

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SHAKER MEADOWS NEW PHASE

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
SHAKER MEADOWS NEW PHASE**

This Declaration of Covenants, Conditions, And Restrictions (“Declaration”) of Shaker Meadows New Phase (“Subdivision” or “Community”) is made this _____ day of _____, 2025, by **HDC, III, LLC**, an Ohio limited liability company (“Declarant”).

Declarant is the Owner of real estate in the City of Franklin, Warren County, State of Ohio, more particularly described in **Exhibit A**, consisting of approximately _____ acres; and

Declarant desires to create on the Real Estate a residential community to be known as “Shaker Meadows New Phase” as shown on **Exhibit B**; and

Declarant intends to develop the Shaker Meadows New Phase Subdivision in separate sections, all of which will constitute the Shaker Meadows New Phase Subdivision, beginning with an initial section consisting of approximately _____ acres to be known as Shaker Meadows New Phase, Section 1, as shown on **Exhibit C**; and

Declarant desires to subject the Initial Tract to certain rights, privileges, covenants, restrictions, easements, assessments, charges, and liens for the benefit of the Initial Tract and each Owner; and

Declarant has caused “Shaker Meadows New Phase Homeowners Association, Inc.” to be incorporated under Chapter 1702 of the Ohio Revised Code, to perform and enforce the covenants, conditions, and restrictions set forth herein;

Declarant declares that the Real Estate is subject to this Declaration.

**ARTICLE I
DEFINITIONS**

Section 1. Definitions. These terms, when used herein or in any supplement or amendment hereto, have these meanings:

(a) “Additional Property” means any real estate, excluding the Initial Tract, which may in part or in total be made subject to this Declaration but only if the Additional Property is developed as a subdivision for detached single family homes;

(b) “Applicable Date” means the first to occur of:

(i) thirty days after the date upon which the written resignation of the Class B members is delivered to the resident agent of the Association; or

(i) thirty days after the date when all Lots are titled in names other than Declarant or an assignee of Declarant;

(c) “Articles” means the Articles of Incorporation of the Association, as they may be amended from time to time;

(d) “Association” or “HOA” means Shaker Meadows New Phase Homeowners Association, Inc., an Ohio nonprofit corporation organized under Chapter 1702 of the Ohio Revised Code, that Declarant has caused or will cause to be incorporated under that name, and its successors and assigns;

(e) “Board” or “Board of Directors” means the governing body of the Association elected, selected, or appointed as provided for in the Articles, Bylaws, and this Declaration;

(f) “Bylaws” means the Code of Regulations of the Association attached as Exhibit D, as it may be amended from time to time;

(g) “Code” means the Ohio Nonprofit Corporation Law, Chapter 1702 of the Ohio Revised Code, as amended;

(h) “Committee” means the “Shaker Meadows New Phase Architectural Control Committee” established under Article IX of this Declaration;

(i) “Common Elements” denominated by such title or “Open Space” or a similar term on recorded plats (“Plats”) of this Community. Common Elements limited in use to fewer than all the Owners, if any, are labeled “Limited Common Elements.” All Common Elements not labeled Limited Common Elements are general Common Elements available to all Owners in the Subdivision.

Subject to the tree preservation requirements herein, the HOA at all times herein has rights regarding these Common Elements to regulate the use thereof, to make or remove improvements thereon (except for the removal of fencing installed by Declarant (other than to repair or replace such fencing), including, but not limited to, maintaining landscaping and providing utilities thereto for its care and maintenance.

Declarant intends to convey legal title to the Common Elements to the HOA as soon after the Applicable Date as any mortgage of Declarant thereon is satisfied in full but reserves the right to convey such title earlier in Declarant’s sole discretion. The Board, after the initial

Board is replaced, is empowered to accept title subject to a mortgage if it receives adequate assurances of payment thereof by Declarant. Declarant reserves the right to relocate and reconfigure the open space or Common Elements as engineering for the site may require;

The Comment Elements exist for the exclusive use of the Owners and their families and social guests.

(j) “Common Expenses” means expenses incurred by the HOA in administering and enforcing this Declaration;

(k) “Community” or “Project” means the Shaker Meadows New Phase area depicted on Exhibit B as it is developed and as it continues to exist after the Applicable Date;

(l) “DECLARANT” ALSO KNOWN AS “DEVELOPER”, MEANS HDC III, LLC AND ANY SUCCESSORS AND ASSIGNS, INCLUDING, BUT NOT LIMITED TO, ANY MORTGAGEE ACQUIRING TITLE TO ANY PORTION OF THE REAL ESTATE IN ACCORDANCE WITH THE EXERCISE OF RIGHTS UNDER, OR FORECLOSURE OF, A MORTGAGE EXECUTED BY DECLARANT;

(m) “Dwelling Unit” means a single free-standing residential structure on one or more Lots;

(n) “Initial Tract” means the real estate in **Exhibit C** to be platted as Shaker Meadows, Section 1, and shall consist of twenty-one Lots;

(o) “Lot” means any plot of ground designated as such upon the recorded final plat or plats of Shaker Meadows New Phase (the “Final Plats”), upon which one Dwelling Unit is constructed or is to be constructed. When Lot is used, it includes the Dwelling Unit located thereon;

(p) “Maintenance Expense Areas” are certain aesthetic, informational, and other amenities influenced by the natural features of the Real Estate that have been used in the development design to differentiate this Community from other communities. As a consequence thereof, easement areas or improvements in dedicated rights-of-way have or will be created that reserve to Declarant, and after the Applicable Date the HOA, certain rights and responsibilities. These areas include but are not limited to: identification monuments at the Community entrances and complementary landscaping and, in Declarant’s discretion, water and electric service for such monumentation and landscaping.

(q) “Member” means a Member of the Association;

(r) “Mortgagee” means the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;

(s) Reserved;

(t) “Owner” means the record Owner, whether one or more Persons, of the fee simple title to a Lot, but shall not include a mortgagee or tenant, unless such mortgagee or tenant has acquired title to a Lot. But upon so acquiring title to any Lot, a mortgagee or tenant shall be an Owner;

(u) “Person” means an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof;

(v) The “Real Estate” means the parcel of real estate in Warren County, Ohio, described in Exhibit A;

(x) “Governing Documents” means the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens, and all other provisions set forth in this Declaration, the Bylaws, and the Rules and Regulations, as they may be amended from time to time..

(y) “Rules and Regulations” are the rules and regulations relative to the use, occupancy, operation, and enjoyment of the Real Estate, Common Elements, and individual Lots that may be enacted by the Board of Directors from time to time.

(z) “Tree Preservation Areas” means those areas designated as such on any Plat, subject to drainage improvements, drainage easements as required by applicable law or local authority, and such other easements as are shown on the Plats or other plans for the Community.

Section 2. Other Terms. Other terms defined elsewhere in this Declaration have the meanings attributed to them.

ARTICLE II DECLARATION

Declarant declares that the Initial Tract shall be held, transferred, and occupied subject to this Declaration. By (a) acceptance of a deed conveying title to a Lot, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (b) by the occupancy of any Lot, the Owner or other person shall have conclusively acknowledged the rights and powers of Declarant, the Committee, and the Association regarding this Declaration for itself, its heirs, personal representatives, successors, and assigns. They further agree to observe, comply with, and abide by this Declaration.

**ARTICLE III
OBLIGATIONS OF DECLARANT**

Declarant has constructed or provided for, or will before the Applicable Date construct or provide for, the following:

- (a) a storm drainage system for the Initial Tract, including structures and drainage courses;
- (b) at the sole discretion of Declarant, the installation in the designated easements of the Subdivision identification signage and landscaping at the entranceway to Shaker Meadows New Phase and possible related water and electric service; and
- (c) the Common Elements.

**ARTICLE IV
ASSOCIATION; MEMBERSHIP; VOTING; FUNCTIONS**

Section 1. Membership in the Association. Declarant and each Owner of a Lot shall, automatically upon becoming an Owner, become a Member of the Association and shall remain a Member until his or her ownership of a Lot ceases, at which time membership will be transferred to the new Owner of the Lot; provided, however, that any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a Member unless that Person ultimately acquires legal title.

Section 2. Voting Rights. The Association shall have these classes of membership, with these voting rights:

(a) Class A. Class A Members shall be all Owners except Class B Members. Each Class A Member shall be entitled to one vote for each Lot owned by such Member regarding each matter submitted to a vote of Members upon which the Class A Members are entitled to vote. When more than one Person constitutes the Owner of a Lot, all such Persons shall be Members of the Association, but such Persons shall collectively have only one vote for such Lot, which vote shall be exercised as they among themselves determine or as set forth in the Bylaws in the absence of such determination, but in no event shall more than one vote be cast regarding any such Lot. Attendance at a duly called Association meeting by one Member of a jointly titled Lot shall vest in such sole attending Member the entire one vote;

(b) Class B. Class B Members shall be Declarant and all successors and assigns of Declarant identified in a written notice delivered to the resident agent of the Association. Each Class B Member shall be entitled to four votes for each Lot designated on the Shaker Meadows

New Phase Plat(s), including Exhibit B, on all matters requiring a vote of the Members of the Association.

After the Applicable Date, Class B memberships shall be converted to Class A memberships, and each former Class B Member shall be entitled to one Class A membership for each Lot owned.

The total possible votes for Class A Members of the Initial Tract prior to the Applicable Date is _____. The total votes for Class B Members prior to the Applicable Date, considering only the Initial Tract, is _____.

Section 3. Functions. The Association has been formed to perform all functions and exercise all rights set forth in the Governing Documents.

ARTICLE V BOARD OF DIRECTORS

Section 1. Management. The business and affairs of the Association shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a Member of the Board of Directors unless he or she is an Owner or a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The initial Board of Directors shall consist of the persons designated under the Bylaws (the "Initial Board" or "Board"), who have been or shall be appointed by Declarant. Notwithstanding anything to the contrary in, or any other provision of, the Governing Documents or the Code (a) the Initial Board shall hold office until the first annual meeting of the Members of the Association on or after the Applicable Date, and (b) if any vacancy or vacancies occur in the Initial Board for any reason prior to such first annual meeting, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a Member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any judicial acts, inter vivos, causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact, and proxy, which shall be coupled with an interest and irrevocable until the Applicable Date, to exercise all of the Owner's right to vote, and to vote as Declarant determines, on all matters on which Members of the Association are entitled to vote under the Governing Documents, the Code, or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact, and proxy shall be durable and shall not be affected by the disability of the Owner. Each Person serving on the Initial Board, whether as an original Member or as a Member appointed by Declarant to fill a vacancy, shall be deemed a special member ("Special Member") of the Association and an Owner, solely to qualify to act as a Member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be a Member of the Association or an Owner of a Lot for any other purpose (unless he or she is actually the Owner of a Lot and thereby a Member of the Association).

Section 3. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership, corporation, trust, or other legal entity, then one of the Persons constituting that Owner, or a partner or an officer or trustee, shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4. Term of Office, Vacancy, and Number of Directors After the Applicable Date.

(a) Term. Subject to Section 2 of this Article V, the entire membership of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed elected and re-elected as the Board of Directors at each annual meeting until the first annual meeting of the Members on or after the Applicable Date. After the Applicable Date, each Member of the Board of Directors shall be elected for a minimum term of one year. Each Director shall hold office until a successor is elected and qualified.

(b) Number of Directors After Applicable Date. The number of Directors to serve on the Board after the Applicable Date shall be a minimum of three with a maximum of nine.

(c) Vacancies. Subject to Section 2 of this Article V as to the Initial Board, any vacancy or vacancies in the Board after the Applicable Date shall be filled by a vote of a majority of the remaining Members of the Board or by vote of the Owners if a Director is removed under Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the Members and until his or her successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the former Director. Any vacancy in a Director position appointed by Declarant must be replaced by a person designated by Declarant.

Section 5. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his or her successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners or until his or her successor is duly elected and qualified. Any vacancy in a Director position appointed by Declarant must be replaced by a person designated by Declarant.

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Association representing the Owners and being responsible for the functions and duties of the Association, including, but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep, and replacement of the Common Elements (unless otherwise the responsibility or duty of Owners), and the collection of Regular

Assessments and Special Assessments (collectively, the “Assessments”) and other income, and disbursement of the Common Expenses. After the Applicable Date, the Board may employ a managing agent (“Managing Agent”) upon such terms as the Board shall find reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

(a) procuring of utilities used in connection with the Lots, Dwelling Units, and Common Elements (to the extent they are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies);

(b) assessment and collection from the Owners of the Owners’ respective shares of the Common Expenses;

(c) preparation of the proposed annual budget, a copy of which will be delivered to each Owner with the notice of the annual or special meeting at which the proposed annual budget is to be acted upon;

(d) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year, such accounting to be delivered to each Owner simultaneously with the distribution of the proposed annual budget for the current year;

(e) keeping a current, accurate, and detailed record of receipts and expenditures affecting the Common Elements and the business and affairs of the Association, itemizing the Common Expenses. All records and vouchers shall be available for examination by an Owner during normal business hours by reasonable pre-arrangement;

(f) procuring and maintaining for the benefit of the Association, the Owners, any Managing Agent, and the Board, the insurance coverages required under the Governing Documents, the Code, Chapter 5312 of the Ohio Revised Code, and such other insurance coverages as the Board may deem necessary or advisable;

(g) paying any other necessary expenses and costs in connection with the Common Elements (including open space Common Elements) and including the overseeing of open space preservation areas that are not Common Elements but instead are impositions by easement within the confines of Lots; and

(h) all duties and obligations imposed upon the Association or the Board under the Governing Documents, the Code, and Chapter 5312 of the Ohio Revised Code.

Section 7. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of its duties. These powers include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties;
- (b) to purchase, lease, or otherwise obtain for the Association, to enable it to perform its functions and duties, such equipment, materials, labor, and services as may be necessary;
- (c) to employ legal counsel, architects, contractors, accountants, and others as may be necessary or desirable in connection with the business and affairs of the Association;
- (d) to employ, designate, discharge, and remove such personnel as may be necessary for the maintenance, upkeep, repair, and replacement of the Common Elements, and to perform all other maintenance, upkeep, repair, and replacement duties of the Association and the Board;
- (e) to include the costs of performing all its functions, duties, and obligations as Common Expenses and to pay all such costs therefrom;
- (f) to open and maintain a depository account or accounts in the name of the Association;
- (g) to promulgate, adopt, and modify from time to time such additional Rules and Regulations regarding use, occupancy, operation, and enjoyment of the Real Estate and the Common Elements (in addition to those set forth in the Governing Documents) including, but not limited to, charging fees for the use of Common Elements, and to set and charge fees for late payment of assessments and fines for violations of the Governing Documents, as allowed by Ohio law. Copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners Any elimination, modification, or addition of Rules and Regulations shall require the written approval of Declarant if Declarant owns any Lot, which approval shall not be unreasonably delayed, conditioned, or withheld.
- (h) to grant to such public or private companies, entities, or bodies as the Board may approve, such easements as may be necessary to provide the Lots, Dwelling Units, and Common Elements with facilities for utility and similar services, including, but not limited to, cable television facilities and service, provided that such easements are within or are coextensive with any one or more utility, maintenance, landscape, and access easements;
- (i) shall have the right to convey title to Common Elements to Owners to the limited extent required to correct any overlaps or encroachments; and
- (j) to borrow funds to perform its duties for the benefit of the Association and Owners and use the assessments as collateral, if collateral is required, to secure such financing.

Section 8. Limitation on Board Action. After the Applicable Date, the authority of the Board shall be in accordance with Chapter 5312 of the Ohio Revised Code, and shall be limited to contracts involving a total expenditure of less than \$_____ per year without obtaining the prior approval of a majority of the Owners, except that in these cases such approval shall not be necessary:

(a) contracts for replacing or restoring portions of the Common Elements damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received or for which the insurance carrier has acknowledged coverage;

(b) contracts and expenditures set forth in the annual budget approved by the Owners at the annual meeting; and

(c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 9. Compensation. No Director shall receive any compensation for his or her services unless authorized by a majority vote of the Owners. If a Managing Agent is engaged, it shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 10. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith, or gross negligence.

Section 11. Indemnity.

(a) The Association shall indemnify any present or former volunteer of the Association, including Directors, officers, and any present or former employees or agents of the Association, to the fullest extent possible against expenses, including attorneys, fees, judgments, fines, settlements, and reasonable expenses, actually incurred by such person relating to his or her conduct as a Director, officer, volunteer, employee, or agent of the Association, except that the mandatory indemnification required by this sentence shall not apply: (i) to a breach of the duty of loyalty to the Association; (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law; (iii) for a transaction from which such person derived an improper personal benefit; or (iv) against judgments, penalties, fines, and settlements arising from any proceeding by or in the right of the Association, or against expenses in any such case, where such person is adjudged liable to the Association.

(b) Service on the Board of Directors of the Association, or as an officer, volunteer, employee, or agent thereof, is deemed by the Association to have been undertaken and carried on in reliance by such persons on the full exercise by the Association of all powers of indemnification granted to it under this Article and the Ohio Nonprofit Corporation Act, as amended from time to time. The Association shall exercise all of its powers whenever, as often as necessary, and to the fullest extent possible, to indemnify such persons. Such indemnification shall be limited or denied only when and to the extent provided above unless the Ohio Nonprofit Corporation Act or other applicable legal principles limit or deny the Association's authority to so act. This Article and the indemnification provisions of the Ohio Nonprofit Corporation Act (to the extent not otherwise governed by controlling precedent) shall be construed liberally in favor of the indemnification of such persons.

Section 12. Fidelity Coverage The Association shall obtain and maintain fidelity coverage insurance against dishonest acts by managers, directors, officers, employees, and volunteers responsible for handling funds collected and held for the benefit of the Members, in an amount sufficient to provide protection not less than one and one-half times the Association's estimated annual operating expenses and reserves.

Section 13 Initial Management. Notwithstanding anything to the contrary in this Declaration, Declarant shall have, and Declarant hereby reserves to Declarant, the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Elements, and to perform all the functions of the Association, until the Applicable Date. Declarant may, at its option, engage a Managing Agent affiliated with it to perform such functions and, in either case, Declarant or the Managing Agent shall be entitled to compensation for its services as long as the compensation is commensurate with what would be charged in an arms-length transaction. After the Applicable Date, the HOA shall be required to hire a professional management company, as a Managing Agent, to perform the administrative duties of the HOA, including accounting, billing, contracting, and other similar duties.

ARTICLE VI REAL ESTATE TAXES; UTILITIES

Section 1. Real Estate Taxes. Real estate taxes on each Lot are to be separately assessed and taxed to each Lot and shall be paid by the Owner of such Lot.

Section 2. Utilities. Each Owner shall pay for his or her own utilities, which, to the extent possible, shall be separately metered to each Lot and Dwelling Unit. Utilities not separately metered to an Owner's Lot or Dwelling Unit, including utilities servicing Community

identification signage, shall be paid as part of the Common Expense, unless otherwise determined by the Association.

**ARTICLE VII
ENCROACHMENTS AND EASEMENTS IN COMMON ELEMENTS**

If due to inexactness of construction, settling after construction, or for any other reasons, any Common Elements encroach on any Lot, an easement shall be deemed to exist and run to the Association for the maintenance, use, and enjoyment of such Common Elements.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines, and other common facilities in the Common Elements and serving his or her Dwelling Unit.

**ARTICLE VIII
ALLOCATION OF MAINTENANCE OBLIGATIONS BETWEEN THE ASSOCIATION
AND THE OWNERS**

Section 1. Homeowners Association Obligations. Maintenance of the Common Elements, unless excepted in this Declaration, shall be provided by the Association, however, the Association shall have no duty to provide on-site or roving guards, security services, or security systems.

Section 2. Maintenance of Individual Lots. Except as delegated to the Association, each Owner shall be responsible for maintaining and keeping his or her Lot and all improvements thereon in a good, clean, and sanitary condition, with an appearance that is complementary to the Subdivision. If any Owner shall fail to maintain and keep his or her property or any part thereof in a good, clean, and sanitary condition with an exterior appearance up to the standards of Shaker Meadows New Phase, the Association may perform any work necessary and charge the Owner for such cost, which shall be immediately due, and shall be secured by the Association's lien on the Owner's property in like manner to liens created for Assessments. Each Owner, by his or her acceptance of a deed to any Lot, irrevocably grants to the Association, its agents, and employees the right to enter upon, across, and over the Lot under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair, or other work permitted herein, and agrees to reimburse the Association for all legal and administrative charges and court costs incurred to require an Owner to comply with the Governing Documents.

Section 3. Damage to or Abuse of Common Elements. If, due to the willful, intentional or negligent acts or omissions of an Owner, the Owner's family, or a guest, tenant, or invitee, or other occupant, or visitor of the Owner, damage is caused to Common Elements requiring repairs and maintenance, the Owner shall be required to pay for such damage. Upon demand by the Board, the cost of such repairs shall be immediately due, and if not paid, a lien in

like manner to the lien for Assessments shall attach to the Owner's property, and costs of collection and reasonable attorney fees shall be added to any judgment entered on behalf of the Association.

Section 4. Access to Lots and Easements. The authorized representatives of Declarant, the Association, the Board, and the Managing Agent shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs, or replacements of or to the Common Elements, including, but not limited to, access to any easements reserved, granted, or created by any Shaker Meadows New Phase subdivision plat or of any portion of the Real Estate for such purposes.

Section 5. Storm Water Quality and Best Management Practices. This Community has been designed and developed in accordance with Franklin's Storm Water Drainage Ordinance. The Ordinance requires the Community to install and maintain devices known as Best Management Practices ("BMPs"). BMPs are designed to filter impurities in the storm water runoff from the Community, preventing impurities from entering into creeks, streams, and rivers and are generally located near the detention ponds at the outlets of the storm sewers. Over time, as these impurities are collected within the BMPs, it will become necessary to have the impurities removed. Upon recording of the plats for the Community, the Association shall become responsible for the operation and maintenance and any costs or fees associated with all BMPs installed in the Community.

As part of the pre-construction approval process, Franklin requires that "BMP Operation and Maintenance Manuals" be submitted for the Community. All BMP Operation and Maintenance Manuals that have been submitted are incorporated by reference into this Declaration. Any additional BMP Operation and Maintenance Manuals submitted for the Community shall also be incorporated into this Declaration by reference.

ARTICLE IX ARCHITECTURAL STANDARDS

Nothing, including any fence, deck, retaining walls, recreational equipment (including basketball goals, swing sets, and play sets, or other play equipment), or any structure, storage shed, doghouse, or other improvements, shall be erected on any Lot, and no construction (which includes staking, clearing, excavation, grading, and other site work), no exterior alteration or modification of any Dwelling Unit or other improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article and any other applicable provisions of this Declaration, until the requirements below have been met, and until the approval of the Committee has been obtained under Section 1 below.

This Article shall not apply to the activities of Declarant nor to construction or improvements or modifications to the Common Elements by or on behalf of the Association.

This Article may be amended by the Owners, but not without Declarant's written consent so long as Declarant owns any Real Estate subject to this Declaration, which consent shall not be unreasonably delayed, conditioned, or withheld.

This Committee has the right to assign to the Managing Agent the authority to approve some or all Architectural Control Requests that fall within the scope of the Architectural Standards, Guidelines, Rules, and Covenants. If the Managing Agent determines that the documents provide inadequate direction, the Managing Agent must seek guidance from the Committee and the Board of Directors.

Section 1. Architectural Control Committee. There is hereby created the "Shaker Meadows New Phase Architectural Control Committee" (the "Committee"), consisting of Declarant, which shall have exclusive jurisdiction over all construction on any portion of the Lots. Until one hundred percent of the Lots have been developed and conveyed to Owners in the normal course of development and sale, Declarant, or not more than five, nor fewer than three, Persons designated by it, shall constitute the Committee and shall serve at the discretion of Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Declarant reserves the right to delegate Committee rights to any other entity at Declarant's discretion. After the sale of one hundred percent of the Lots, the Committee shall be a standing committee of the Association, consisting of not more than five, nor fewer than three, Persons as may, from time to time, be provided in the Bylaws. If the Bylaws do not provide for the Committee, then the Board shall constitute the Committee.

Section 2. Approval Process. The Committee has prepared and promulgated, on behalf of the Board of Directors, design and development guidelines and application and review procedures (the "Guidelines"). Copies are on file in the office of Declarant (or the Association, as the case may be), which are incorporated into this Declaration by reference, and the Committee shall have sole and full authority to prepare and to amend them. The Committee shall make the Guidelines available to Owners, builders, and developers. The Guidelines must be strictly followed by anyone seeking to engage in the construction, modification, addition, or alteration of any structure on a Lot. The Committee, or its designee, must give written approval, not to be unreasonably withheld, for any building contractor selected by the Owner for construction.

Before construction begins on any Lot, written application for the approval of the proposed work must be submitted to the Committee by the Owner. Such written application shall be made in the form prescribed from time to time by the Committee in its Guidelines, which will contain requirements to promote the: quality of workmanship and design; harmony of external design with existing structures; location in relation to surrounding structures; topography; and finish grade elevation. The Committee may consider other relevant factors.

Section 3. Power of Disapproval. The Committee may refuse to grant permission to construct, place, or make the requested improvement, when:

(a) the plans, specifications, drawings, or other material submitted are inadequate or incomplete, or violate this Declaration, the plat restrictions, or the Guidelines;

(b) the design or color scheme of a proposed improvement, or the materials proposed to be used, are not in harmony with the general surroundings of the Lot or with adjacent buildings or structures, in the opinion of the Committee acting in good faith;

(c) the proposed improvement, or any part thereof, would, in the opinion of the Committee, acting in good faith, be contrary to the interest, welfare, or rights of other Owners; or

(d) the removal or placement of landscaping or structures in the open space preservation easements.

Section 4. Duties of Committee. The Committee shall approve or disapprove proposed improvements within fifteen calendar days after all required information has been submitted to it. One copy of the submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and if such notification is one of disapproval, it shall specify the reasons therefor. If the Committee fails to provide written notice of approval or to request written notice for additional information within forty-five days after submission of all required or requested information, the plans shall be conclusively deemed denied. Approval by the Committee must be in writing, and no oral approvals are allowed or authorized.

Section 5. No Waiver of Future Approvals. The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed a waiver of any right to withhold approval of or consent to any similar proposals, plans and specifications, and drawings.

Section 6. Variance. The Committee may authorize variances from compliance with the Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with zoning laws, ordinances, and regulations. No variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Committee to deny a variance in other circumstances. The inability to obtain approval of any governmental agency, the inability to obtain any permit, the terms of any financing, or the initiation of work without the required approval of the Committee shall not be grounds for a variance.

Section 7. Compliance with Guidelines. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who violates the terms and provisions of the Guidelines may be excluded by the Committee from the Real Estate without liability to any person, but subject to the notice and hearing procedures in the Bylaws. If any approval required by this Declaration is

not granted in writing regarding any item prior to its installation, the Owner thereof shall promptly remove the unapproved item or structure, upon request by Declarant or the Association.

Section 8. Non-Liability of Declarant and Committee. Neither Declarant nor the Committee shall be responsible for any defect in any plans, specifications, or other materials submitted to it, nor for any defects in any work done according thereto. Neither the Committee nor Declarant makes, and shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation or warranty regarding the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used. Approval of plans does not represent an opinion by the Committee that the plans comply with the Declaration, the recorded plan, any statute, code, ordinance, or other law.

Section 9. Inspection. The Committee and Declarant or any Managing Agent's personnel may inspect work being performed to ensure compliance with the Guidelines, the plat restrictions, and applicable regulations. However, neither the Committee, nor any member thereof, nor Declarant, nor any agent or contractor employed or engaged by the Committee or Declarant shall be liable or responsible for defects, nonconformity, or deficiencies in any work inspected or approved by it or them, or on its or their behalf. No such inspection or approval given by or on behalf of the Committee or Declarant shall be deemed to constitute a warranty or guarantee of the work so inspected or approved.

Section 10. No Compensation. Neither the Committee nor any of its members shall be entitled to any compensation for performing its duties or obligations set forth in this Declaration.

ARTICLE X USE RESTRICTIONS/COVENANTS AND REGULATIONS

The covenants and restrictions set forth below concerning the use and enjoyment of the Lots, Dwelling Units, and Common Elements (and Article VIII) are in addition to any other covenants or restrictions herein and in the Final Plat(s) of Shaker Meadows New Phase. All such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and are enforceable by an Owner or by the Association. In addition to any other remedies herein provided, present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, including reasonable attorney fees, but there shall be no right of reversion or forfeiture resulting from such violation.

Section 1. Intentionally Omitted.

Section 2. Declarant's and the Association's Rights to Perform Certain Maintenance and Removal. If the Owner of a Lot fails to maintain his or her Lot and any

improvements, or remove any unauthorized item or structure situated thereon, Declarant, until the Applicable Date, and, thereafter, the Association through its agents, employees, or contractors, shall have the right to enter upon the Lot and repair, mow, clean, remove, or perform such other acts as may be reasonable necessary, to make such Lot and improvements thereon conform to the Governing Documents and the provisions contained in any Plat. The cost thereof to Declarant or the Association shall be collected as a special assessment against such Owner and his or her Lot in the manner provided for herein for the collection of Common Expenses. Neither Declarant nor the Association, nor any of its agents, employees, or contractors, shall be liable for any damage that may result from any maintenance work performed.

Section 3. Ditches and Swales and Erosion Control. It shall be the duty of the Owner of any Lot on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his or her Lot continuously unobstructed (both by improvements and plant material) and in good repair, and to provide for the installation of such culverts upon the Lot as may be reasonably necessary. It shall be the duty of the Owner of any Lot to maintain erosion control on his or her Lot.

Section 4. Drilling. No oil or water drillings, oil development operations, oil refining, quarries, or mining operations of any kind shall be permitted on or in a Lot, nor shall oil wells, tanks, tunnels, mineral excavations, derricks, or shafts be permitted on or in any Lot.

Section 5. Ground Elevations and Erosion Control. It shall be the Owner's responsibility to maintain and comply with all building and site finish ground elevations and erosion control as finally required and approved by Franklin, Warren County, Ohio as shown upon the final construction plan to develop this subdivision.

Section 6. Insurance Impact. Nothing shall be done or kept by an Owner in any Dwelling Unit, or on any Lot, or on the Common Elements, that will cause an increase in the insurance premiums on any Common Elements. No Owner shall permit anything to be done or kept in his or her Dwelling Unit or on his or her Lot that will result in a cancellation of insurance on any part of the Common Elements, or that would violate any law or ordinance or the requirements of any insurance underwriting or rating bureau.

Section 7. Landscape Easements. There are strips and areas of ground shown on the Plat for the Real Estate that are hereby reserved for the use of Owners of Lots to the for the purposes set forth in this Declaration and for the use of Declarant and the Association for the installation, maintenance, repair, and replacement of the matters detailed in Article I(1)(i) requiring maintenance. Except as installed and maintained by Owners, under the requirements of this Declaration, or by Declarant and the Association, no permanent or other structure (except walls, sidewalks, and fences otherwise permitted by Declarant and approved by the Board) shall be erected or maintained on the strips and areas by the Owner of any Lot subject to any such "Landscape Easement," and the Owners of such Lots affected by any such "Landscape Easement"

shall hold title to their Lots subject to the foregoing rights of Declarant and the Association and shall not do or permit to be done anything that will obstruct or interfere with or remove any installations or landscaping installed by Declarant or the Association in any such "Landscape Easement". The foregoing grant of rights to Declarant shall not require Declarant to undertake such maintenance unless it elects to do so.

Section 8. Tree Preservation. Owners of Lots shall not remove trees or vegetation within the Tree Preservation Areas except as necessary for the clearing of dead trees, the clearing of noxious weeds, or the removal of trees as necessary for public health and safety. Except as stated in the preceding sentence, each tree within the Tree Preservation Areas that is badly damaged or destroyed by a builder or by an Owner during construction activities or after occupancy shall be replaced within one year with a tree that is at least two and one-half inches in diameter (measured four and a half feet above the ground). Any trees that are replaced under this paragraph and that die within one year of their planting shall promptly be replaced with a substantially similar tree. The person responsible for replacing such tree, either initially or, if necessary, within the one-year period of their planting, will be the Owner of the Lot upon which the tree was originally located or, if the tree was damaged or destroyed by a builder or another Owner in the course of construction of a dwelling on another Lot in the Subdivision, the Owner of the Lot upon which such dwelling was being constructed will be responsible for replacing any such tree within the Tree Preservation Area. Any other vegetation (shrubs, wildflowers, underbrush, etc.) that is damaged or destroyed shall be replaced with similar plants, in the same manner as required for tree replacement. This Section is for the benefit of the Association and the Subdivision and shall not be deemed or construed as limiting the liability of any builder to any Owner or the Association for any damage to any trees in the Tree Preservation Areas. Trees and vegetation within any Tree Preservation Areas shall be permanently maintained by the Owner of the affected Real Estate. Periodic maintenance and seasonal plantings shall not be subject to the restriction in this Section. During construction, builders shall provide adequate physical barriers, such as straw bales or snow fencing, to protect designated trees and vegetation from damage by construction equipment and activities.

Section 9. Maintenance of Lots and Improvements. It shall be the responsibility of each Owner to prevent the occurrence of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including, without limitation, the assembly and disassembly of motor vehicles and other mechanical devices, that might cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Real Estate. No waste shall be committed in any Dwelling Unit or on any Lot. Each Owner shall:

- (a) Remove all debris or rubbish;
- (b) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Real Estate;

- (c) Cut down and remove dead trees;
- (d) Prevent debris and foreign material from entering drainage areas; and
- (e) Keep the exterior of all improvements in a good state of repair.

Section 10. Occupancy and Residential Use of Partially Completed Dwelling Unit Prohibited. No Dwelling Unit shall be occupied or used for residential purposes until it is substantially completed. The determination of whether the Dwelling Unit has been substantially completed shall be made by the Board, and such decision shall be binding on all parties; however, if an occupancy permit from a governmental authority is obtained, the issuance thereof shall be sufficient proof of substantial completion.

Section 11. Occupants Bound. All provisions of the Governing Documents that govern the conduct of Owners shall also apply to occupants, guests, and invitees of any Owner. Every Owner shall cause all occupants of his or her Lot to comply with the Governing Documents, and such Owner shall be responsible for all violations and losses to the Common Elements caused by such occupants.

Section 12. Quiet Enjoyment. No noxious or offensive activity shall be carried on upon any Lot or the Common Elements, nor shall anything be done thereon that could endanger the health or unreasonably disturb or annoy the Occupant of a Lot or interfere with the full use and enjoyment of a Lot.

Section 13. Residential Use Leasing.

(a) The Real Estate shall be used only for single family residential purposes; provided, however, that such restriction shall not apply to any Lot or part thereof or any other part of the Real Estate owned by the Association that constitutes a part of the Common Elements and upon which no Dwelling Unit is located.

(b)

(i) No Dwelling Unit may be investor-owned. Any Dwelling Unit subject to a lease, as defined below, is conclusively deemed investor-owned.

(ii) Except as excluded herein, a “lease” is any arrangement where a person other than the Dwelling Unit Owner occupies the Dwelling Unit as a permanent or temporary residence, whether or not consideration is paid to occupy the Dwelling Unit. It is irrelevant what the agreement is called or whether it is oral or written. A lease, a ground lease, a license, an occupancy agreement, and a land contract all constitute a lease under this provision.

(iii) Notwithstanding the foregoing, the following do not constitute lease arrangements:

A) occupation of a Dwelling Unit by the Dwelling Unit Owner's spouse, siblings, parents, and lineal descendants, and their respective spouses.

(B) occupation of a Dwelling Unit by any person when the Dwelling Unit Owner is still using the Dwelling Unit as the Owner's primary residence, as long as the occupancy complies with zoning and other laws.

(c) Entering into a lease arrangement in violation of this provision will constitute a breach of the Declaration, and the Association shall have all remedies provided in the Declaration and under Ohio law, including the right to pursue eviction proceedings against the tenants and to impose a special individual Lot assessment against the Unit Owner for all attorney's fees and other expenses incurred in enforcing this provision.

Section 14. Business Use. No garage sale, moving sale, rummage sale, or similar activity and no trade or business may be conducted in or from any Lot, except that an Owner or occupant of a Lot may conduct business activities within the Dwelling Unit if: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Real Estate, (c) the business activity does not involve persons coming onto the Real Estate who do not reside in the Real Estate or door to door solicitation of residents of the Real Estate; and (d) the business activity is consistent with the residential character of the Real Estate and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Real Estate, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally-accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or generates a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by Declarant regarding its development and sale of the Real Estate or its use of any Lots that such entity owns within the Real Estate.

Notwithstanding the foregoing, the Owner of a Lot or his or her personal representative may conduct a garage, moving, or estate sale contemporaneously with the permanent vacation of a Dwelling Unit.

Section 15. Dangerous Instrumentalities. The use of dangerous instrumentalities upon a Lot is prohibited. “Dangerous Instrumentalities” includes bows and arrows, slingshots, “B B” guns, pellet guns, paint ball guns, and firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Association shall not be required to take action to enforce this Section.

Section 16. Tents, Trailers, and Temporary Structures. Except as may be permitted by Declarant or the Board during initial construction within the Real Estate, no tent, utility shed, shack, trailer, or other temporary structure shall be placed upon a Lot or the Common Elements. Notwithstanding the above, party tents or similar temporary structures may be erected for special events for a period not longer than 48 hours unless otherwise consented to by the Committee.

Section 17. Model Homes. No Owner of any Lot shall build or permit the building upon his Lot any Dwelling Unit to be used as a model home or exhibit house without permission from Declarant.

Section 18. Non-Applicability to Association. Notwithstanding anything to the contrary herein, the covenants and restrictions set forth shall not apply to or be binding upon the Association in its ownership, management, administration, operation, maintenance, repair, replacement, and upkeep of the Common Elements to the extent the application thereof could or might hinder, delay, or otherwise adversely affect the Association in the performance of its duties, obligations, and responsibilities as to the Common Elements.

Section 19. Sales Office. To the extent deemed necessary or desirable by Declarant, Declarant shall be permitted to place sales offices and construction and storage facilities for uses attributable to the construction, development, marketing, and maintenance of the Subdivision on any unsold Lot or on any Common Element.

Section 20. Sanitary Waste Disposal.

(a) **Nuisances.** No outside toilets shall be permitted on any Lot, except during construction and then only with the consent of the Board.

(b) **Construction of Sanitary Sewage Lines.** All sanitary sewage lines on the Lots shall be designed, constructed, and installed in accordance with the provisions and requirements of Franklin, Warren County, Ohio and the Governing Documents.

(c) **Connection Requirements for Sanitary Sewers.** All Dwelling Units shall have sewers directly connected by way of gravity, except that lift pumps or check valves or connections shall be one foot above the lowest manhole in the Subdivision.

Notwithstanding anything to the contrary herein or in the Governing Documents, Declarant shall have the right to use and maintain any Lots and Dwelling Units owned by Declarant (other than Dwelling Units and Lots owned by persons other than Declarant), as Declarant may deem advisable or necessary to aid in the construction and sale of Lots and Dwelling Units or for the conducting of any business, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices, and business offices. Declarant shall have the right to relocate any of these items from time to time as it desires. Declarant shall have the right to remove them from the Real Estate and Additional Property at any time.

Section 21. Fences & Walls. Subject to the prior written approval of Declarant or, after the Applicable Date, the Board, a fence may be permitted consistent with the fence guidelines listed below:

(a) Fences may be installed only in the rear of a Dwelling Unit and may not extend beyond the real plane of the Dwelling Unit.

(b) Fences shall be of white or tan vinyl material, white or black decorative aluminum, black wrought iron, or stained or unstained wood (including pressure treated) only. No chain link type of fencing will be permitted. Examples of permitted fences shall be as follows:

(1) Wood or Vinyl Three or Four Rail Kentucky Board Fence, with or without metal liner.

(2) Split Rail Fence, with or without metal liner.

(3) Aluminum or Wrought Iron Metal Fences.

(c) Fences shall be up to 48 inches in height from the initial grade of the Lot and shall be of picket type or laterally installed runners so that there is at least four inches of spacing between pickets or boards.

(d) All fence posts shall be positioned on the inside of the fence.

(e) Privacy fences and stockade shadow box fences will not be permitted.

(f) All corner Lots are classified as “double fronting” Lots and shall adhere to the minimum building setback requirements. Fencing shall not extend beyond the side and rear house planes more than eight feet.

(g) Fencing within any recorded easement shall meet the requirements of the easement.

(h) No fence shall obstruct the flow of stormwater.

(i) In addition to the regulations listed above, it is the obligation of the Owner to adhere to any zoning codes and building regulations.

(j) Any fence enclosing a swimming pool shall be subject to the above regulation and conform to state or local regulation and be submitted to the proper jurisdictional authority prior to installation.

Section 22. Other Structures. No storage sheds, accessory buildings, or free-standing secondary structures are permitted without the prior approval of Declarant or the Committee, as applicable, in accordance with Article IX of this Declaration. All structures must conform in style, detail, materials, architecture, and methods of construction with the associated Dwelling Unit (including, without limitation, (a) the shingles of such structure shall either match the Dwelling Unit or consist of metal roofing in black or brown colors, and (b) the exterior of such structure shall be painted the same color as the siding on the Dwelling Unit). Any such storage shed, accessory building, or free-standing secondary structure shall be no larger than 120 square feet. It shall be the responsibility of each Owner to keep the exterior of such structure in a state of repair and maintenance to avoid it becoming unsightly. For any secondary structures that contain doors, the doors shall be closed at all times except when accessing such structure. Plastic or metal storage sheds or secondary structures are not permitted. All secondary structures are permitted only in the rear yard of the Lot.

Section 23. Solar Energy. Any Owner wishing to install a solar array for the production of electricity (the “System”) must comply with these guidelines:

(a) All plans for the System must be approved by the Architectural Review Committee prior to installation.

(b) All solar panels and other components must be mounted on the rear roof of the Dwelling Unit and not be visible from the front of the Dwelling Unit

(c) The panels must be flush-mounted. (The plane of the array is parallel to the roof.)

(d) All components of the System should be integrated into the design of the Dwelling Unit. The color of the System components should generally conform to the color of the roof shingles. Solar “shingles” that mimic the look of a composite shingle are acceptable but should match the color of the current roof shingles to the extent practicable.

(e) Installation must comply with all statutes and ordinances and must be performed by a contractor with substantial experience in the installation of solar systems. “Do-it-yourself” installations will not be approved.

(f) The following must be submitted to the Architectural Review Committee:

(i) A diagram “drawn to scale” by the contractor installing the system showing where the System will be installed;

(ii) Photographs of the roof area where the array will be mounted;

(iii) The manufacturer’s description of the System, and photographs or samples showing the design and color of the System;

(iv) Photographs of at least three other systems installed by the contractor.

(g) Piping and electrical connections must be located directly under or within the perimeter of the panels when possible and placed as inconspicuously as possible when viewed from all angles.

(h) The highest point of a solar panel array must be lower than the ridge of the roof where it is attached.

(i) All painted surfaces must be kept in good repair.

(j) Any damaged panels must be promptly replaced. If the System has not been in use for at least six months, all components must be removed.

(k) Should federal, state, or local laws be enacted that affect these guidelines, these guidelines shall be deemed amended to the minimum extent necessary to conform to such laws.

ARTICLE XI ASSESSMENTS

Section 1. Annual Accounting. Annually, after the close of each fiscal year of the Association and prior to the date of the next annual meeting of the Association, the Board shall cause to be prepared and furnish the Owners with a financial statement of operations by the

Association, which statement shall show all receipts and expenses received, incurred, and paid during the preceding fiscal year.

Section 2. Proposed Annual Budget. The Initial Board of the HOA shall establish the first annual budget and Regular Assessments. Annually, by the date of the annual meeting (“Annual Meeting”) or special meeting of the Association at which the budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total Common Expenses for the next ensuing fiscal year and shall furnish a copy of the proposed budget to each Owner at or before the notice of such Annual Meeting or special meeting is delivered to such Owners. The annual budget shall be submitted to the Owners at the Annual or special meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next ensuing fiscal year. At such Annual Meeting or special meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the eligible Owners represented at such meeting; provided, however, that such annual or special meeting of the Owners shall not be adjourned until an annual budget is approved and adopted at such meeting. The annual budget, the Regular Assessments, and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. After the Applicable Date, the annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Elements, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Elements. Such replacement reserve fund for capital expenditures and replacement repair of the Common Elements shall be maintained by the Association in a separate interest-bearing account or accounts with one or more banks or credit unions authorized to conduct business in Warren County, Ohio. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release of the obligations of the Owners to pay the Common Expenses. Whenever, whether before or after the Annual Meeting or special meeting of the Association at which the budget is to be acted upon, there is no annual budget approved by the Owners for the current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon 110 percent of the latest approved budget, as a temporary budget.

Section 3. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirements for the Common Expenses in the fiscal year, contain a proposed assessment against each Lot, which shall be the same amount for each Lot, provided that immediately following the adoption of the annual budget, each Owner shall be given notice of the assessment against his or her respective Lot (the “Regular Assessment”). If the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, each Regular Assessment shall be revised, within fifteen days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget. The aggregate Regular Assessments shall equal the expenses included in the final annual budget,

including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in annual installments, payable in advance by a date specified by the Board, which date shall not be earlier than fifteen days after the written notice of such Regular Assessment is given to the Owners. Payment of the Regular Assessment, whether in one payment or in any other manner, shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors.

If the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget,

(a) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment that is due shall be paid with such next payment, and such next payment, and all payments thereafter during such fiscal year, whether annual or quarterly, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

(b) if the total Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be retained by the Association for Association expenses but shall be considered in establishing the next Regular Assessments: provided, however, that had an Owner paid his Regular Assessment in full in advance, then the adjustments set forth under (a) above or (b) shall be made by a cash payment by, or refund to, the Owner or the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners. The Regular Assessment for each fiscal year of the Association shall become a lien on each Lot as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. That an Owner has paid his or her Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys, or transfers his or her Lot or any interest in it, shall not relieve or release such Owner or his or her successor from payment of the Regular Assessment for the Lot as finally determined, and such Owner and his or her successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association under Section 2 of Article XII prior to the final determination and adoption of the annual budget and Regular Assessment for the year regarding which such statement is made shall state that the matters set forth are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Annual or quarterly (if so determined by the Board) installments of Regular Assessments shall be due automatically on their respective due dates with no notice from the Association, and neither the

Board nor the Association shall be responsible for providing any notice or statements to Owners. The initial and subsequent Regular Assessment shall be adopted by the Board based on the annual expenses of the Community, including but not limited to, the cost of maintenance, utilities, professional fees, and general upkeep of the Community.

(c) Declarant is not obligated for any Regular Assessment and shall not be subject to assessment at any time for any amounts related to the replacement reserve fund.

Section 4. Special Assessments. From time to time, Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in the Governing Documents or the Code, the Board of Directors shall have the authority to make special assessments, which, upon resolution of the Board, shall become a lien on each Lot, but not on Lots owned by Declarant, prorated in equal shares (the "Special Assessments"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefore under the circumstances described in this Declaration. Declarant shall be responsible for Special Assessments made after the Applicable Date only if they result from extraordinary repairs to originally installed infrastructure, but Declarant shall not be responsible for new infrastructure or amenities desired by other Owners unless Declarant agrees otherwise in writing.

Section 5. Failure of Owner to Pay Assessments.

(a) No Owner may exempt himself or herself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Elements and items deemed Maintenance Expense Areas for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Elements or by abandonment of the Lot belonging to such Owner. Each Owner shall be personally liable for the payment of all Regular Assessments and Special Assessments against his or her Lot. Where the Owner consists of more than one Person, the liability of such Persons shall be joint and several. Regular and Special Assessments shall constitute a lien against the Lots and Dwelling Units thereon, but not on Lots owned by Declarant. If any Owner shall fail, refuse, or neglect to pay any Regular Assessments or Special Assessments within ten days after its due date, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be recorded in the office of the Warren County, Ohio, Recorder and foreclosed by the Board on behalf of the Association as a mortgage on real property. The lien for Regular Assessments or Special Assessments created by this Declaration shall be prior to all liens and encumbrances recorded after this Declaration, except the lien for real estate taxes and assessments and the lien of any first mortgage on a Lot filed of record. Upon the failure of an Owner to pay promptly any such Regular Assessments or Special Assessments, when due, the Board may accelerate the entire balance of the unpaid Assessments and declare them immediately due. The Board may, at its option, sue to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby waiving) the lien securing the obligation. In any action to recover a Regular Assessment or Special Assessment, or any other charges due the Association, whether by foreclosure or otherwise, the Association shall be entitled to recover from the Owner of the Lot and Dwelling Unit all of the costs and expenses of such action incurred (including but not limited to reasonable attorney fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to the "prime interest rate" then in effect as published by JPMorgan Chase Bank, N.A., or its successors (or if that Bank is no longer in existence, then such rate charged by another national bank in Warren County, Ohio, selected by the Board) plus four percentage points but in no event more than the maximum rate allowable under Ohio law.

(b) Any sale or transfer of a Lot and Dwelling Unit to a Mortgagee under a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment, or other charges as to such installments that became due before such sale, transfer, or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner of personal liability therefor. No such sale, transfer, or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments, or other charges thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special

Assessments, or other charges, the lien for which has been divested as aforesaid, shall, if not collected from the person personally liable therefore, be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the Lot and Dwelling Unit from which it arose).

(c) In addition to the remedies above stated for failure to pay assessments, the Association may, as allowed by Ohio law, disqualify a delinquent Owner from his or her right to vote and to hold office or committee membership in the Association while the Assessments are delinquent, in addition to charging a reasonable late fee per day of delinquency to cover the administrative expense of addressing the delinquency and may also deny such Member the use of the Common Elements for a period not exceeding sixty days for each separate nonpayment.

Section 6. Initial Budgets and Assessments. Notwithstanding anything to the contrary contained in the Governing Documents, the Code, or otherwise, until the Applicable Date, the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without meetings of or concurrence of the Owners. The agency, power of attorney, and proxy granted to Declarant by each Owner under Section 2 of Article V hereof shall be deemed to include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessments until the Applicable Date. Until otherwise established or modified by Declarant, the Initial Annual Regular Assessment shall be \$499.00.

Until the Applicable Date and notwithstanding the foregoing or anything else contained herein, no Regular Assessments, Special Assessments, or other charges shall be owed or payable by Declarant regarding any Lot or other portion of the Real Estate owned by Declarant, nor shall any such Assessments or charges become a lien on any Lot or other portion of the Real Estate owned by Declarant, except as specifically detailed in the last paragraph of Section 4 of Article XI herein. Assessments against a Lot shall commence to accrue from the date each Lot is conveyed by Declarant to another Person for construction of a single-family residence thereon, and a prorated portion of the Regular Assessment for the balance of the fiscal year of the Association against each Lot so conveyed by Declarant shall be paid by each purchaser upon such conveyance.

Section 7. Initial Working Capital and Start-Up Fund. Upon the closing of the initial conveyance of each Lot by Declarant to another Person, the purchaser of such Lot shall pay to the Association, in addition to any other amount then owed to the Association, as a contribution to its working, capital and start-up fund, shall be \$499.00 until modified by the Board of Directors, which payment shall be nonrefundable and shall not be considered an advance payment of any Assessment or other charge owed the Association regarding such Lot. Such working capital and start-up fund shall be held and used by the Association for payment of, or reimbursement to, Declarant for advances made to pay expenses of the Association for its early period of operation of the Real Estate, to enable the Association to have cash available to meet unforeseen

expenditures, or to acquire additional equipment or services deemed necessary by the Board. The contribution to this start-up fund shall be payable every time a Lot is conveyed to a new Owner.

Section 8. Compliance with Ohio Code. If these covenants are inconsistent or not fully compliant with Chapter 5312 of the Ohio Revised Code, these covenants shall be interpreted to comply therewith, and the HOA shall have to operate in compliance therewith.

Section 9. New Community Authority. Franklin, Ohio, has established a New Community Authority that assesses a charge to support infrastructure improvements. The Owners will be liable for payment of any such charge.

ARTICLE XII MORTGAGES

Section 1. Notice to Association. Any Owner, who places a first mortgage lien upon such Owner's Lot, or the Mortgagee, may notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of each such first mortgage, and name and address of the Mortgagee, shall be maintained by the Secretary and any notice required to be given to the Mortgagee under this Declaration, the Bylaws, or otherwise shall be deemed delivered if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee shall be required, and no Mortgagee shall be entitled to vote on any matter on which such Mortgagee otherwise may be entitled by virtue of this Declaration, the Bylaws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Association shall, upon written request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the Bylaws that is not cured within sixty days.

Section 2. Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser with a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges over the amounts set forth in such statement except as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article XI hereof.

ARTICLE XIII INSURANCE

Section 1. Insurance. The Association shall maintain adequate public liability insurance protecting the Association against liability for property damage and personal injury. The Association shall maintain in force adequate officers' and directors' insurance covering the officers and directors of the Association. The Association shall also maintain in force adequate fire and extended coverage insurance, insuring all Common Elements against fire, windstorm, vandalism, and such other hazards as may be insurable under standard "extended coverage" provisions, equal to the full replacement value of such improvements and property. The Association shall notify all mortgagees that have requested notice of any lapse, cancellation, or material modification of any insurance policy. All policies of insurance shall contain an endorsement or clause waiving any right to be subrogated to any claim against the Association, its officers, Board members, Declarant, any Managing Agent, their respective employees and agents, and the Owners and occupants, and waives any defenses based on co-insurance or on invalidity arising from acts of the insured, and shall cover claims of one or more parties against other insured parties.

The Association shall cause all insurance policies and fidelity bonds to provide at least ten days' written notice to the Association, and all mortgagees who have requested such notice, before the insurance policies or fidelity bonds can be canceled or substantially modified for any reason.

Section 2. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he or she deems necessary or desirable, at his or her own expense, affording coverage upon his or her personal property, his or her Lot, his or her Dwelling Unit, the contents of his or her Dwelling Unit, his or her personal property stored anywhere on the Real Estate, and for his or her personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association.

ARTICLE XIV CASUALTY AND RESTORATION

If any of the Common Elements are damaged or destroyed by fire or any other casualty or disaster, the Association shall promptly cause the Common Elements to be repaired and reconstructed. The proceeds of insurance carried by the Association shall be applied to the cost of such repair and reconstruction.

If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of these areas, or if there are no insurance proceeds, the cost for restoring the damage and repairing and

reconstructing these areas so damaged or destroyed (or the costs thereof over insurance proceeds received, if any) shall be assessed by the Association against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment.

For this Article, repair, reconstruction, and restoration shall mean construction or rebuilding the Common Elements and maintenance expense areas (if any) to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same architecture and materials.

Immediately after a fire or other casualty or disaster causing damage to any property for which the Association has the responsibility of maintenance and repair, the Board shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors deems necessary.

Encroachments upon any Lot that may be created as a result of such reconstruction or repair of any of the Common Elements shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Common Elements were originally constructed.

ARTICLE XV AMENDMENT OF DECLARATION

Section 1. Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

(a) **Adoption.** Any proposed amendment to this Declaration must be approved by a vote of not less than seventy percent in the aggregate of the votes of all Owners. If any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.

(b) **Special Amendments.** No amendment to this Declaration shall be adopted that changes (i) the applicable share of an Owner's liability for the Common Expenses, or the method of determining them, or (ii) Article XIII of this Declaration regarding casualty insurance to be maintained by the Association, or (iii) Article XIV of this Declaration regarding reconstruction or repair of the Common Elements in the event of fire or any other casualty or disaster, or (iv) the provisions of this Declaration establishing the Committee and providing for its functions, without the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with this Declaration.

(c) **Recording.** Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Warren County, Ohio, and such amendment shall not become effective until so recorded.

Section 2. Amendments by Declarant Only.

(a) Notwithstanding the foregoing or anything else contained herein, Declarant shall have the right and power acting alone and without the consent or approval of the Owners, the Association, the Board of Directors, any Mortgagees, or any other Person to amend or supplement this Declaration at any time and from time to time if Declarant records the modification in the Office of the Recorder of Warren County, Ohio, and if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Association, the Department of Housing and Urban Development, the Veterans Administration, or any other governmental agency or any other public, quasi-public, or private entity that performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any governmental requirements, (d) to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus, or organizations that perform (or may in the future perform) functions similar to those performed by such agencies or entities, and to subject additional property to these restrictions, (e) to annex additional real estate to the Subdivision, (f) to correct clerical or typographical errors in this Declaration or any Exhibit or any supplement or amendment thereto, (g) to clarify, further define, or limit any easement, or otherwise exercise any rights reserved herein, or (h) change the substance of one or more covenants, conditions, terms or provisions hereof that (i) does not materially increase the obligation of any Owner under any covenant, condition, term, or provision without such Owner's consent or (ii) is necessary to comply with a bona fide governmental requirement, including applicable laws, ordinances, regulations, or orders of any municipality or court having jurisdiction. In furtherance of the foregoing, a power coupled with an interest is hereby reserved by (and granted by each Owner to) Declarant to vote in favor of, make, or consent to any amendments described in this Section 2 on behalf of each Owner as proxy or attorney-in-fact. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed a grant and acknowledgment of, and a consent to the reservation of, the power to Declarant to vote in favor of, make, execute, and record any such amendments. The right of Declarant to act under rights reserved or granted under this Section 2 shall terminate when Declarant no longer holds or controls title to any part or portion of the Real Estate.

(b)

(i) Declarant expressly reserves the right to further develop the Real Estate described in Exhibit A. There are no limitations on this right except as provided in this

Declaration. No consent of any Owner shall be required to permit Declarant to develop the Real Estate..

(ii) All or any portion of the Real Estate may be subjected to this Declaration by recording an amendment to this Declaration.

ARTICLE XVI ACCEPTANCE AND RATIFICATION

All present and future Owners, Mortgagees, tenants, and occupants of the Lots and Dwelling Units, and other Persons claiming by, through or under them, shall be subject to and shall comply with this Declaration, the Articles, the Bylaws, and the rules, regulations, and guidelines as adopted by the Board of Directors and (to the extent of its jurisdiction) the Committee, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the occupancy of any Lot or Dwelling Unit shall constitute an agreement that this Declaration, the Articles, the Bylaws, and rules, regulations, and guidelines, as each may be amended, or supplemented from time to time, are accepted and ratified by such Owner, tenant, or occupant, and all such provisions shall be covenants running with the land and shall bind any Person having at any time any interest or estate in a Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in every deed, conveyance, mortgage, or lease thereof. All Persons who may own, occupy, use, enjoy, or control a Lot or Dwelling Unit or any part of the Real Estate shall be subject to this Declaration, the Articles, the Bylaws, and the rules, regulations, and guidelines applicable thereto as each may be amended or supplemented from time to time.

ARTICLE XVII NEGLIGENCE

Each Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, invitees, or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his or her violation of any of the Restrictions or any violation thereof by any member of his or her family or their guests, employees, agents, invitees, or tenants.

ARTICLE XVIII BENEFIT AND ENFORCEMENT

Section 1. Covenants Appurtenant to Land. These covenants are to run with the land, and shall bind all parties and all persons claiming under them for twenty-five years from the date these covenants are recorded, at which time they shall be automatically extended for successive periods of ten years each, unless after both the Applicable Date and at least fifteen years

from recording, a majority of the then Owners of the Lots agree to change (or terminate) the covenants in whole or in part and on the condition that an instrument to that effect signed by the Owners voting in favor of such change has been recorded; provided, however, that no change or termination of the covenants shall affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent thereto.

Section 2. Prosecution of Violations. It shall be lawful for the Association, the Committee (as to matters for which it has responsibility), or any other person owning any real property in this subdivision to prosecute any proceedings at law or in equity against the person or persons violating, or attempting to violate any covenant, conditions, provisions, or restrictions contained herein either to prevent such person or persons from doing so, or to recover damages or other dues for such violation, or to require the removal of structures erected in violation hereof. All costs of litigation and attorneys' fees resulting from violation of these covenants and restrictions shall be the financial responsibility of the Owner or Owners found to be in violation. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect. Failure to enforce any specific requirement of the covenant shall not be a waiver of the right to enforce any covenant herein, thereafter. Notwithstanding the foregoing, any violation of these covenants or the Declaration may be waived by a majority of the then Owners of the Lots in this subdivision.

The Association may, regarding an Owner who violates the Governing Documents, after written notice to such Owner detailing the violation and providing a time period established by the Association to cure or conform, disqualify such Owner's voting rights and right to hold office while the violation continues, and may further, in the Board's sole discretion, provide that an additional fine be charged to such Owner, as allowed by Ohio law. This fine, if not paid when required, will be processed in the same manner as Assessments.

ARTICLE XIX MISCELLANEOUS

Section 1. Costs and Attorney Fees. In any proceeding arising from an Owner's failure of an Owner to make any payments required by the Governing Documents, or to comply with any provision of this the Governing Documents, as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorney fees incurred in connection with such default or failure.

Section 2. Waiver. No Owner may exempt himself or herself from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his or her Lot or Dwelling Unit.

Section 3. Severability Clause. The invalidity of any covenant, restriction, condition, limitation, or other provision of this Declaration, the Articles, or the Bylaws shall not impair or

affect the validity, enforceability, or effect of the rest of this Declaration, the Articles, or the Bylaws and each shall be enforceable to the greatest extent permitted by law. Non-enforcement of one provision does not affect the enforcement of another.

Section 4. Pronouns. Any reference to the masculine, feminine, or neutral gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa.

Section 5. Interpretation. The captions and titles of the articles, sections, subsections, paragraphs, and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration.

Section 6. Delegation of Use of the Common Elements. Any Member may delegate, in accordance with provisions of this Declaration and the rules or regulations promulgated by the Association, his or her right of enjoyment and use of the Common Elements to members of his or her family, his or her tenants, or contract purchasers who reside on any Lot.

Section 7. The Plat. The Final Plat of _____, the Initial Tract in this Declaration, is being recorded contemporaneously in the Office of the Recorder of Miami County, Ohio.

Section 8. Grievance ResolutionReserved[SIGNATURE PAGE TO FOLLOW]

Executed on _____, 2025.

HDC II, LLC

By: _____
Todd Henderson
Managing Member

STATE OF OHIO)
 : SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Todd Henderson, managing member of HDC II, LLC, an Ohio limited liability company on behalf of the limited liability company.

Notary Public

This instrument prepared by:

EXHIBIT A

Legal Description

EXHIBIT B

Real Estate

EXHIBIT C

Initial Tract

EXHIBIT D
Code of Regulations (Bylaws)