarsky, et. al., by deed recorded in Volume 15679, Page 69 of Cuyahoga County Records;

Thence North $0^{\circ}30'00''$ West along said Westerly line of land so conveyed to W. Kilarsky, et. al., a distance of 26.00 feet to the Northwestern corner thereof;

Thence North $88^{\circ}47'43''$ East along the Northerly line of land so conveyed to W. Kilarsky, et. al., a distance of 210.51 feet to the Southwesterly corner of land so conveyed to D. Millard, et. al.;

Thence North $0^{\circ}30'00''$ West along the Westerly line of land so conveyed to D. Millard, et. al., a distance of 100.90 feet to the Northwestern corner thereof;

Thence North $89^{\circ}03'05''$ East along the Northerly line of land so conveyed to D. Millard, et. al., a distance of 200.00 feet to the Place of Beginning and containing 1.2950 acres of land as described by W. L. Mosier. Registered Surveyor No. 6832, March 1986, be the same more or less but subject to all legal highways. Bearings used herein are to an assumed meridian and are intended to indicate angles only.

LEGAL DESCRIPTION

PARCEL NO. 3A

(PONDS "B" AND "C")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

Situated in the City of Broadview Heights, County of Cuyahoga, State of Ohio, and being known as part of Original Royalton Township Lot No. 25, further known as being part of a parcel of land conveyed to Headwaters Development Company by deed recorded in Volume 8867, Page 463 of Cuyahoga County Records, further bounded and described as follows:

Starting in The Centerline of Broadview Road, 60 feet wide, at a Southeast-erly corner of land conveyed to T. Tibbitts by deed recorded in Volume 15314, Page 989 of Cuyahoga County Records, said point lying North $0^{\circ}30'00''$ West along said centerline, a distance of 1824.72 feet from its intersection with the centerline of Boston Road, said intersection also being the Southeasterly corner of said Original Lot No. 25;

Thence South $89^{\circ}03'05''$ West along a Southerly line of land so conveyed to T. Tibbitts, a distance of 30.00 feet to the Westerly sideline of said Broad-view Road, and the Principal Place of Beginning of the premises herein intended to be described;

Thence Southwesterly along a curved Southeasterly line of land so conveyed to T. Tibbitts, deflecting to the right, and arc distance of 31.26 feet to a point of tangency, said curve having a radius of 20.00 feet and a chord which bears South $44^{\circ}16'33''$ West, a distance of 28.17 feet;

Thence South $89^{\circ}03'05''$ West along a Southerly line of land so conveyed to T. Tibbitts, a distance of 180.16 feet to the Southwesterly corner thereof;

Thence North $0^{\circ}30'00''$ West along the Westerly line of land so conveyed to T. Tibbitts and the Westerly line of land conveyed to E. & P. Zastawny by deed recorded in Volume 13846, Page 349 of Cuyahoga County Records, a distance of 228.29 feet to the Northwesterly corner thereof;

LEGAL DESCRIPTION

PARCEL NO. 3A

(PONDS "B" AND "C")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

(Page Two)

VOL. 86-4892 PAGE 4

Thence North $89^{\circ}03'05''$ East along the Northerly line of land so conveyed to E. & P. Zastawny, a distance of 200.00 feet to said Westerly sideline of Broadview Road;

Thence North $0^{\circ}30'00''$ West along said Westerly sideline of Broadview Road, a distance of 200.00 feet to the Southerly line of land conveyed to B. & D. Chesnik, by deed recorded in Volume 13664, Page 891 of Cuyahoga County Records:

Thence South $89^{\circ}03'05''$ West along said Southerly line of land so conveyed to B. & D. Chesnik and its Westerly prolongation, a distance of 259.00 feet to a point;

Thence South $0^{\circ}43'05''$ West, a distance of 123.00 feet to a point;

Thence South $45^{\circ}43'05''$ West, a distance of 160.00 feet to a point;

Thence South $1^{\circ}16'55''$ East, a distance of 39.00 feet to a point;

Thence South $66^{\circ}16'55''$ East, a distance of 75.00 feet to a point;

Thence South $23^{\circ}43'05''$ West, a distance of 100.00 feet to a point;

Thence South $56^{\circ}58'42''$ West, a distance of 71.17 feet to a point;

Thence South $14^{\circ}54'03''$ East, a distance of 57.00 feet to a point in the curved Northerly sideline of MacIntosh Lane (proposed);

Thence Northeasterly along said curved Northerly sideline of MacIntosh Lane, deflecting to the left, an arc distance of 29.00 feet to a point of reverse curvature, said curve having a radius of 720.00 feet and a chord which bears North $73^{\circ}56'43''$ East, a distance of 29.00 feet;

Thence continuing Northeasterly along said Northerly sideline of MacIntosh Lane, deflecting to the right, an arc distance of 221.36 feet to a point of tangency, said curve having a radius of 780.00 feet and a chord which bears North $80^{\circ}55'17''$ East, a distance of 220.61 feet;

LEGAL DESCRIPTION

PARCEL NO. 3A

(PONDS "B" AND "C")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

(Page Three)

Thence North 89°03'05" East, continuing along said Northerly sideline of MacIntosh Lane, a distance of 148.97 feet to its intersection with said Westerly sideline of Broadview Road;

Thence North 0°30'00" West along said Westerly sideline of Broadview Road, a distance of 39.84 feet to the Place of Beginning and containing 2.3250 acres of land as described by W.L. Mosier, Registered Surveyor No. 6832, March 1986, be the same more or less but subject to all legal highways. Bearings used herein are to an assumed meridian and are intended to indicate angles only.

CONSENT OF MORTGAGEE

The undersigned, DOLLAR BANK FEDERAL SAVINGS BANK, CONTINENTAL DIVISION, is mortgagee of a portion of the premises described in the within Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, a Planned Residential Community ("Master Declaration") by virtue of mortgages recorded on March 10, 1986, in Volume 86-1442, Page 43; Volume 86-1443, Page 6; and Volume 86-1443, Page 37 of Cuyahoga County Records.

The undersigned hereby consents to the execution and delivery of the Master Declaration, and to the filing thereof in the Office of the county Recorder of Cuyahoga County, Ohio, and further, subjects and subordinates said Mortgages to the Master Declaration.

SIGNED AND ACKNOWLEDGED
IN THE PRESENCE OF:

DOLLAR BANK, FEDERAL SAVINGS BANK,
CONTINENTAL DIVISION

B. E. Mulaniche

By: Linda A. Cornell *AVP*

Debra L. Loomis

By: Mary E. Brennan *Officer*

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named DOLLAR BANK, FEDERAL SAVINGS BANK, CONTINENTAL DIVISION, by Linda A. Cornell, its Assistant Vice President, and by Mary E. Brennan, its Real Estate Officer, who acknowledged that they did sign the foregoing instrument and that the same is the free act and deed of said corporation, and their free act and deed personally and as such officers.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 18th day of July, 1986.

Debra L. Loomis

Notary Public
DEBRA L. LOOMIS, Notary Public
State of Ohio, Cuyahoga County
My commission expires June 20, 1987

THIS INSTRUMENT PREPARED BY:
Richard A. Rosner, Attorney at Law
Kahn, Kleinman, Yanowitz & Arnson Co., L.P.A.
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