

**DECLARATION OF
COVENANTS, CONDITIONS, EASEMENTS, AND
RESTRICTIONS
FOR**

THE MEWS AT ZION

A Planned Community
under Ohio Revised Code Chapter 5312

Please cross marginal reference with the
General Warranty Deed
Recorded in the Delaware County Records at
Book 13823 Page 1951-1952

This instrument prepared by Metz, Bailey, & McLoughlin, Attorneys at Law
33 E. Schrock Rd., Westerville, OH 43081 614-882-2327

This Declaration of Covenants, Conditions, Easements, and Restrictions for the Mews at Zion ("Declaration") is made and entered into this _____ day of _____, 2018 by Elite Real Estate Holdings, LLC, is an Ohio Limited Liability Company ("Declarant").

Declarant is the fee simple owner of certain real estate situated in the County of Delaware and Township of Liberty, which is more fully described in Exhibit "A" (the "Property") attached hereto and incorporated herein by reference.

Declarant herein declares that the Property shall be held, occupied, used, and sold, transferred or otherwise conveyed, subject to the terms, rights, and obligations set forth in this Declaration, which shall be binding on all parties having any right, title or interest in all or any part of the Property. This Declaration shall run with the title to the land, and shall be binding upon any future owners of all or any part of the Property, including the heirs, successors and assigns thereof, and shall inure to the benefit of any owner thereof.

Declarant hereby establishes the Mews at Zion Homeowners Association (The "Association"), and Declarant grants, delegates, and assigns to said Association the non-exclusive rights and obligations necessary, to administer and enforce this Declaration. Declarants have caused or shall cause the Association to be incorporated and registered with the State of Ohio as a no-for-profit corporation as an "owners association" within the meaning of and subject to Chapter 5312 of the Ohio Revised Code.

DEFINITIONS

As used in this Declaration or any amendment hereto, the following words shall have the following meanings set forth below

"Architectural Review Committee" shall mean the person(s) designated with the power and authority to establish and enforce architectural standards governing the construction of improvements on the Property.

"Articles" and "Articles of Incorporation" shall mean the Articles of Incorporation which have been or will be filed with the Ohio Secretary of State incorporating the Association as a not-for-profit corporation in accordance with the provisions of Chapter 1702 of the Revised Code of Ohio.

"Association" shall mean and refer to Mews at Zion Homeowners' Association, Inc., an Ohio nonprofit corporation, and its successors and assigns, which is responsible for the administrative governance, maintenance, and upkeep of the Property.

"Board" shall mean those persons acting collectively as a group on behalf of the Association and serving as the Board of Directors of the Association pursuant to and in accordance with the Code of Regulations.

"Code of Regulations" and "Code" shall mean the Code of Regulations (occasionally referred informally to as "bylaws") for the operation of the Association. A copy of the Code of Regulations is attached hereto as Exhibit ____ and incorporated herein by reference.

"Common Element" shall mean and refer to that portion of the Property owned by the Association for the common use and enjoyment of the Owners. Such Common Elements are

delineated, depicted graphically and identified as "common area" on Exhibit _____ of this Declaration.

"Declarant" shall mean and refer to Elite Real Estate Holdings LLC., and its successors and assigns, but only if such successors and assigns acquire more than one undeveloped Lot from the Declarant for the purpose of development, or if Elite Real Estate Holdings LLC should specifically assign rights and obligations of the Declarant by written instrument, which must be expressly accepted and assumed.

"Director" shall mean a person holding a position as a member of the Board.

"Declaration" shall mean and refer to this instrument by which the Property is made subject to these covenants, conditions, easements and restrictions to run with the title to said real estate.

"Governing Documents" shall mean the Declaration, the Code of Regulations, and the Article of Incorporation, any rules, regulations, or architectural guidelines, or standards, including any amendments, exhibits or plats.

"Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property as to which fee simple title is to be conveyed to Owners with the exception of the portion of the Property which constitutes Common Element.

"Owner" shall mean and refer to the owner of public record, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Property, including purchasers on land installment contracts as such instruments are defined by Ohio Law. "Owner" does not mean those holding title or a similar interest merely as security for the performance of an obligation.

"Planned Community Act" shall mean chapter 5312 of the Ohio Revised Code, as may be amended, renumbered, or replaced.

"Property" shall mean and refer to the real estate described in Exhibit A and to any real property as may hereafter be brought within the jurisdiction of the Association, and shall also mean and refer to all buildings, improvements, fixtures, structures and personal property belonging to the association and located on said real estate.

"Turnover Date" shall mean the date on which Declarant relinquishes its exclusive right to appoint all members of the Board, which date shall be no later than the date all Lots have been deeded to bona fide purchasers unrelated and/or unaffiliated to a Declarant, or its successors or assigns, provided Declarant reserves the right, in its sole and unfettered discretion, to turn over control of the Association, or selected functions thereof, at such earlier time as it determines in its sole and unfettered discretion.

ARTICLE I **GENERAL**

Section 1. Description of Property. Declarant expects to construct four residential buildings on the Property, along with certain underground storm water retention improvements near the east end of the Property. The buildings will be connected by one common private drive providing vehicular access.

Section 2. **Description of Buildings.** Each residential building will be two stories, and will consist of two single-family dwelling units attached by a common wall. Each single-family dwelling unit will be constructed on a separate Lot, and fee simple ownership of each such Lot may be conveyed to one or more Owners. Declarant may elect to construct a patio appurtenant to certain dwelling units.

Section 3. **Description of Common Elements.** The Common Elements shall generally consist of the common access drive along the southern edge of the property, common utility lines, common sidewalks, and an underground storm water retention system, generally located on the east section of the Property under common green space. The Common Elements shall also include utility wires, pipes, and conduits that serve more than one Lot, up to, but not including the utility box/meter/shutoff or other junction that provides service to each Lot

Section 4. **Purpose.** Declarant creates this Declaration and the Association for any lawful purpose, including but not limited to:

- (a) preserving and promoting the health, safety, and welfare of Owners and any other persons lawfully on the Property
- (b) enforcing architectural standards, continuing of aesthetic quality, and achieving compliance with all other restrictions to ensure the Property maintains a residential character;
- (c) obtaining conformance with all ordinances and regulations applicable to the Property and the buildings thereon;
- (d) operating and managing the Association and the Property, including any Common Elements.

ARTICLE II **THE ASSOCIATION**

Section 1. **Every Owner a Member.** Every Owner of a Lot shall be a member of the Association. By accepting a deed to a Lot, such Owner agrees to and acknowledges being a member of the Association, an obligation to pay assessments, and a lawful duty to otherwise comply with the obligations and restrictions as described herein. In the case of a Lot that is the subject of a recorded land installment contract, unless otherwise specified in said land installment contract, the vendee or vendees under that installment contract and not the vendor shall, while holding such interest, be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and such right of membership shall automatically transfer to any transferee of fee simple title to a Lot at the time such title is conveyed. Nothing in this section is intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest or mortgage shall not terminate an Owner's membership. No Owner, whether one or more persons, shall have more than one membership per Lot owned. In the event an Owner consists of more than one person, such persons collectively shall have one membership in the Association in common.

Section 2. **Voting.** Prior to the Turnover Date, all voting rights of the Association shall be vested in and exercisable by the Declarant, and no meetings of the Association's membership

shall be required to be held prior to the Turnover Date. The Declarant may, in the exercise of its sole discretion and without altering or waiving the foregoing provisions, cause or allow one or more meetings to occur prior to the Turnover Date, at which the Declarants may consent to the exercise of voting rights by Owners. On and after the Turnover Date, voting rights shall be exercisable by Owners in accordance with the terms of the Governing Documents.

Section 3. **Board of Directors.** The Association shall be governed by a Board of Directors. The number and terms of directors, the powers and duties of the Board, the method of removal, and the time and place for holding meetings and the manner of and authority for calling, giving notice of, and conducting meetings shall be as set forth in the Code of Regulations.

Section 4. **Powers; Authority; Duties.** The Association shall have all the rights, powers, and duties established, invested, or imposed in it pursuant to the Governing Documents, the Planned Community Act, and the laws of the State of Ohio.

Section 5. **Common Elements.** Declarant may, from time to time, at Declarant's option, obligate the Association to maintain property, and may convey to the Association for the use and benefit of the Association and the Owners, real or personal property, or any interest therein, as part of the Common Elements. The Association shall accept title to any interest in any real or personal property transferred to it by Declarant. The Association, subject to the rights of the Owners set forth in the Governing Documents, shall be responsible for the exclusive management and control of the Common Elements, and all improvements thereon, and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, in accordance with the terms and conditions of the Governing Documents. The Declarant and Association shall each have the right to grant easements to third parties over, across, under and/or through the Common Elements, including but not limited to easements for the construction, extension and/or expansion of utilities, and conservation easements.

Section 6. **Personal Property and Real Property for Common Use.** The Association may acquire, hold, mortgage, pledge as collateral, and dispose of tangible and intangible personal property and real property in addition to that property conveyed to it by Declarant.

Section 7. **Rules and Regulations.** The Association, by and through the Board, may adopt and enforce reasonable rules governing the use, operation and/or maintenance of a Lot and of any other property which is now or later becomes part of the Property, provided such rules are consistent with, and do not conflict with, the provisions of the Declarations, Code of Regulations, and state law. For any violation of the Governing Documents, including any Rules, the Association shall have the power to impose obligations upon Owners and/or an Owner's agents and assigns, which such sanctions may include without limitation: (a) reasonable monetary administrative charges which shall be considered Individual Lot Assessments; and (b) suspension of the right to vote as an Owner and member of the Association. In addition, the Board shall have the power to seek relief, including but not limited to, injunctive relief, in any court for violations or to abate violations. If the Board expends funds for attorneys' fees or litigation expenses in connection with the enforcement of any provision of the Governing Documents, the amount so expended shall be due and payable by the Owner of the Lot whose Owner, Occupant, licensee or invitee violated the

provisions of the Governing Documents, and the same shall be an Individual Lot Assessment against such Owner's Lot.

Section 8. **Implied Rights.** The Association may exercise any other right or privilege given to it expressly by the laws of the State of Ohio (including but not limited to any provision of the Planned Community Act as may be amended), any provision of the Governing Documents and every other right or privilege reasonably implied from the existence of any right or privilege granted thereby, or reasonably necessary to exercise any aforementioned right or privilege.

Section 9. **Power To Delegate And/Or Hire A Managing Agent.** The Association shall have the power and authority to contract with any person, agent, employee, corporation, partnership, or other entity, for the exercise of any of the Association's powers and duties under the Governing Documents. The proper exercise of any such power or authority by such person, agent, employee, corporation, partnership, or other entity, shall be deemed the exercise of those powers and authority by the Association, except that no independent contractor shall be deemed by virtue of these provisions to be the agent of the Association. Said authority includes the power to retain and employ a Managing Agent on behalf of the Association, which may be a Declarant, and the Association may delegate to the Managing Agent such duties as the Board might otherwise be authorized or obligated to perform. The compensation of the Managing Agent shall be a Common Expense. There shall be no requirement of any bond or surety for the Association, its agents, employees, or others assuring the exercise of the powers and authority granted hereunder, except as may be required to comply with the Planned Communities Act or except as the Board shall in its sole discretion deem necessary or desirable for the safeguarding of any funds received by the Association.

Section 10. **Power to Borrow Funds.** The Association, by and through the Board, has the right and power to borrow funds and incur debt under commercially-reasonable terms, and is granted the right in Article V, Section 11 hereof to assign the right to Assessments, or the future income from those Assessments, or to convey any fee interest or any security interest in any portion of the common elements. A vote of the Owners is not required, but may, in the Board's sole discretion, be solicited for advisory purposes only and shall not obligate the Board. The amounts, terms and rates, and the conditions and other terms of all agreements with holders of any such obligation, shall be subject solely to the acceptance of the Board acting in its absolute discretion, without a vote of the owners.

Section 11. **Indemnification.** The Association shall indemnify every member of the Board of Directors, and officer of the Association against all claims, liabilities, and expenses, including attorneys' fees, reasonably incurred by or imposed upon the Director or officer in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which the Director or officer may be a party by reason of being or having been a director or officer. The Directors and officers shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misconduct, bad faith, or gross negligence. The members of the Board and officers shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such directors or officers may also be Members of the Association), and the Association shall indemnify and forever hold each such Director or officer free from and harmless against any and all liability to others on

account of any such contract or commitment. Any right to indemnification provided herein shall not be exclusive of any other rights to which any current or former Director or officer, may be entitled.

ARTICLE III

PROPERTY RIGHTS AND RESTRICTIONS

Section 1. **Easements for Common Elements.** Every Lot, and the Owners thereof, shall have a right and easement of enjoyment in and to the Common Elements. Every Lot shall also have a right and easement over designated portions of the Common Elements for vehicular and pedestrian access to a public right of way. Such rights and easements shall be appurtenant to and shall pass with the title to every Lot, and is subject to the following provisions:

- (a) The right of the Association to charge reasonable assessments and other fees for the use of the Common Elements, provided any such charges are fair and are published to all owners in advance of any such use;
- (b) The right of the Association to make reasonable rules and regulations concerning the use of the Property, including the Lots and the Common Elements provided any such rules are published to all owners in advance of any such use;
- (c) The right of the Association to suspend Owners' voting rights and rights to recreational use of the Common Elements for any period during which any assessment against the Owner's Lot remains unpaid, or for any infraction of the provisions of the Governing Documents of the Association;
- (d) The right of the Association to grant a right, license or easement, or otherwise transfer title to all or any part of the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as may be requested by such agency, authority, or utility, and agreed to by the Association's Board.

Section 2. **Delegation of Use.** Any Owner may delegate, in accordance with the By-Laws of the Association and rules and regulations of the Association, the Owner's right of enjoyment in and to the Common Elements to the occupants of his Lot, his tenants, or to the Owner's guests.

Section 3. **Use Restrictions to Run with Land.** The restrictions and covenants concerning the use and occupancy of the Property shall run with the land and be binding upon the Declarant and every Owner or occupant, their respective heirs, successors and assigns, as well as their family members, guests, and invitees.

Section 4. **Use of Lots.** Except as otherwise permitted herein, each Lot shall be occupied and used exclusively for single-family, residential purposes and purposes customarily incidental to a single-family residence. No Owner shall allow any improvements on any Lot until and unless the plans therefor have been approved by the Architectural Review Committee (or the Board of Directors if no Architectural Review Committee has been established).

Section 5. Hotel/Transient Uses, Short Term Rentals, and Leases. No Lot may be used for hotel or transient uses, including without limitation leasing to roomers or boarders, leasing for a term less than 30 consecutive days, or permitting occupancy for any term commonly known as a short term rental. All leases shall be in writing and shall be subject to this Declaration.

Section 6. Business. No Lot may be used for industry, business, trade, occupation or profession of any kind without the prior written approval of the Board. This provision shall not prohibit a "home office" use for which no customers, non-resident employees, subcontractors or other third parties park on the Property, and for which such use does not require deliveries or shipments in excess of normal residential use.

Section 7. Hazardous Actions or Materials. Nothing shall be done or kept in or on any portion of Property that is unlawful or hazardous, that might increase the Association's or another Lot's cost of casualty or liability insurance, or that might unreasonably disturb the quiet occupancy or use of any other Lot. Nothing herein shall prohibit the Declarant from reasonable construction activities to build residential structures on the Lots.

Section 8. Nuisances. No noxious or offensive activity shall occur on the Property or within any building or other structure located on the Property, nor shall any use or condition be allowed on any Lot which unreasonably disturbs or interferes with the quiet occupancy of any person residing on any other Lot.

Section 9. Signs. No signs of any character shall be erected, posted or displayed upon the Property, except: (i) signs installed by the Declarant; (ii) directional, traffic, and identification signs installed by the Board; and (iii) one sign, not to exceed six square feet in area, advertising that such Lot is for sale. Signs other than as set forth herein may be removed by the Association, and not more than one identical sign may be posted or displayed on any one Lot. No signs may be posted in or on any portions of the Common Elements.

Section 10. Animals. No person may breed, raise, or keep any animal, livestock, insect, reptile, or poultry of any kind for breeding, other commercial purpose, or other agricultural use (included but not limited to egg-laying, honey making, milking, or other such activities) on any Lot, or any part of the Common Elements. No person may keep or board any domestic pet except dogs, cats, small birds, or small fish, and no Lot may be used to keep more than two (2) dogs or cats. All animals permitted on the Property shall be restrained and shall not roam free or loose on the Property. No animal, including a domestic pet, shall be kept on the Property if the Board determines that the animal's size, characteristics, or other behaviors constitute a nuisance. Removal of animal waste from the lot shall be considered part of an Owner's obligations for Lot Maintenance in accordance with Article VI, Section 2. Outdoor dog houses, animal cages, dog runs and other similar circumstances are prohibited without the express prior review and approval of the Architectural Review Committee, which may be withheld in the Committee's discretion.

Section 11. Storage. No open storage of any kind is permitted on any Lot or the Common Elements. No storage buildings of any kind are permitted, including without limitation, sheds, or barns. No portable or temporary moving/storage container shall remain on the Property for more than (5) calendar days.

Section 12. Vehicles.

- a) The Board may create and enforce reasonable rules regulating or prohibiting the parking of any vehicle permitted in the Common Elements or on the Lots. In addition to any other authority stated herein, the Board shall be authorized to cause the removal of any vehicle violating such rules in accordance with the procedures set forth in Ohio Revised Code 4531.601 as may be amended or replaced, or any similar procedures for notice and towing as may be adopted by the Board.
- b) No commercial tractor, bus, commercial car/truck, trailer, mobile home, semitrailer, recreational vehicle (including but not limited to a snowmobile or watercraft), travel trailer, motor home, truck camper, fifth wheel trailer, park trailer, farm machinery, utility vehicle, low-speed vehicle, under-speed vehicle, or mini-truck, may be parked or stored on the Property (except in an enclosed permitted structure shielded from view). The Board may permit the occasional, non-recurring parking of vehicles otherwise prohibited herein, provided that such parking is limited to less than forty-eight (48) consecutive hours, and not more than ninety-six cumulative hours in any thirty (30) day period. No motorized vehicle or part thereof which is not operable (in practice or by law) on public highways shall be kept, stored, operated or maintained on the Property (including on any Lot or on the Common Elements) for a period longer than seven (7) days, unless the same is entirely contained and shielded from view within a permitted structure, and unless it does not create a nuisance through noise or smell. Any vehicle kept, stored, operated or maintained in violation of this section, shall be considered a nuisance, and the Board shall have the right and authority to have the same removed at the owner's expense.
- c) The words commercial tractor, bus, commercial car/truck, trailer, mobile home, semitrailer, recreational vehicle (including but not limited to a snowmobile or watercraft), travel trailer, motor home, truck camper, fifth wheel trailer, park trailer, farm machinery, utility vehicle, low-speed vehicle, under-speed vehicle, or mini-truck, shall have the same meaning as defined in Ohio Revised Code Chapter 4501.

Section 13. Trash. Except for the reasonably necessary activities of the Declarant during the development of the Property, no burning or storage of trash of any kind shall be permitted on the Property. All trash shall be deposited in covered, sanitary containers, which shall be stored inside of a permitted structure.

Section 14. Antennae. To the extent permissible under applicable statutes and regulations including those administered by the Federal Communications Commission, no exterior antenna, or other aerial, including satellite receiving dishes, shall be maintained on the Property, except that this restriction shall not apply to satellite dishes with a diameter less than one (1) meter, erected or installed to minimize visibility from the street which the dwelling fronts.

Section 15. Utility Lines. All utility lines on the Property shall be underground, unless otherwise required by an applicable governmental entity or utility company.

Section 16. Tanks. No tanks for the storage of propane gas, fuel oil, or other flammable material shall be allowed on or beneath any Lot except that each owner of a Lot may have no more than two tanks for a propane gas grill.

Section 17. Mailbox. Declarant will designate a mailbox inside a common mail kiosk for each Lot. If the mail kiosk is damaged, destroyed or deteriorates, then the Association shall repair or replace such mailbox with another of a like kind, design, pattern and color as the initial mailbox.

Section 18. Yard Lights and Lamp Posts. All yard lights and lamp posts shall conform to the standards set forth by the Declarant and the Architectural Review Committee.

Section 19. Fencing. No Owner may construct a fence on any Lot. Nothing herein shall prohibit the Board from constructing a fence on any Lot or portion thereof, or on the Common Elements.

Section 20. Swimming Pools. No swimming pools shall be permitted except that a temporary swimming pool may be used for recreational purposes for no more than 48 consecutive hours in any 14 day period.

Section 21. Lawn care and Landscaping. Declarant may identify certain "Landscaping Areas" on each Lot in which an Owner may place, maintain, and replace plantings subject to reasonable rules and regulations of the Association. No owner may extend or remove these Landscaping Areas. The Declarant may, by and through the Association, elect to perform lawn care (including but not limited to mowing, leaf clearing, fertilizing, aerating, and weed/pest control treatment), for the Property, including the Lots and the Common Elements. Should Declarant and/or the Association elect to do so, no Owner perform such lawn care on the Lots, and shall not do anything to interfere or otherwise obstruct the performance of such lawn care.

Section 22. Patios. No Owner shall construct a deck or other wood, brick, or stone patio, except that Declarant may elect to construct a concrete patio on certain Lots. If any such patios are constructed, each shall be repaired and maintained by the Owner of the Lot upon which it was so constructed. No Owner may replace or install a new patio unless: (a) such patio is of the same size, shape, and materials as existing patios; (b) the proposed patio will not otherwise cause nuisance or interference to surrounding Lots; and (c) the Owner shall have obtained the approval of the Architectural Review Committee.

Section 23. Compliance With Governmental Requirements. Certain provisions of this Declaration may have been included herein as a result of governmental requirements established through the zoning and development plan approval processes. This Declaration shall therefore require compliance with all such governmental requirements, for so long as such requirements are effective and binding. In the event the such underlying obligation(s) are lawfully changed or modified, or if such obligations lapse or for any reason whatsoever become legally unenforceable, this Declaration shall be automatically modified without any need for further action to be in accordance therewith.

ARTICLE IV

ARCHITECTURAL STANDARDS

All Property at any time subject to this Declaration shall be governed and controlled by this Article.

Section 1. Architectural Review Committee. The Architectural Review Committee shall have three members. Until the Turnover Date, Declarant shall have the exclusive right to act itself or appoint an agent to act in its place as the Committee, or to appoint and remove all members of the Architectural Review Committee. After the Turnover Date, the Board of Directors shall have the right to appoint members to the Architectural Review Committee for terms set by the Board. In the alternative, the Board of Directors may appoint an agent to act as the Architectural Review Committee. If the Board of Directors does not appoint members or an agent, then the Board of Directors shall be the Architectural Review Committee.

The Architectural Review Committee shall have the exclusive authority to determine aesthetic and architectural standards which shall govern the Property. By acceptance of a deed to a Lot, each Owner covenants and agrees to ensure the Owner's Lot complies with the standards promulgated by the Architectural Review Committee. Nothing shall be placed, erected or installed on the Property, no site work (including but not limited to clearing, excavation, or grading) and no plantings or removal of plants, trees or shrubs shall be permitted without the written approval of the Architectural Review Committee.

Section 2. Alterations and Modifications. Except as otherwise provided in this Declaration, the Architectural Review Committee shall govern all construction, installation, additions, alterations or any other modification to the Property. No person shall construct, install, or modify anything on any Lot, including without limitation, alter the exterior surfaces (including but not limited to color or material) of existing Improvements, or install any recreational device, without the prior written consent of the Architectural Review Committee. Nothing contained herein shall be construed to limit the right of an Owner to remodel or decorate the interior of his/her residence, provided such remodel does not alter or remove the support structure of any wall.

Section 3. Application Process. Owners shall submit a request in writing including plans, pictures, and specifications showing the general nature, type, color, size, materials and location of any proposed alteration or improvement to the Architectural Review Committee. The Architectural Review Committee may charge a reasonable fee for processing applications. The Architectural Review Committee shall review plans using any reasonable procedure, including but not limited to a meeting that is not required to be open to all owners, and upon determination, shall issue a written approval or denial.

Section 4. Variances. To avoid unnecessary hardship and/or to overcome practical difficulties applying the restrictions of this Declaration, the Architectural Review Committee may recommend, and the Board of Directors shall have authority to approve, reasonable variances from any restriction or rule, provided that the activity or condition is not prohibited by applicable law, and that, in its judgment, the variance is in the best interest of the community and is within the general intent of the character of the community and its

regulations. A variance or variances granted pursuant to this section shall not constitute a waiver of any provision of the Governing Documents.

Section 5. Improvements by Declarant. All construction, installation, additions, alterations or any other modification to the Property by the Declarant or its affiliates, partners, members or shareholders, shall be deemed to comply in all respects with the requirements of the Architectural Review Committee, and separate approval thereof by the Architectural Review Committee is not required.

ARTICLE V **ASSESSMENTS**

Section 1. Prior to Turnover Date. Prior to the Turnover Date, Declarant may elect to pay assessments applicable to Lots owned by Declarant or in lieu thereof, not pay assessments and pay any deficit incurred in operating the Association.

Section 2. Operating and Reserve Funds. The Board shall establish an operating fund for financing general Association operations, including but not limited to payment of costs and expenses necessary to manage the Association, utilize professional services, and maintenance and repair of the Common Elements, collection of delinquent assessments, and enforcement of the Governing Documents. The Board shall also establish a separate reserve fund to repair and replace major capital items and shall place funds in this account according to its annual budget and law.

Section 3. Annual Budget. Each year, the Board shall adopt a budget estimating the revenues and expenditures for the next calendar year. Every annual budget shall include an amount that is adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, unless the owners, exercising not less than a majority of the voting power of the association, waive the reserve requirement each year. This amount shall be placed in the reserve fund. After adoption, the Board may amend the budget, but may not reduce the amount for reserves without approval by a majority of the voting power of the association. The adoption of the annual budget shall be the Board's assessment of a proportionate share upon each Lot, which shall be collected in accordance with the provisions of these Governing Documents.

Section 4. Types of Assessments. By accepting a deed to a Lot, each owner is automatically deemed to covenant and agree, to pay to the Association the following assessments: (i) Annual Assessments; (ii) Special Assessments; and (iii) Individual Lot Assessments. No Owner may be exempted from the obligation to pay any Assessment by waiving or foregoing the use or enjoyment of any of the Common Elements or by abandoning his/her Lot. Annual and Special Assessments shall be fixed at a uniform rate for all Lots.

Section 5. Annual Assessments. As part of the Annual Budget, the Board shall estimate the Common Expenses, including but not limited to amounts the Board expects the Association to incur for the maintenance, operation and management of the Association, and amounts for a Reserve Fund. By adopting the Annual Budget, the Board shall assess each Owner of a Lot an Annual Assessment equal to such estimated expenses divided by the total number of Lots. The Annual Assessments shall be paid in accordance with the procedures set

forth in the Rules, which may provide for periodic (monthly, quarterly, or semester) payments throughout the year.

Section 6. **Special Assessments.** The Board may levy a Special Assessment to pay for improvements or indebtedness incurred for any maintenance, operation, repairs, or improvements that were not projected to be paid out of the Operating Fund. No Special Assessment for capital improvements shall be levied during the current annual budget without the approval of a majority of owners who appear at a special meeting called for the purpose of such assessment. The assent of the Owners shall not be required to levy a Special Assessment to pay for operation, maintenance, or repair that could not have been reasonably estimated at the time of adoption of the Annual Budget or for any expense that is imposed upon the Association by a court of law.

Section 7. **Individual Lot Assessments.**

- (a) The Board may levy an Individual Lot Assessment against any Lot and the Owner(s) thereof for costs the Association has incurred or may be required to incur on behalf of the Lot(s). Such costs include without limitation, costs associated with making repairs that are the responsibility of the Owner; enforcement assessments and/or any other costs of enforcement (including legal fees and court costs, regardless of whether judicial action was prepared or filed) relative to any violation of the Governing Documents; costs of additional insurance premiums allocable to a specific Lot or Owner thereof; costs of any utility expenses chargeable to an Owner but not billed to the Association; and all other charges reasonably determined to be a Lot Assessment by the Board.
- (b) The Board may also levy an Individual Lot Assessment in the nature of an enforcement assessment against the Lot of any Owner who violates the Rules, the Association Documents or any provision of this Declaration, or who suffers or permits his/her family members, guests, invitees or tenants to violate such Rules, the Association Documents, or provisions of this Declaration.
- (c) Prior to levying an Individual Lot Assessment for a cost associated with making repairs or for an enforcement assessment or costs of enforcement, the Board shall give the Owner a written notice that includes all of the following (1) a description of the property damage or violation; (2) the amount of the proposed charge or assessment, (3) a statement that the Owner has the right to a hearing before the Board to contest the proposed charge or assessment; (4), a statement setting forth the procedures to request a hearing; (5) a reasonable date by which the owner must cure the continuing violation to avoid the proposed charge or assessment, if such an opportunity to cure is applicable.

Section 8. **Unpaid Assessments.**

- (a) **Late Charge and Interest.** If any Assessment remains unpaid for 10 days after all or any part thereof shall become due and payable, the Board may charge either or both of the following: (i) an administrative late fee in an amount to be determined by the

Board; and/or (ii) interest at a rate of 10% per annum, or the highest rate permitted by law, whichever rate is higher.

- (b) Continuing Lien. All unpaid Assessments, together with any administrative late charges, interest, and costs of collection (including without limitation, reasonable attorneys' fees), shall constitute a continuing lien upon the lot against which the Assessment was levied, and is subject to automatic subsequent adjustments reflecting any additional unpaid interest, administrative late fees, enforcement assessments, collection costs, attorney's fees, paralegal fees, and court costs. The lien is prior to any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments of political subdivisions and liens of first mortgages that have been filed for record prior to the recording of the lien but shall be subordinate to the lien of any bona fide first mortgage on a Lot.
- (c) Filing of a Certificate of Lien. If any Assessment remains unpaid for 10 days after it is due, then the Board may file a certificate of lien for all or any part of the unpaid balance of that Assessment, together with interest, administrative late fees and other charges, and any costs of collection (including reasonable attorneys' fees and costs). The Board may designate an officer, or any other person or agent (including but not limited to an attorney) to sign and otherwise complete certificates of lien and file them in the Official Records of the County. Each certificate of lien shall contain a description of the Lot which the lien encumbers, the name(s) of the Owner(s) of that Lot, the amount of the unpaid portion of the Assessment due as of a date specified thereon, and such other information as required by law or by the County Recorder's or Auditor's office. Upon the filing of the certificate, the subject Lot shall be encumbered by a continuing lien in favor of the Association, subject to automatic subsequent adjustments reflecting any additional unpaid interest, administrative late fees, enforcement assessments, collection costs, attorney's fees, paralegal fees, and court costs without the need to file a new certificate of lien. The lien shall remain valid, until and unless it is satisfied and released in accordance with laws applicable to the release and satisfaction of mortgages on real property, or unless the lien is discharged by the final judgment or order of any court having jurisdiction.
- (d) Enforcement of Lien. The lien may be foreclosed in the same manner as a mortgage on real property in an action brought by the owners' association. The Board may designate an officer, or any other person or agent (including but not limited to an attorney) to sign and otherwise complete all pleadings and other filings and file them with a court of competent jurisdiction. In any action at law or in equity to enforce such lien, including but not limited to a foreclosure action, the amount of unpaid Assessments plus administrative late fees, charges, interests, costs and reasonable attorneys' fees and costs (including but not limited to those fees incurred prior to, during, or reasonably expected to be incurred as necessary to conclude such action), shall be recoverable, to the extent permitted by law.
- (e) Personal Liability for Unpaid Assessments. Each Assessment, or any installment thereof, together with administrative late fees, interest thereon, and any costs of collection, including but not limited to reasonable attorneys' fees, court costs, and other related costs, shall become the personal obligation of the Owner(s) beginning on the date the Assessment or installment thereof becomes due and payable or upon the

date such costs are billed to the Association. On behalf of the Association, the Board may authorize commencement of a legal action against the Owner(s) personally obligated to pay any delinquent assessment. An Owner's personal obligation for a Lot's Assessments shall also be the personal obligation of his/her successors in title who acquire an interest after any Assessment becomes due and payable, and both the Owner and his/her successor in title shall be jointly and severally liable therefor. Except as otherwise provided herein, the transfer of an interest in a Lot shall neither impair the Association's lien against that Lot for any Assessment nor prohibit the Association from exercising any lawful remedy from either of the parties transferring or receiving such interest.

Section 9. Application of Funds Received. The Board may apply funds received by it in accordance with any procedures it adopts or as may be reasonably used by any agent of the Board (including but not limited to the Managing Agent). At the Board's sole discretion, funds received may be applied to unpaid interest, administrative late fees, enforcement assessments, collection costs, attorneys' fees, paralegal fees, and court costs before being applied to any other Assessment.

Section 10. Suspending Voting and/or Use of Common Elements. If any Assessment remains unpaid for 30 days after it becomes due, then voting rights and privileges to use the Common Elements (except for necessary ingress and egress to a public right of way) appurtenant to that Lot and exercisable by the Owner(s) thereof, shall be automatically deemed suspended without further action of the Board, and shall remain suspended until such Assessment is paid.

Section 11. Authority to Pledge Assessments. In order to secure the payment of any and all sums owed by the Association, the Board has the right to assign, pledge, mortgage, and otherwise convey an interest in Assessment, or the future income from those Assessments, or to convey any fee interest or any security interest in any portion of the common elements. A vote of the Owners is not required to assign, pledge, mortgage, and otherwise convey any such interest.

Section 12. Authority to Maintain a Surplus. The Association may retain a surplus at the end of the term of any annual budget or other fiscal or accounting period, and shall not be obligated to disburse all sums collected or received by it in any certain time period, nor shall the Association be obligated to apply any such surpluses to reduce the amount of any Assessment in any future year. The Board may carry forward from any year or accounting period such surplus as the Board in its absolute discretion may determine for any purpose. By virtue of acceptance of a deed to a Lot, each Owner waives any right to refund, reduction, or other application of any such surplus funds or portion thereof, and automatically consents to the Board's right, on behalf of the Association, to retain any surplus so collected as reserves or as reductions in future Assessments as the Board determines, in its sole discretion.

ARTICLE VI **MAINTENANCE**

Section 1. Maintenance by Association. The Association shall maintain and keep in good repair the Common Elements. This maintenance shall include, without limitation, maintenance, repair, and replacement of all landscaping and vegetation on the Common

Elements, all structures and improvements situated upon the Common Elements, and all personal property owned by the Association for the operation of the Association. The storm water management structures shall be maintained in accordance with environmental protection agency standards, or if such standards do not apply, then to common industry standards. The Association shall maintain as Common Elements all utility wires, pipes, and conduits that serve more than one Lot, up to, but not including the utility box/meter/shutoff or other junction that provides service to each Lot. The Declarant may, by and through the Association, elect to perform lawncare (including but not limited to lawnmowing, leaf clearing, fertilizing, aerating, and weed/pest control treatment), for the Property, including the Lots and the Common Elements.

Section 2. Maintenance by Owner. At his/her expense, each Owner shall maintain, repair, replace in good order and safe and sanitary condition, the Owner(s)' Lot and all structures, equipment, and improvements thereon. This obligation includes, without limitation, promptly obtaining all necessary materials and performing or causing to be performed at the Owners' expense all maintenance, repairs and replacements within such Lot that, if omitted, would adversely affect the safety, aesthetic appearance, enjoyment, and usefulness of the Common Elements. By occupying a Lot, all occupants shall also be obligated to perform the same maintenance obligations as the Owner of such Lot.

Section 3. Right of Association to Repair Lot. If the Board determines that any Lot has not been maintained as set forth above, or that work on any Lot is necessary to ensure public safety, to prevent damage to or destruction of any other part of the Common Elements, to permit reasonable use or enjoyment of the Common Elements by Owners, or to comply with the Rules or the terms of this Declaration, then the Board may authorize its employees or agents to enter the Lot at any reasonable time to complete the necessary maintenance. The Board may levy an Individual Lot Assessment for all reasonable expenses incurred or expected to be incurred for such maintenance.

Section 4. Damage to Common Elements. If the Board reasonably determines that any Owner (or the occupant, family, guests, or invitees to the Owner(s)' Lot) has caused damage to the Common Elements or portion thereof, then the Board may levy an Individual Lot Assessment against such Lot for the anticipated, expected, estimated, or actual costs of repairing or replacing the damaged property. The Association shall be entitled to enter a Lot to repair or maintain any Common Elements adjacent to such Lot.

ARTICLE VII

EASEMENTS AND LICENSES

Section 1. Easement of Access and Enjoyment Over Common Elements. In common with all other Owners, every Owner shall have a right and easement of enjoyment in, over, and upon the Common Elements, and a right of vehicular and pedestrian access to a public right of way from the Owner's Lot. Such rights shall run with the land and be appurtenant to and pass along with the title each Lot, subject to the terms and limitations set forth in this Declaration. An Owner may delegate his/her rights of access and enjoyment to family members, occupants, guests and invitees. All such easements are limited by such restrictions as may apply, and no person shall have the right by virtue of such easements to engage in activities on the Common Element which are not permitted according to this Declaration,

pursuant to the provisions of any applicable plat(s) or under agreements with any governmental entities or other third parties.

Section 2. Lot Easements.

- (a) Owner's Easement for Maintenance and Repair. Subject to the Governing Documents, each Owner shall have a non-exclusive easement and right-of-entry, appurtenant to such Owner's Lot, over other Lots, including adjoining Lots, for the purpose of performing maintenance and repair work on such Owner's Lot or the improvements constructed thereon, or for performing such other obligations that the Owner has pursuant to the provisions hereof. An entering Owner shall use the means least invasive to the entered Lot's Owner or occupant, and shall, at such entering Owner's expense, restore the Lot so entered and any improvements thereon to the condition that existed immediately prior to such entry, or as close thereto as reasonably possible. Such easement shall include, but not be limited to, a right of access to the roof area(s) of any adjoining structure for inspection, maintenance, and repair of such roof areas. Notwithstanding the foregoing, each Owner of a Lot shall have a non-exclusive easement and right-of-entry, appurtenant to such Owner's Lot, on, over, through the Adjoining Lot and the Dwelling Unit located thereon to exercise any rights and/or obligations outlined in Article 7 of this Declaration for the repair, maintenance, and/or replacement of the Common Exterior Elements.
- (b) Owner's Easement for Encroachment and Stormwater Runoff. Subject to the provisions of the Governing Documents, each Owner shall have a non-exclusive easement, appurtenant to such Owner's Lot, over each adjoining Lot to accommodate any encroachment of improvements constructed on such Owner's Lot onto an adjoining Lot due to errors in original construction, settlement, or shifting, roof overhangs, gutters, draining of rain water from roofs, or any other similar cause, encroachment, or entrance. Such easement shall remain valid for so long as such encroachments exist or occur; and should improvements be partially or totally destroyed, such easement shall continue if necessary to permit any resulting encroachments of a similar nature.
- (c) Party Wall Easement. Subject to the provisions of the Governing Documents, each Lot Owner shall have a right and easement, appurtenant to such Owner's Lot, over each Adjoining Lot to maintain and use the party wall which serves as the common wall between the adjoining units in each residential structure. If the centerline of a party wall now or hereafter fails to coincide with the boundary between adjoining lots, an easement for any resulting encroachment is hereby established.
- (d) Utility Easements. Subject to the provisions of the Governing Documents, where utility lines, water or sanitary sewer pipes, wires, conduits, meters, shutoffs, and any other utility infrastructure components that service a Lot are located in whole or in part on another Lot or it is reasonably necessary to locate such components on another Lot, the Owner whose Lot is serviced by such utility components shall have a non-exclusive easement and right of entry, appurtenant to such Owner's Lot, over such other Lots and the improvements thereon for the purpose of installing, accessing, maintaining, and repairing such Owner's utility infrastructure components. Except in the case of an emergency, the easements and rights of entry created herein may only

be exercised after reasonable attempts to provide notice and requesting permission to enter the Lot (and, if applicable, any improvements thereon). Such permission shall not be unreasonably withheld or denied. Upon exercise of such Owner's right of entry on another Lot, the entering Owner shall promptly return any areas disturbed to their prior condition as soon as reasonably possible following such entry.

Section 3. Association's Easement and Right of Entry for Repair. The Association, including its officers, authorized agents, contractors, and employees, shall have a right of entry and access to all areas of the Property, including without limitation the Lots and any improvements thereon, to perform the Association's rights or obligations set forth in the Governing Documents, including but not limited to maintenance of Common Elements. The Association including its officers, authorized agents, contractors, and employees, shall have a right of entry and access to any Lot to remediate any violation of the Governing Documents, and, (except in cases of emergency) during reasonable hours and after attempting reasonable advance notice to an Owner and/or occupant, to maintain, repair, and replace the Common Elements.

Section 4. Easement for Utilities and Other Purposes. The Declarant or the Association may convey easements over the Common Elements to any entity for the purpose of constructing, installing, maintaining, and operating poles, pipes, conduit, wires, swales, land contours, ducts, cables, and other equipment or conditions necessary to furnish electrical, gas, sanitary or storm sewer, water, telephone, cable television, internet, and other similar utility services, whether of public or private nature, whether to the Property or not, and to any person or entity for such other purposes as the Board or Declarant deems appropriate. The Board shall not grant access or an easement if the exercise of the rights appurtenant thereto is expected to unreasonably interfere with the Owners' use and enjoyment of the Property. Declarant shall have the absolute right within (i) areas designated as drainage courses on the recorded plat of the Subdivision, (ii) all areas encumbered by general utility or specific storm drainage easements, and (iii) areas necessary for the proper drainage of all or part of the Subdivision, to enter upon Lots and perform grading and other construction activities to install, modify, alter, remove or otherwise work on storm water drainage facilities and conditions (including but not limited to surface grading and installation of subsurface structures). If any such entry and/or work performed by Declarant results in damage to portions of a Lot or the infrastructure thereon, or to any Improvements thereon, Declarant shall be responsible for the restoration of such portions or Improvements at Declarant's sole cost.

Section 5. Easement for Services. A non-exclusive easement is hereby granted to all police, fire-fighters, ambulance operators, mail carriers, delivery persons, garbage removal personnel, municipal service employees, and all similar persons, and to the local governmental authorities and the Association (but not to the public in general) to enter upon the Common Elements and the Lots to perform their duties.

Section 6. General. Unless specifically limited in this Declaration otherwise, the easements described herein shall run with the land and pass with the title to the benefited and burdened properties, shall be appurtenant to the properties benefited and burdened thereby, shall be enforceable by the owners of the properties benefited thereby, and shall be perpetual. The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements and/or

rights described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said rights or easements but the same shall be deemed conveyed or encumbered, as the case may be, along with the Lot.

ARTICLE VIII **MORTGAGEE RIGHTS**

Section 1. **Mortgagee Rights.** A holder or insurer of a first mortgage upon any Lot, upon written request to the Association (which request shall state the name and address of such holder or insurer and a description of the Lot) shall be entitled to timely written notice of: (a) any proposed amendment of this Declaration; (b) any proposed termination of the Association; and (c) any default under this Declaration which gives rise to a cause of action by the Association against the Owner of the Lot subject to the mortgage of such holder or insurer, where the default has not been cured in 60 days. Each holder and insurer of a first mortgage on any Lot shall be entitled, upon request and at such mortgagee's expense, to inspect the books and records of the Association during normal business hours.

Section 2. **Amendments.** The Declarant (before the Turnover Date) and the Board (after the Turnover Date) may take such actions (including but not limited to an amendment pursuant to Article IX, Section (1) or (2) below) and expend Association funds as deemed appropriate, in its sole discretion, to satisfy the requirements of institutional mortgagees, and guarantors and insurers of first mortgage loans for the financing or refinancing of Lots.

ARTICLE IX **AMENDMENTS**

Section 1. **By Declarant.** Until the Turnover Date, the Declarant may, in its sole and absolute discretion, unilaterally amend this Declaration at any time, without the consent of any other Owners. Any such amendment may modify the provisions hereof, and/or impose covenants, conditions, restrictions and easements upon the Property in addition to those set forth herein including, without limitation, restrictions on use and covenants to pay additional charges with respect to the maintenance and improvement of the Property.

Section 2. **Board.** After the Turnover Date, the Board may amend this Declaration in whole or in part without a vote of the Owners in any manner necessary for any of the following purposes:

- (a) To meet the requirements of institutional mortgagees, guarantors and insurers of first mortgage loans, the federal national mortgage association, the federal home loan mortgage corporation, the federal housing administration, the veteran's administration, and similar institutions;
- (b) To meet the requirements of insurance underwriters, including but not limited to title insurance;
- (c) To bring the declaration into compliance with applicable law;

(d) To correct clerical or typographical errors or obvious factual errors in the declaration or an exhibit to the declaration;

Section 3. By Owners. After the Turnover Date, this Declaration may be amended in whole or in part with the approval of the Members entitled to exercise not less than 2/3 of the voting power of all Members in the Association. Any such amendment shall contain a certificate by the Secretary of the Association that the Members signing the amendment possess and constitute not less than the 2/3 voting power of all Members in the Association. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 4. To Add Property. At any time, Declarant shall have the right and power, but neither the duty nor the obligation, in its sole and absolute discretion and by its sole act, to subject additional property to this Declaration by executing and recording an amendment to this Declaration specifying that such additional property is part of the Property. An amendment to this Declaration to subject additional property to this Declaration shall not require the joinder or consent of the Association, other Owners, mortgagees or any other person. In addition, such amendments to the Declaration may contain such supplementary, additional, different, new, varied, revised or amended provisions and memberships as may be necessary or appropriate, as determined by Declarant, to reflect and address the different character or intended development of any such additional property.

Section 5. Effect. Any amendment pursuant to Section 1 or 2 hereinabove shall not materially adversely affect the title to any Lot unless the Owner thereof has consented to such amendment in writing. Any amendment shall be in writing, and signed by Declarant or its agent, or the President and Secretary, and shall be filed of record with the County Recorder. Any amendment, including an amendment by the Declarant, shall become effective upon recordation thereof in the appropriate public record office.

Section 6. Right to Contest. Any Owner who is aggrieved by an amendment to this Declaration or the Code of Regulations may commence a declaratory judgment action to have the amendment declared invalid. Any action filed pursuant hereto shall be filed in a court of common pleas within one year from the date of the recordation of the amendment.

ARTICLE X **MISCELLANEOUS**

Section 1. Notices. Unless otherwise specified, notices to an Owner shall be given in writing, by personal delivery, at the Lot, or by depositing such notice in the United States Mail, first class, postage prepaid, to the address of the Owner of the Lot as shown by the records of the Association, or as otherwise requested in writing by an Owner and approved by the Board. Notices to the Board shall be served upon the Association's Statutory Agent on record with the Ohio Secretary of State.

Section 2. Term. This Declaration shall bind and run with the land for a term of 20 years from and after the date that this Declaration is filed in the official records of Delaware County, Ohio and thereafter shall automatically renew forever for successive periods of 10 years each, unless earlier terminated by a majority of the Members.

Section 3. Enforcement; Waiver. This Declaration may be enforced by any proceeding at law or in equity by the Declarant, any Owner, the Association, or their respective heirs, successors and assigns, against any person(s) violating, or attempting to violate, any covenant or restriction set forth in the Governing Documents to restrain and/or to enjoin such violation, to obtain a decree for specific performance, and to recover all damages, costs of enforcement and any other costs incurred (including without limitation reasonable attorneys' fees and court costs). Failure of Declarant, the Association, or any Owner to enforce any provision of this Declaration or the Rules in any manner shall not constitute a waiver of any right to enforce any violation of such provision. By accepting a deed to a Lot, each Owner is deemed to waive the defenses of laches and statute of limitations in connection with the enforcement of the Governing Documents.

Section 4. Declarant's Rights to Complete Development. Declarant shall have the right to: (a) complete the development, construction, promotion, marketing, sale, resale and leasing of properties; (b) construct or alter improvements on any property owned by Declarant; (c) maintain model homes, offices for construction, sales or leasing purposes, storage areas, construction yards or similar facilities on any property owned by Declarant or the Association; or (d) post signs incidental to the development, construction, promotion, marketing, sale and leasing of property within the Property. Further, Declarant or its assignee shall have the right of ingress and egress through the streets, paths and walkways located in the Property for any purpose whatsoever, including, but not limited to, purposes related to the construction, maintenance and operation of Improvements. Nothing contained in this Declaration shall limit the rights of Declarant or require Declarant or its assignee to obtain approval to: (i) excavate, cut, fill or grade any property owned by Declarant, or (ii) construct, alter, remodel, demolish or replace any Improvements on any Common Elements or any property owned by Declarant as a construction office, model home or real estate sales or leasing office in connection with the sale of any property; or (iii) require Declarant to seek or obtain the approval of the Association or the Architectural Review Committee for any such activity or Improvement on any Common Elements or any property owned by Declarant. Nothing in this section shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

Section 5. Declarant's Rights to Replat Declarant's Property. Until Declarant completes construction of all planned improvements on the Property, Declarant reserves the right to amend, alter or replat any plat or development plan and to amend any zoning ordinance which affects all or any portion of the Property. Only real property owned by Declarant and Owners consenting to such amendment, alteration or replatting shall be the subject of any such amendment, alteration or replatting. The Association and each Owner whose Lot is not altered by such amendment, alteration or replatting, for themselves and their successors and assigns, hereby consents to and approves any such amendment, alteration or replatting and shall be deemed to have joined in the same.

Section 6. Severability. If any article, section, paragraph, sentence, clause or word in this Declaration is held by a court of competent jurisdiction to be in conflict with any law, then the requirements of such law shall prevail and the conflicting provision or language shall be deemed void in such circumstance. The remaining provisions or language of the Governing Documents shall continue in full force and effect.

Section 7. Captions. The caption of each Article, section and paragraph of this Declaration is inserted only as a matter of reference and does not define, limit or describe the scope or intent of the provisions of this Declaration.

IN WITNESS WHEREOF, the Declarant has caused the execution this Declaration as of the date first above written.

"DECLARANT"
ELITE REAL ESTATE HOLDINGS, LLC,
An Ohio Limited Liability Corporation

By: Rajneesh Katarapu

Its: Member

Date: _____, 2018

By: Murthy Puccha

Its: Member

Date: _____, 2018

State of Ohio)
) SS
County of Franklin)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Murthy Puccha and Rajneesh Katarapu, Members of Elite Real Estate Holdings, LLC, an Ohio Limited Liability Corporation, who acknowledged the right and authority to act on behalf of the corporation, as theirs and its free and voluntary act.

Notary Public