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MASTER DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
AND RESTRICTIONS

OF

MAC INTOSH FARMS, A PLANNED RESIDENTIAL COMMUNITY

BEING DEVELOPED AND BUILT BY:

Zaremba-MacIntosh Co.
an Ohio Corporation
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COUNTY AUDITOR

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

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

PREAMBLE

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

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

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

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

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

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

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

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

ARTICLE I

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

Section 1.1 - Preamble

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

Section 1.2 - Property

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

Section 1.3 - Expansion and Contraction of Property

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

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

ARTICLE II
EXHIBITS AND DEFINITIONS

Section 2.1 - Exhibits

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

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

Section 2.2 - Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE III
EASEMENTS

Section 3.1 - Utility Easements

There is hereby reserved in favor of Declarant and granted to the Association and each Developer, their successor and assigns, a blanket easement upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utilities and service lines and systems including, but not limited to, water, sewer, energy, drainage, gas, telephone, electricity, television, cable and communication lines and system. By virtue of this easement, it shall be expressly permissible for Declarant, the Master Association and each Developer and their successors and assigns, or the providing utility or service company, to install and maintain facilities and equipment on the Property provided that any such disturbed areas are substantially restored to the condition in which they were found if such restoration is financially feasible and physically possible. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utility service lines or facilities for such utilities may be installed or located except as approved by the Design Review Committee.

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

Section 3.2 - Easement for Ingress and Egress

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

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

Section 3.3 - Open Spaces

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

Section 3.4 - Easements for Construction, Alteration, etc.

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

Section 3.5 - Scope of Easements

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

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

Section 3.6 - Easements To Run With the Lands.

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

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

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

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

Section 3.8 - Dedication of Utilities and Roadways

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

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

Section 4.1 - Construction of Recreation Facilities.

The Declarant shall pay for and construct the Initial Recreation

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

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

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

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

Section 4.2 - Use of Recreation Property.

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

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

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

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

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

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

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

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

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

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

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

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

Section 4.6 - Additional Recreation Facilities.

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

Section 4.7 - Use of Common Areas

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

ARTICLE V
THE MASTER ASSOCIATION

Section 5.1 - Existence.

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

Section 5.2 - Membership and Voting Rights.

(a) Membership.

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

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

(b) Classes of Membership.

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

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

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

(c) Voting Rights.

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

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

Section 5.3 - Board and Officers of the Master Association.

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

Section 5.4 - Rights of the Association.

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

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

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

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

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

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

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

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

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

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

ARTICLE VI
RESPONSIBILITIES OF THE MASTER ASSOCIATION

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

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

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

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

Section 6.2 - Sub-Associations

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

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

Section 6.3 - Taxes and Assessments.

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

Section 6.4 - Utilities and Sewer Plant.

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

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

Section 6.5 - Insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Damage and Destruction.

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

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

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

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

(e) Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a special assessment against all Owners in proportion to the number of Dwelling Units owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Section 6.6 - Management.

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

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

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

Section 6.7 - Upgrading.

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

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

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

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

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

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

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

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

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

Section 6.9 - Enforcement.

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

Section 6.10 - Disputes Between Associations.

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

Section 6.11 - Rules and Regulations.

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

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

Section 6.12 - General.

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

Section 6.13 - Original Declarant's Rights.

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

ARTICLE VII
COVENANTS AND RESTRICTIONS

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

Section 7.1 - Covenant of Good Maintenance.

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

Section 7.2 - Trailers.

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

Section 7.3 - Fences, Walls, Hedges, Etc.

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

Section 7.4 - Nuisance.

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

Section 7.5 - Animals.

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

Section 7.6 - Signs.

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

Section 7.7 - Storage of Material and Trash Handling.

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

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

Section 7.8 - Pipe Lines, Utility Lines and Drilling.

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

Section 7.9 - Commercial or Professional Uses.

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

Section 7.10 - Storage of Vehicles and Machinery.

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

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

Section 7.11 - Firearms; Preservation of Wildlife.

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

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

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

Section 7.13 - Poles, Wires, Antennae, Etc.

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

Section 7.14 - Exterior Appearance.

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

Section 7.15 - Window Treatments.

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

Section 7.16 - Grading.

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

Section 7.17 - Drainage Ditches - Access by the City.

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

Section 7.18 - Lights on Exterior of Residence.

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

Section 7.19 - Waiver of Subrogation.

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

Section 7.20 - Violation of This Article.

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

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

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

Section 7.21 - Restrictions of Other Documents.

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

Section 7.22 - Certificate of Compliance with Restrictions.

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

ARTICLE VIII
DESIGN REVIEW COMMITTEE

Section 8.1 - Structure of Committee.

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

Section 8.2 - Approval of Plans.

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

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

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

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

Section 8.3 - Grounds for Disapproval.

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

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

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

Section 8.4 - Right of Appeal.

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

Section 8.5 - Violation of Article.

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

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

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

Section 8.6 - Cost of Design Review Committee.

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

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

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

ARTICLE IX ASSESSMENTS

Section 9.1 - Definition of Assessments.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 9.4 - Uniformity and Payment of Assessments.

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

Section 9.5 - Creation of Lien and Personal Obligation.

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

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

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

Section 9.7 - Liability for Assessments on Voluntary Conveyance.

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

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

ARTICLE X
LIENS

Section 10.1 - Perfection of Lien.

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

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

Section 10.2 - Duration of Lien.

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

Section 10.3 - Priority.

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

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

Section 10.4 - Dispute as to Assessment.

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

Section 10.5 - No Waiver Implied.

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

Section 10.6 - Personal Obligations.

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

ARTICLE XI
REMEDIES OF THE ASSOCIATION

Section 11.1 - Denial of Use of Recreation Facilities.

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

Section 11.2 - Specific Remedies.

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

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

Section 11.3 - Cost of Collection.

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

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

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

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

Section 11.4 - Binding Effect.

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

ARTICLE XII NO PARTITION

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

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

ARTICLE XIII
CONDEMNATION

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

If the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five percent (75%) of the Class A Members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefore, in accordance with plans prepared by the Design Review Committee and approved by the Board. If such improvements are to be repaired or restored, the above provisions in Section 6.5 hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE XIV
MORTGAGEES' RIGHTS

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

Section 14.1 - Notices of Action.

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

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

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

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

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

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

Section 14.2 - Other Provisions for First Lien Holders.

To the extent possible under Ohio law:

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

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

Section 14.3 - Amendments to Documents.

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

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

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

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

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

Section 14.4 - Special Federal Home Loan Mortgage Corporation Provisions.

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

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

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

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

ARTICLE XV
GENERAL PROVISIONS

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

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

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

Section 15.2 - Duration.

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

Section 15.3 - Notices.

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

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

Section 15.4 - Enforcement-Waiver.

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

Section 15.5 - Construction of the Provisions of this Declaration.

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

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

Section 15.6 - Reservations by Original Declarant - Exempt Property.

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

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

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

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

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

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

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

Section 15.7 - Assignability by Original Declarant.

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

Section 15.8 - Severability.

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

Section 15.9 - Arbitration.

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

Section 15.10 - Validity of Mortgages.

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

Section 15.11 - Amendment of Declaration.

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

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

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

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

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

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

Section 15.12 - Interest Rates.

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

Section 15.13 - Headings.

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

Section 15.14 - Rule Against Perpetuities.

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

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

Signed in the presence of:

[Signature]
[Signature]

ZAREMBA MACINTOSH CO.

By: [Signature]
Robert Hartshorn, Pres.

STATE OF OHIO)
) SS.
CUYAHOGA COUNTY)

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

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

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


Notary Public

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

CUYAHOGA COUNTY RECORDER
PATRICK J. O'MALLEY
DEED 02/07/2006 01:26:59 PM
200602070273

RECORDING OF THE
BYLAWS
OF
MAC INTOSH FARMS COMMUNITY ASSOCIATION, INC.

PLEASE CROSS MARGINAL REFERENCE WITH THE MASTER DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS OF MACINTOSH FARMS, A PLANNED RESIDENTIAL COMMUNITY, RECORDED AT VOLUME 86-4890, PAGE 60 ET SEQ. OF THE CUYAHOGA COUNTY RECORDS.

BYLAWS

FOR

MAC INTOSH FARMS COMMUNITY ASSOCIATION, INC.

WHEREAS, the MacIntosh Farms Community Association, Inc. ("Association") was created on or about August 13, 1986, in conjunction with the filing of its Articles of Incorporation with the Ohio Secretary of State's Office; and

WHEREAS, the Association's principal purpose is to maintain and operate the MacIntosh Farms Community Association, Inc. development located in Broadview Heights, Ohio, ("Heritage Landing") pursuant to the terms and provisions of the Master Declaration of Covenants, Conditions, Easements and Restrictions of Mac Intosh Farms, A Planned Residential Community, that were filed for record at Volume 86-4890, Page 60 et seq. of the Cuyahoga County Records; and

WHEREAS, upon the filing of the Articles of Incorporation, a set of Bylaws (the "Bylaws") for conducting the Association's affairs was also created and adopted by the Association, but not filed for record with the Cuyahoga County Records; and

WHEREAS, the Bylaws of MacIntosh Farms Community Association, Inc. were amended on July 29, 2003 at Instrument No. 200307291248 and re-filed on August 28, 2003 at Instrument No. 200308281274 of the Cuyahoga County Records, by the Declarant, at Article II, Section 11, entitled "Quorum," Article III, Section III(B), Section 4, entitled "Number of Board Members," and Article III, Section 6, entitled "Election and Term of Office."

WHEREAS, to insure the integrity of the Association's Bylaws and to maintain a permanent record of said Bylaws, the Association's Board of Directors has decided to have the Amended and Restated Bylaws filed for record with the Cuyahoga County Recorder.

NOW THEREFORE, the Bylaws of MacIntosh Farms Community Association, Inc., including the amendments to Article II, Section 11, entitled "Quorum," Article III, Section III(B), Section 4, entitled "Number of Board Members," and Article III, Section 6, entitled "Election and Term of Office," are attached to the Declaration and set forth as attached hereto.

IN WITNESS WHEREOF, the said MacIntosh Farms Community Association, Inc. has caused the execution of this instrument this 18th day of January, 2006.

MACINTOSH FARMS COMMUNITY ASSOCIATION, INC.

By: *Joseph J. Machello*
JOSEPH JIAMACHELLO, its President

By: *Megan J. Modney*
MEGAN MODNEY, its Secretary

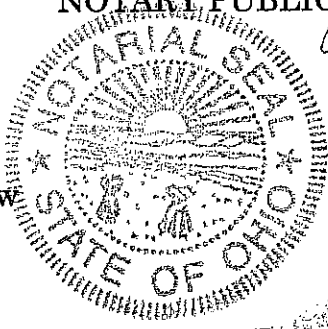
STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named MacIntosh Farms Community Association, Inc., by its President and its Secretary, who acknowledged that they did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of them personally and as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Broadview Heights, Ohio, this 18th day of January, 2006.

Debra A. Jiamachello
NOTARY PUBLIC

DEBRA A. JIAMACHELLO
NOTARY PUBLIC, STATE OF OHIO
Recorded in Cuyahoga County
My Comm. Expires Mar. 15, 2008



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

BYLAWS
OF
MAC INTOSH FARMS COMMUNITY ASSOCIATION, INC.
A Non-Profit Ohio Corporation

CUYAHOGA COUNTY RECORDER
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BYLAWS

OF

MACINTOSH FARM COMMUNITY ASSOCIATION, INC.

Article I

Name, Membership, Applicability, and Definitions

Section 1. Name. The name of the Association shall be MacIntosh Farms Community Association, Inc. (hereinafter sometimes referred to as the "Association").

Section 2. Principal Office. The principal office of the Association shall be located in the City of Broadview Heights, County of Cuyahoga and State of Ohio. The Association may have such other offices, either within or without the City of Broadview Heights, as the Board of Trustees ("Board") may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these Bylaws shall have the same meaning as set forth in that Master Declaration of Covenants, Conditions, Easements and Restrictions for MacIntosh Farms, a Planned Residential Community (said Declaration, as amended, renewed, or extended from time to time, is, hereinafter sometimes referred to as the "Master Declaration"), unless the context shall prohibit.

Article II

Association: Meetings, Quorum, Voting, Proxies

Section 1. Membership. The Association shall have two (2) classes of membership, Class A and B, as more fully set forth in that Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board either on the Property or as convenient thereto as possible and practical.

Section 3. Annual Meetings. The first meeting of the Members, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. The next annual meeting shall be set by the Board so as to occur no later than ninety (90) days after the close of the Association's fiscal

year. Subsequent regular annual meetings of the members shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board. Subject to the foregoing, the annual meeting of the Members shall be held at a date and time as set by the Board.

Section 4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board or upon a petition signed by at least ten (10%) percent of the total votes of the Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than seven (7) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

When the Class A membership of the Association exceeds one thousand (1,000) at the time a meeting is scheduled or called, then the Association may give notice of such meeting by publication in any newspaper of general circulation in the community in which the principal office of the Association is located. Such notice shall be published not less than ten (10) nor more than fifty (50) days before the date of such meeting.

Section 6. Waiver of Notice. Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in Person or by proxy, shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

Section 7. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that at least twenty-five (25%) percent of the total votes of the Association remains present in person or by proxy, and provided further that any action taken shall be approved by at least a majority of the Members required to constitute a quorum.

Section 8. Voting. The voting rights of the Members shall be as set forth in the Master Declaration, and such voting rights provisions are specifically incorporated herein.

Section 9. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her Dwelling Unit or upon receipt of notice by the Secretary of the Board of the death or judicially declared incompetence of a Member or upon the expiration of eleven (11) months from the date of the proxy.

Section 10. Majority. As used in these Bylaws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total number.

Section 11. Quorum. Except as otherwise provided in these Bylaws or in the Master Declaration, those Members present at a meeting of the Association in person or by proxy shall constitute a quorum at all meetings of the Association. Any provision in the Master Declaration concerning quorums is specifically incorporated herein.

Section 12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the

meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat.

Section 13. Action Without A Meeting. Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Members entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Members.

Article III
Board of Trustees: Number, Powers, Meetings

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Trustees. Except as provided in Section 2 of this Article, the Board shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time.

Section 2. Board Members During Declarant Control. The Board shall be selected by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant so long as the Class B membership exists, as set forth in the Master Declaration, unless the Declarant shall earlier surrender this right to select the Board Members. The Board Members selected by the Declarant need not be owners or residents in the Property. After the period of Declarant appointment, all Board Members must be Members of the Association.

Section 3. Veto. This Section 3 may not be amended without the express, written consent of the Declarant until Declarant no longer owns any interest in the total Property or until December 31, 2011, whichever first occurs.

From the termination of the Class B membership, the Declarant shall have a veto power over all actions of the Board and the Modifications Committee, as is more fully provided in this Section. This power shall expire when the Class A votes, other than those Owners formerly owning Class B votes, equal to five thousand (5000) or December 31, 2011, whichever occurs first, unless earlier surrendered. This veto power shall be exercisable only by Declarant, its successors, and assigns who specifically take this power in a recorded instrument. The veto shall be as follows:

No action authorized by the Board or Modifications Committee shall become effective, nor shall any action, policy, or program be implemented until and unless:

(a) Declarant shall have been given written notice of Board or Modifications Committee by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board meetings with Article III, Sections 9, 10, and 11, of these Bylaws as to regular and special meetings of the Board and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Board, the Modifications Committee, or the Association. Declarant and its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the Modifications Committee or the Association and/or the Board. At such meeting, Declarant shall have and is hereby granted a veto power over any such action, policy, or program authorized by the Modifications Committee or the Board and to be taken by said Committee or Board or the Association or any individual member of the Association if Board, Committee, or Association approval is necessary for said action. Said veto may be exercised by Declarant, its representatives, or agents at the meeting held pursuant to the terms and provisions hereof. Any veto power shall not extend to the requiring of any action or counteraction on behalf of the Committee or Board or Association.

Section 4. Number of Board Members. The number of Board Members in the Association shall be five (5).

Section 5. Nomination of Board Members. Except with respect to Board Members selected by the Declarant, nominations for election to the Board shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of vacancies or terms to be filled. Nominations shall be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Section 6. Election and Term of Office. Within thirty (30) days after the execution of this Amended and Restated First Amendment to Bylaws the

Association shall call a special meeting to be held at which the Members other than the Declarant shall elect the five (5) Board Members. The composition of the Board elected by the Members other than the Declarant, and the initial and subsequent terms of office of the Board Members so elected, shall be as follows:

(a) Composition of Board. The five (5) Board Members shall be elected to represent three (3) Electoral Districts as follows:

(i) Two (2) Board Members (the "Condominium Board Members") shall be elected to represent the Owners of Condominium Units within the Property which are within the Electoral District to be comprised of the following four (4) Condominium Developments; MacIntosh Farms Condominium No. 1, Macintosh Farms Condominium No. 2, MacIntosh Farms Condominium No. 3, and The Villas of Macintosh Farms Condominium. The two (2) Condominium Board Members shall be Owners (or spouses of Owners) of Condominium Units, and may be from the same, or different, Condominium Developments. Only those Members who are Owners within the Condominium Developments shall vote for the Condominium Board Members. Each such Member may vote for two (2) Condominium Board Members at the initial election of such Board Members.

(ii) Two (2) Board Members (the "Cluster Home Board Members") shall be elected to represent the Owners of Living Units within the Property which are within the Electoral District to be comprised of the following two (2) Cluster Home Developments: The Villas of Macintosh Farms Cluster Development, and Barnsley Way Cluster Development. The two (2) Cluster Home Board Members shall be Owners (or spouses of Owners) of cluster homes, and may be from the same, or different, Cluster Home Developments. Only those Members who are Owners within the Cluster Home Developments shall vote for the Cluster Home Board Members. Each such Member may vote for two (2) Cluster Home Board Members at the initial election of such Board Members.

(iii) One (1) Board Member (the "Single Family Board Member") shall be elected to represent the Owners of Living Units within the Property which are within the Electoral District to be comprised of all Living Units which are single family homes and which are not within a Condominium Development or Cluster Home Development represented by the Condominium Board Members or Cluster Home Board Members. The Single Family Board Member shall be the Owner (or spouse of an Owners) of a single family home. Only those Members who are Owners of such single family homes shall vote for the Single Family Board Member.

In the election of the initial Condominium Board Members and the initial Cluster Home Board Members, the two (2) such candidates receiving the most votes in each category shall be elected as such Board Member. In all other elections where only one (1) Board Member is being elected, the candidate receiving a majority vote shall be elected, and, in the event no candidate receives a majority vote at the first balloting, a run-off shall be held at such meeting between the top two (2) candidates.

(b) **Terms of Office.** Upon the initial election of the Board Members by the Members other than the Declarant, the initial terms of the Board Members shall be as follows:

Condominium Board Member A - 1 year initial term
Condominium Board Member B - 2 year initial term
Cluster Home Board Member A - 1 year initial term
Cluster Home Board Member B - 2 year initial term
Single Family Board Member - 3 year initial term

The Board Members shall among themselves agree which Board Members serve one (1) year initial terms and which serve two (2) year initial terms. In the absence of such agreement, the terms shall be determined by the flip of a coin. At the expiration of the initial terms of office of each Board Member, Board Members shall then be elected to serve terms of three (3) years each. The Board Members shall hold office until their respective successors shall have been elected by the Association.

Section 7. Removal of Board Members and Vacancies. Unless the entire Board is removed from office by the vote of the Association Members, an individual Board Member shall not be removed prior to the expiration of his or her term of office if the number of votes cast against his or her removal would be sufficient to elect him or her if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Board Members authorized at the time of the more recent election of Board Members were than being elected. A Board Member who was elected solely by the votes of Members other than the Declarant may be removed from office prior to the expiration of his or her term by the votes of a majority of Members other than the Declarant.

In the event of death or resignation of a Board Member, his or her successor shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of the predecessor.

Section 8. Voting procedure for Board Members. The first election of the Board shall be conducted at the first meeting of the Association. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as

they are entitled to exercise under the Provisions of the Master Declaration. The persons receiving the largest number of votes shall be elected.

B. Meetings

Section 9. Organization Meetings. The first meeting of the members of the Board following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 10. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Board, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to Board Members not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Board Member who has signed a waiver of notice or a written consent to holding of the meeting.

Section 11. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President, Vice President, or Secretary of the Association, or by any two (2) Board Members. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Board Member by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the Board Member or to a person at the Board Member's office or home who would reasonably be expected to communicate such notice promptly to the Board Member; or (d) by telegram, charges prepaid. All such notices shall be given or sent to the Board Member's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set forth the meeting.

Section 12. Waiver of Notice. The transactions of any meetings of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Board Members not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Board Member who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 13. Quorum of Board. At all meetings of the Board, a majority of the Board Members shall constitute a quorum for the transaction of business, and the votes of a majority of the Board Members present at a meeting at which a quorum is present shall constitute the decision of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Board Members, if any action taken is approved by at least a majority of the required quorum for that meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 14. Compensation. No Board Member shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

Section 15. Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of the Board, recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings.

Section 16. Open Meetings. All meetings of the Board shall be open to all Members, but Members other than Directors may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board.

Section 17. Executive Session. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 18. Action Without a Formal Meeting. Any action to be taken at a meeting of the Board or any action that may be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Board Members, and such consent shall have the same force and effect as a unanimous vote. An explanation of the action taken shall be posted at a prominent place or places within the Common Areas within three (3) days after the written consents of all the Board members have been obtained.

C. Powers and Duties.

Section 19. Powers. The Board shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the

administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the Members.

The Board shall delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the Managing Agent or Manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these Bylaws or by any resolution of the Association that may be hereafter adopted, the Board shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each owner to the Common Expenses;

(b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment, provided otherwise determined by the Board, the annual assessment against the proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month;

(c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Area of Common Responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Areas in accordance with the other

provisions of the Master Declaration and these Bylaws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Master Declaration, these Bylaws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable to owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners and mortgagees, their duly authorized agents, accountants, or attorneys, during general business hours on working days at the time and in a manner that shall be set and announced by the Board for the general knowledge of the owners. All books and records shall be kept in accordance with generally accepted accounting practices;

(m) make available to any prospective purchaser of a Dwelling Unit, any Owner of a Dwelling Unit, any first mortgagee, and the holders, insurers, and guarantors of a first mortgage on any Dwelling Unit, current copies of the Master Declaration, the Articles of Incorporation, the Bylaws, rules governing the Dwelling Unit, and all other books, records, and financial statements of the Association; and

(n) permit utility suppliers to use portions of the Common Areas reasonably necessary to the ongoing development or operation of the Property.

Section 20. Management Agent.

(a) The Board may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board by these Bylaws, other than the powers set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 19 of this Article. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

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

Section 21. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform with established AICPA guidelines and principles, which require, without limitation, (i) a segregation of accounting duties, (ii) disbursements by check requiring two (2) signatures, and (iii) cash disbursements limited to amounts of Twenty-Five (\$25.00) Dollars and under;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;

(e) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and

(f) commencing at the end of the month in which the first Dwelling Unit is sold and closed, quarterly financial reports shall be prepared for the Association containing:

(i) an Income Statement reflecting all income and expense activity for the preceding three (3) months on an accrual basis;

(ii) an Account Activity Statement reflecting all receipt and disbursement activity for the preceding three (3) months on an accrual basis;

(iii) an Account Status Report reflecting the status of all accounts in an "actual" versus "approved" budget format with a Budget Report reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten (10%) percent of a major budget category (as distinct from a specific line item in an expended chart of accounts);

(iv) a Balance Sheet of an accounting date which is the last day of the month closest in time to three (3) months from the date of closing of the first sale of a Dwelling Unit in the project, and an operating Statement for the period from the date of the first closing to the said accounting date, which shall be distributed within sixty (60) days after the accounting date;

(v) a Balance sheet as of the last day of the Association's fiscal year and an Operating Statement for said fiscal year, which shall be distributed within ninety (90) days after the close of a fiscal year;

(vi) a Delinquency Report listing all owners who have been delinquent during the preceding three (3) month period in paying the monthly installments of assessments and who remain delinquent at the time of the report and describing the status of any action to collect such installments which remain delinquent (A monthly installment of the assessment shall be considered to be delinquent on the fifteenth (15th) day of each month); and

(vii) an annual report consisting of at least the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet as of the end of the fiscal year; (2) an operating (income) statement for the fiscal year; and (3) a statement of changes in financial position for the fiscal year. Ordinarily, the annual report referred to above shall be prepared by an independent accountant for any fiscal year in which the gross income to the Association exceeds one Hundred Thousand (\$100,000.00) Dollars. If said report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

Section 22. Borrowing. The Board shall have the power to borrow money for the purpose of repair or restoration of the Common Areas without the approval of the Members of the Association; provided, however, the Board shall obtain membership approval in the same manner provided in Section 6.8 of the Master Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding Recreational Facilities and other amenities.

Section 23. Rights of the Association. With respect to the Common Areas or other Areas of Common Responsibility, and in accordance with the Articles of Incorporation and Bylaws of the Association, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into

common management, operational, or other agreements with trusts, condominiums, cooperatives, or neighborhood and other homeowners or residents associations, both within and without the Property. Such agreements shall require the consent of two-thirds (2/3) of the total votes of all Board Members of the Association.

Section 24. Hearing Procedure. The Board shall not impose a fine, suspend voting, or infringe upon any other rights of a Member or other occupant for violations of rules unless and until the following procedure is followed:

(a) **Demand.** Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:

- (i) the alleged violation;
- (ii) the action required to abate the violation; and
- (iii) a time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a sanction after notice and hearing if the violation is not continuing.

(b) **Notice.** At any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same rule is subsequently violated, the Board or its delegate shall serve the violator with written notice of a hearing to be held by the Board or the Covenants Committee in executive session. The notice shall contain:

- (i) the nature of the alleged violation;
- (ii) the time and place of the hearing, which time shall not be less than ten (10) days from the giving of the notice;
- (iii) an invitation to attend the hearing and produce any statement, evidence, and witness on his or her behalf; and
- (iv) the proposed sanction to be imposed.

(c) **Hearing.** The hearing shall be held in executive session pursuant to this notice affording the Member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting, and Section 6.11 of the Master Declaration shall be complied with. Such proof shall be deemed adequate if a copy

of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Board Member, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(d) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the Manager, President, or Secretary of the Association within thirty (30) days after the hearing date.

Article IV Officers

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The Board may elect such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board. Any two or more offices may be held by the same person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time

specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by the President and Treasurer or by such other person or persons as may be designated by resolution of the Board.

Article V Committees

Section 1. General. Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Board Members present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by law and shall operate in accordance with the terms of the resolution of the Board designating the committee or with rules adopted by the Board.

Section 2. Covenants Committee. The Board shall appoint a Covenants Committee consisting of at least three (3) and no more than five (5) members. Acting in accordance with the provisions of the Master Declaration, these Bylaws, and resolutions the Board may adopt, the Covenants Committee shall be the hearing tribunal of the Association.

Section 3. Parcel Committees. In addition to other committees, as provided in Section 1 of this Article V, there shall be a Parcel Committee for each of the Parcels contained in the Project. Each Parcel Committee shall consist of three (3) members; provided, however, by vote of at least fifty (50%) percent of the residents of the Parcel this number may be increased to five (5). The Parcel Committees shall be appointed and elected in the manner provided for Board Members in Article III, Sections 2 and 5. Any Board Member elected from a Parcel shall be an ex officio member of the Committee. It shall be the responsibility of the Parcel Committee to determine the nature and extent of services, if any, to be provided to the Parcel by the Association in addition to those provided to all Members of the Association in accordance with the Master Declaration. A Parcel Committee may advise the Board on any other issue, but shall not have the authority to bind the Board.

In the conduct of its duties and responsibilities, each Parcel Committee shall comply with Article III, Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of these Bylaws. Each Committee shall elect a chairman from among its members who shall

preside at its meetings and who shall be responsible for transmitting any and all communications to the Board.

Article VI
Finances of Association (Assessments)

Section 1. Preparation of Estimated Budget. On or before the filing with the Cuyahoga County Recorder of the Declaration of Condominium Ownership for MacIntosh Farms Condominium No. 1 Condominium, and on or before December 15 of each year thereafter, the Association shall estimate the total amount necessary to pay the Assessments referred to in Article IX of the Declaration for the balance of the calendar year in which said Declaration of Condominium Ownership is filed and, thereafter, for each succeeding calendar year together with a reasonable amount considered by the Master Association to be necessary for a reserve for contingencies and replacements, and the amounts, if any, which may be received from special assessments (or by virtue of "Special Charges," as describes in Article I of the Declaration), concessions, contracts for special services and facilities, and other sources. On or before December 21, the Association shall notify each Member in writing as to the amount of such estimates, and shall send a copy of such notice to each holder of a first mortgage upon the Ownership Interest of a Member who has made a request in writing for such notification. The failure of the Master Association to comply strictly with the above time requirements shall not be deemed to be a waiver and shall not prevent the Association from collecting Assessments. The net of the aggregate amounts of such estimates (herein called the "Estimated Cash Requirements") of the next calendar year shall be assessed to those Members required to pay such assessments according to and as specifically set forth in Article IX of the Declaration. Each Member required to pay assessments shall pay to the Association or as it may direct the assessment made pursuant to this Section on or before the first day of each calendar year, except that Board may elect to collect annual assessments quarterly or monthly, in advance. On or before the date of each annual meeting, the Master Association shall furnish to all Members an itemized accounting of the expenditures for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, by special assessments, or otherwise, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited to the last maturing monthly installments due from the Members under the current year's estimate, pro rata. Any net shortage shall be added pro rata to the next installment due after the rendering of the accounting.

Section 2. Reserve for Contingencies and Replacements; Special Assessments. The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally

included in the annual estimate which may be necessary for the year, shall be charged first against such reserve. If the "Estimated Cash Requirements" proves inadequate for any reason, including nonpayment of any Member's assessment, the deficiency and any extraordinary expenditures in excess of the reserves therefor shall be assessed to the Members required to pay assessments, pro rata. The Association shall also make any necessary or desirable special assessments, such as a "construction assessment" referred to in Article 6.08 of the Declaration, from time to time which shall be payable at the time or times the Board deems necessary or desirable. The Association shall serve notice of such further assessments on members required to pay assessments, by a statement in writing giving the amount and reasons therefor, and such further assessment shall be payable with the next regular monthly payment becoming due to the Association but not less than ten (10) days after the delivery or mailing of such notice of further assessment.

Section 3. Failure to Prepare Annual Budget. The failure or delay of the Association to prepare or deliver to a Member any annual or adjusted estimate shall not constitute a waiver or release in any manner of such Member's obligation to pay his share of the Assessments, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Member required to pay assessments pursuant to Article 9.02 of the Declaration shall continue to pay the monthly charge at the existing monthly rate established for the previous period until the Association mails or delivers notice of the new monthly payment due as a result of the determination of the new annual or adjusted estimate.

Section 4. Books and Records of the Master Association. The Master Association shall keep full and correct books of account and the same shall be open for inspection by any Member or his representative duly authorized in writing, at such reasonable time or times during normal business hours as may be requested. Upon ten (10) days notice to the Board and payment of a reasonable fee, any member shall be furnished a statement of his or its account setting forth the amount of any unpaid assessments or other charges due and owing.

Section 5. Status of Funds Collected by Master Association. All funds collected hereunder shall be held and expended solely for the purposes designated herein and (except for such special assessments as may be levied hereunder against less than all of the Members and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the use, benefit and account of all Members required to pay assessments pursuant to Article 9.02 of the Master Declaration.

Section 6. Depository. The depository of the Association shall be such bank or banks and/or such savings and loan association or savings and loan associations and/or such money market fund(s) as shall be designated from time to

time by the Board and in which the monies of the Association shall be deposited. Withdrawal of the monies from such accounts shall be only by check signed by such persons as are authorized by the Board.

Section 7. Annual Audit. The books of the Master Association shall be audited once a year by the Board and such audit shall be completed prior to each annual meeting. If requested by a majority of the members of the Board, such audit shall be made by a certified public accountant. In addition and at any time requested by members or by holders of first mortgages on Ownership Interests possessing in the aggregate fifty percent (50%) or more of the voting power in the master Association, the Board shall cause an additional audit to be made.

Section 8. Remedies for Failure to Pay Assessments. If an owner shall be in default in the payment of any of the aforesaid charges or assessments, the Master Association (or Original Developer if such assessment was to be paid directly to Original Developer) shall have all of the remedies set forth anywhere in the Declaration, in these Bylaws or at law or equity.

Article VII Miscellaneous

Section 1. Fiscal Year. The initial fiscal year of the Association shall be set by resolution of the Board.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Ohio law, the Articles of Incorporation, the Declaration, or these Bylaws.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Ohio law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of Ohio law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

Section 4. Books and Records.

(a) **Inspection by Members and Mortgagees.** The Declaration and Bylaws, membership register, books of account, and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Project as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Board Members. Every Board Member shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Board Member includes the right to make extracts and copies of documents at the expense of the Association.

Section 5. Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, first class postage prepaid:

(a) if to a member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Dwelling Unit of such Owner; or

(b) if to the Association, the Board, or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such other address as shall be designated by the notice in writing to the Owners pursuant to this Section.

Section 6. Amendment. Prior to the sale and conveyance of the first Dwelling Unit, Declarant may amend the Bylaws. These Bylaws may be amended only by the affirmative vote (in person or by proxy) or written consent of Members representing a majority of the total votes of the Association, which shall include a majority of votes of Members other than the Declarant or, where the two class Voting structure is still in effect, shall include a majority of each class of Members. However, the percentage of votes necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

LEGAL DESCRIPTION

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PARCEL NO. 3B

(POND "A")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

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

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

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

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

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

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

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

LEGAL DESCRIPTION

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PARCEL NO. 3B

(POND "A")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

(Page Two)

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

Thence South 0°56'55" East, a distance of 147.00 feet to a point;

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

Thence North 0°30'00" West along said Westerly line of land so conveyed to W. Kilarsky, et. al., a distance of 26.00 feet to the Northwesterly corner thereof;

Thence North 88°47'43" East along the Northerly line of land so conveyed to W. Kilarsky, et. al., a distance of 210.51 feet to the Southwesterly corner of land so conveyed to D. Millard, et. al.;

Thence North 0°30'00" West along the Westerly line of land so conveyed to D. Millard, et. al., a distance of 100.90 feet to the Northwesterly corner thereof;

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

LEGAL DESCRIPTION

PARCEL NO. 3A

(PONDS "B" AND "C")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

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

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

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

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

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

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

LEGAL DESCRIPTION

PARCEL NO. 3A

(PONDS "B" AND "C")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

(Page Two)

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

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

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

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

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

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

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

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

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

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

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

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

LEGAL DESCRIPTION

PARCEL NO. 3A

(PONDS "B" AND "C")

MACINTOSH FARMS PHASE I

MACINTOSH FARMS HOMEOWNERS ASSOC. INC.

(Page Three)

Thence North $89^{\circ}03'05''$ East, continuing along said Northerly sideline of MacIntosh Lane, a distance of 148.97 feet to its intersection with said Westerly sideline of Broadview Road;

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

CONSENT OF MORTGAGEE

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

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

SIGNED AND ACKNOWLEDGED
IN THE PRESENCE OF:

DOLLAR BANK, FEDERAL SAVINGS BANK,
CONTINENTAL DIVISION

B. E. Mulanick

BY: Linda A. Cornell *AVP*

Debra L. Loomis

BY: Mary E. Brennan *Officer*

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

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

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

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

THIS INSTRUMENT PREPARED BY:
Richard A. Rosner, Attorney at Law
Kahn, Kleinman, Yanowitz & Arnson Co., L.P.A.
1300 Bond Court Building
1300 East Ninth Street
Cleveland, Ohio 44114
(216) 696-3311

Recorded
Volume 89-1254
Page 51, Cuyahoga
County Records

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
MacINTOSH FARMS SUBDIVISION NUMBER ONE, BROADVIEW HEIGHTS, OHIO

THIS DECLARATION made this 13th day of March, 1989, by ZAREMBA MacINTOSH CO., an Ohio corporation ("Declarant"), having its principal place of business at 14600 Detroit Avenue, Lakewood, Ohio 44107.

W I T N E S S E T H :

WHEREAS, Declarant is the owner in fee simple of certain real property situated in the City of Broadview Heights, County of Cuyahoga, State of Ohio and being known as Sublot Nos. 1 through 34, inclusive, of MacIntosh Farms Subdivision Number One ("Subdivision") being a part of Original Royalton Township Lot Number 25, as shown by the recorded plat in Volume 245 of Maps, Page 9 of Cuyahoga County Records, be the same more or less, but subject to all legal highways;

WHEREAS, Declarant contemplates selling the above-described sublots (the "Sublots") and further contemplates that the purchasers thereof will construct dwelling houses ("Living Units") and other improvements upon the Sublots;

WHEREAS, the Declarant has submitted the Sublots and certain adjacent properties to a document entitled Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, a Planned Residential Community ("Master Declaration") recorded on August 6, 1986, in Volume 86-4890, Page 60 of Cuyahoga County Records and to the Bylaws of MacIntosh Farms Community Association, Inc., an Ohio non-profit corporation ("Master Association");

WHEREAS, Declarant desires to implement the Master Declaration by imposing certain covenants, conditions and restrictions on the Sublots that shall be binding upon the purchasers of each Sublot, owners of said Sublots or any portion thereof, mortgagees or persons holding or entitled to any interest therein, and the respective heirs, executors, administrators, successors and assigns of any of them.

NOW, THEREFORE, Declarant, for the benefit of itself and its successors and assigns, and in consideration of the premises and for the purpose of carrying out the intention above expressed, does hereby make known, publish, declare, covenant and agree that the real estate hereinabove described shall thereafter, in addition to any easements, rights-of-way, building and use restrictions, laws, ordinances and lawful requirements of the proper public authorities, be subject to the following covenants, conditions and restrictions, which shall hereafter be taken to be covenants running with the land and binding on all purchasers and/or owners of the Sublots, mortgagees or persons holding or entitled to hold any interest therein, and the respective heirs, executors, administrators, successors and assigns, and successors in title of any of them.

Section 1 - Minimum Building Standards

- (A) Each Sublot shall be used only for private, single family residential purposes and only one single family residence with one attached car garage (two [2] car minimum, three [3] car maximum), shall be constructed or permitted to remain on any one Sublot. Other buildings or structures may not be built, permitted to remain, maintained or altered on any Sublot without the prior written approval of the Design Review Committee ("Design Review Committee") established by the Master Declaration. In the area of a Sublot between the residence building located thereon and the street lines of such Sublot, only walks, driveways, grass, shrubs, ornamental plantings and post lights shall be permitted. No tent, trailer, shack, barn or other out-building, nor any form of living quarters of a temporary nature shall be placed or permitted to remain on any Sublot, except as specifically provided herein. No more than one Living Unit may be erected on any Sublot.
- (B) No building or other structure shall be erected until the plans, working drawings with all elevations reflected thereon, and specifications, including a plot plan showing the location of the buildings or other structure, terraces, patios, walls, fences, driveways, property lines and setbacks, is submitted to and approved by the Design Review Committee. No alteration in the exterior appearance of any building or structures shall be made without like approval. The exterior appearance of the main building and other buildings on a Sublot shall be the same. The issuance of a building permit by Cuyahoga County or the City of Broadview Heights shall not preclude or limit the enforcement of these provisions.
- (C) While it is anticipated that most Living Units will be larger, no Living Unit shall contain less than the following square footages, exclusive of unfinished basements, open porches and attached garages:
- (i) One (1) story without basement 2,100 square feet.
 - (ii) One (1) story with basement 2,000 square feet.
 - (iii) Two (2) story without basement 2,500 square feet.
 - (iv) Two (2) story with basement 2,400 square feet.

The area of any Living Unit shall be computed on the outside foundation of the first floor and the exterior dimensions of the second floor, and shall exclude garages, crawl spaces and basements. In case of open ceilings to the second floor, the upper open space may be computed as second floor footage. In no event shall washers and/or dryers be allowed in any garage or other area except in a basement or a utility room for such purpose. All basements shall have a floor area of at least fifty percent (50%) of the floor area of the first floor.

- (D) All garages shall be attached to the Living Unit. All garages shall be equipped with electric door operators.

- (E) No fence or other device installed for the purpose of separating Sublots (other than natural shrubbery) shall be maintained on any Sublot, unless the same has been approved in writing by the Design Review Committee.
- (F) Each Owner shall, at his expense, furnish and install at least two (2) living shade trees with a minimum caliper of 2 1/2" upon each Sublot at such locations as are approved by the Design Review Committee, unless the Committee determines that the Sublot has sufficient existing shade trees. Such trees shall be selected from the following varieties: Littleleaf Linden, Crimson King Maple, Summer Shade Maple, Sugar Maple, October Glory Maple, Red Sunset Maple, London Planetree, Red Oak, Shumardi Oak and Sweetgum.
- (G) Each Owner shall have his Sublot fully landscaped within three (3) months after taking possession of his Living Unit, including lawn, two (2) shade trees and foundation shrubbery.
- (H) All driveways shall be asphaltic type (blacktop) or concrete and shall be installed within six (6) months after the Owner takes possession of his Living Unit. No gravel driveways shall be allowed.
- (I) All materials for construction are subject to the approval of the Design Review Committee and shall be appropriate to the style of architecture.
- (J) Glass block, concrete block or similar materials shall not be permitted as an exterior material.
- (K) Exposed portions of foundation walls shall be brick or stone.
- (L) Roofs shall be of slate, wood shingles or shakes, fiberglass shingles, or asphalt shingles. Flat porch roofs may have composition built-up roofing.
- (M) All buildings shall have a sloping roof with a minimum pitch of 6 to 12 and a maximum of 15 to 12. The highest point of the roof shall be considered at the ridge pole, which shall be located near the center line of the building, and the roof shall fall toward the outside of the exterior perimeter of the building, the low line of the roof shall parallel the exterior perimeter. Cornices on roof overhangs shall not extend beyond the wall less than twelve (12) inches and more than eighteen (18) inches except in special cases where the extension serves the purpose of shelter over a doorway, or where the extension is made pursuant to an authentic replication of a historic dwelling and such extension is approved by the Design Review Committee.

- (N) All structures shall be provided with gutters and downspouts.
- (O) The architectural style of all homes shall be that of the traditional American homes such as Williamsburg, Western Reserve Victorian, or Georgetown styles. All accessory buildings shall be of the same architectural style as the main Living Unit and shall be of the same material.
- (P) No television or radio antenna, transmitter, receiver or other communications device shall be erected upon any building, structure or Sublot unless its design and location have been previously approved by the Design Review Committee of the Association.
- (Q) All exterior air-conditioning units shall be placed at the rear of a Living Unit and no air-conditioner shall protrude from the sides or the front of a Living Unit.
- (R) Dormers and other architectural features shall face the street.

Section 2 - Minimum Use Standards

- (A) No sign or other advertising device of any nature shall be placed upon any portion of the Property except for signs and advertising devices installed by or at the direction of the Design Review Committee, or which the Design Review Committee approves as to color, location, nature, size and similar characteristics.
- (B) No animals, livestock or poultry of any kind shall be raised, bred or kept for commercial purposes, nor shall any Sublot be used for any other commercial purposes whatsoever, nor shall the same be used in any way or for any purpose which may endanger the health, or unreasonably disturb the quiet, of any Owner of any other Sublot.
- (C) Temporary structures or trailers of any kind are prohibited provided, however, that this restriction shall not prohibit construction trailers or temporary construction structures used in connection with the building of an Owner's home. Recreational vehicles, truck campers, commercially plated vehicles, motor homes, trailers, boat trailers, and the like shall not be kept or stored on any Sublot unless fully contained within an enclosed garage.
- (D) All garbage and trash receptacles, oil or bottled gas tanks, and similar containers shall be inside of a structure, placed underground or screened so that they shall not be visible by any person not physically present on the Sublot.
- (E) No outdoor clothes drying shall be permitted where it is visible by any person not physically present on the Sublot.

- (F) No unsightly growth such as weeds, underbrush or the like shall be permitted to grow or remain upon any lot and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. The natural wooded and ground cover conditions or portions of the Sublot may remain, provided that they are aesthetically pleasing to the appearance of the Subdivision as a whole. In the event that any Owner shall fail or refuse to keep his Sublot free from weeds, underbrush or refuse piles, or other unsightly growths of objects, the Declarant or MacIntosh Farms Community Association, Inc., an Ohio non-profit corporation ("Master Association") shall have the right upon fourteen (14) days written notice to the offending Sublot Owner, to remove the same at the expense of the Owner and to add such expense to the assessment charged to the Sublot.
- (G) Maintenance, Repair and Nuisance. All structures and premises shall be maintained neatly and in good repair. No activity shall be carried on which constitutes an annoyance or nuisance.
- (H) Parking of Trucks and Temporary Repair of Vehicles. No trucks (other than two axel trucks with no more than four tires) shall be parked in front of or on any premises except in an enclosed structure. No Owner shall make repairs to a vehicle of any kind in front of or on any premises except in an enclosed structure.
- (I) Trash and Garbage. No Owner shall allow trash or garbage to accumulate on any premises except in containers that are emptied periodically.
- (J) Mail Boxes. Mail boxes and newspaper containers shall be permitted provided that their style and location has been approved in advance by the Design Review Committee.
- (K) Trade or Business. No Owner shall carry on or permit to be carried on, any trade, business or profession which can be perceived in any manner by any person, not physically present on the Sublot upon which such trade, business or profession is being carried on.
- (L) Motorized Recreational Equipment And Vehicles. No Owner shall operate, or permit to be operated, any motorized recreational equipment or vehicle, including but not limited to, any motorcycle, motorbike, snowmobile or all-terrain vehicle, over or upon a Sublot or an Open Space or other Common Area. This provision, however, shall not be deemed to prohibit the use of tools, lawncare or landscaping equipment in the normal course of maintaining a Sublot or the improvements situated thereon.

Section 3 - Design Control Procedures

The following outline has been prepared by Declarant, to assist in the approval process of architectural designs and sitings of each house to be built in the Subdivision:

- (A) Prior to submitting plans to the City of Broadview Heights for approval, the applicant shall submit to the Design Review Committee at least two (2) complete sets of plans prepared by a qualified architect, said plan to include the following:
- (i) a siting plan showing the home type; set back, building heights; lot elevations; driveway location; and location of services and utilities;
 - (ii) floor plans;
 - (iii) elevations of front, rear and sides, indicating materials and colors to be used;
 - (iv) grading plan and drainage plans; and
 - (v) landscape plan.
- (B) The Design Review Committee shall review the plans to determine their compliance with the provisions of the Minimum Building Standards and may request such additional information as the Design Review Committee reasonably requires for its determination.
- (C) The Design Review Committee shall consider such variations, omissions and exceptions from the provisions of the Minimum Building Standards as may be requested in writing by the applicant and may, by the affirmative vote of a majority of its members, authorize such variations, omissions and exceptions as the Design Review Committee, in its discretion, finds to be necessary due to the size, shape, vegetation, or topography of the Sublot; or the existence of other buildings or structures.
- (D) At the conclusion of its review, the Design Review Committee shall either approve or disapprove such plans and specifications by majority vote of its members and shall promptly notify the applicant in writing of its action.
- (E) Approval by the Design Review Committee shall be independent of any approvals required by State statute or municipal ordinance and it shall be the sole responsibility of the applicant to obtain all necessary permits as required by law.
- (F) In the event the Design Review Committee fails to conditionally or unconditionally approve or disapprove of the plans and specifications within a period of thirty (30) days after the plans and specifications have been submitted to it, approval hereunder shall not be required and this Section shall be deemed to have been fully complied with.

Section 4 - Declarant Reservation

- (A) Declarant further reserves for itself, its successors and assigns, the right to permit deviation or grant a variance from, or to change, waive, amend or modify any and all of the covenants, conditions and restrictions contained in this document, if in its sole judgment, the

development or lack of development or topography of the land involved in Declarant's judgment makes such course of action necessary or advisable, with the understanding that the Declarant herein may assign or relinquish the power herein reserved in the event it decides to do so.

- (B) The Declarant further reserves for itself, its successors and assigns, the right at any time and from time to time to amend these Covenants and Restrictions for the purpose of: (1) complying with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (2) including any of such agencies' or entities' right to make, purchase, sell, insure, or guarantee first mortgages; or (3) correcting clerical or typographical errors in these Covenants and Restrictions. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to vote in favor of, make, or consent to any such amendment on behalf of the owner of a Sublot as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Sublot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of the power to the Declarant to vote in favor of, make and record of any such amendment. To effect such amendment, Declarant shall file a supplement to these Covenants and Restrictions setting forth the amendment(s) which shall be signed by Declarant and shall be effective upon the filing of said supplement with the Cuyahoga County Recorder.

Section 5 - Assignability by Declarant

The Declarant, and its successors, shall have the right from time to time to assign all or any part of its rights as the Declarant under this Declaration, provided that a deed or other writing as shall be selected by Declarant, in Declarant's sole discretion, shall expressly state that the rights of the Declarant are being so assigned. Any such assignment may provide that said assignee shall have the rights of the Declarant set forth in this Declaration.

Section 6 - Arbitration

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

Section 7 - Duration

The herein enumerated covenants, conditions and restrictions shall be deemed to run with the land and not as conditions hereof and shall remain effective until January 1, 2014, on which date and at ten (10) year intervals thereafter, they shall be automatically extended, unless the owners of two-thirds (2/3) of the Sublots in the Subdivision by appropriate instrument recorded in the Cuyahoga County Recorder's Office have agreed to the amendment or termination thereof.

Section 8 - Enforcement

The violation of any restriction, covenant or provision contained in this Declaration shall give the Declarant and/or the Master Association the right, in addition to all other rights herein set forth and those provided by law, (a) to enter upon the Living Unit or portion thereof upon which, or as to which, such violation or breach exists and summarily abate and remove, at the expense of the owner of the Sublot where the violation exists, any structure, thing, or condition that may exist thereon, contrary to the intent and meaning of this Declaration, without being deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; and/or (c) to commence and prosecute an action to recover any damages which may have been sustained by the Declarant, the Master Association or the owner of a Sublot. In addition to the remedies set forth above, an owner of a Sublot violating this Declaration shall be responsible for costs of suit, legal interest on damages and reasonably attorneys' fees.

Section 9 - Severability; Conflict

The invalidation of any part of the covenants, conditions and restrictions contained in this instrument shall in no way affect the remainder thereof and the same shall continue in full force and effect. Furthermore, in the event of a conflict between the provisions of this Declaration and the provisions of the Master Declaration, the more restrictive provisions shall govern.

DECLARANT:

ZAREMBA MacINTOSH CO., an Ohio
corporation

In the presence of:

Renee R. Stokes
Bandra Sheppard

By: 

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named ZAREMBA MacINTOSH CO., an Ohio corporation, by Kenneth B. Green, its President, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed of said corporation and his free act and deed personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Lakewood, Ohio, this 13th day of March, 1989.

Rose M. Pudimat
NOTARY PUBLIC

This Instrument Prepared By:

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

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FIRST SUPPLEMENT TO MASTER DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS OF MacINTOSH FARMS, A PLANNED RESIDENTIAL COMMUNITY

THIS FIRST SUPPLEMENT TO DECLARATION ("First Supplement") made as of the 9th day of May, 1989 by ZAREMBA-MacINTOSH CO., an Ohio corporation (the "Declarant").

PREAMBLE

A. On or about August 6, 1986 Declarant recorded a document entitled Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, A Planned Residential Community ("Master Declaration"), the Master Declaration being recorded in Volume 86-4890, Page 60 of Cuyahoga County Records. Unless otherwise expressly provided herein, the capitalized terms used herein shall have the same meaning as defined in the Master Declaration.

B. Section 15.11 of the Master Declaration reserved unto the Declarant the right to amend, modify or waive the provisions of the Master Declaration if in its judgment the purposes of the general plan of the Dwelling Units will be better served by such modification, provided no such amendment, modification or waiver shall materially and adversely affect the value of existing Dwelling Units or shall prevent a Dwelling Unit from being used by an Owner in the same manner that said Dwelling Unit was used prior to the adoption of said amendment, modification or waiver.

C. Exhibit "D" of the Master Declaration sets forth the legal descriptions of the Recreation Property and two (2) parcels situated at the Broadview Road/MacIntosh Lane entrance of the Property.

D. The Declarant, in accordance with the provisions of Section 15.11 of the Master Declaration, desires to amend the legal descriptions set forth in Exhibit "D" of the Master Declaration.

NOW, THEREFORE, pursuant to the provisions of Section 15.11 of the Master Declaration, the Declarant hereby supplements and amends the Master Declaration by deleting the real property described as Exhibit "D" therein and substitutes in lieu thereof the real property described in Exhibit "D" attached hereto and made a part hereof.

Except as otherwise provided, the provisions of the Master Declaration shall remain in full force and effect.

This document should not be used by U S Title as an accommodation only. It has not been examined as to its execution or as to its effect upon title.

Rec'd 89-122

IN WITNESS WHEREOF, Zaremba-MacIntosh Co. has signed this documents this 4th day of May, 1989.

Signed in the presence of:

ZAREMBA-MacINTOSH CO., an Ohio corporation

Stephanie Lemley
Marie Makuni

By: [Signature]
Nathan Zaremba Vice President
"Declarant"

STATE OF OHIO)
) ss:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said county and state, personally appeared the above-named ZAREMBA-MacINTOSH CO., an Ohio corporation, by Nathan Zaremba, its Vice President, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said corporation and his free act and deed personally and as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 4th day of May, 1989.

Stephanie Lemley
NOTARY PUBLIC

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

STEPHANIE LEMLEY
Notary Public, State of Ohio
Recorded in Cuyahoga Cty.
My Comm. Expires 09-29-92

The undersigned hereby approves this First Supplement.

MacINTOSH FARMS COMMUNITY ASSOCIATION, INC.

By: [Signature]

ZAREMBA-MacINTOSH CO., an Ohio corporation

By: NATHAN ZAREMBA,
Attorney-in-fact for Owners pursuant
to Section 15.11 of the Master
Declaration

poly systems corporation

7835 Broadview Road
 Cleveland, Ohio 44131
 216/524-9098

- Environmental Systems Design
- Zoning Studies / Land Use Planning
- Construction Contractor's Support Services

ENTRANCE PARCEL SITUATED ON THE NORTH SIDE OF
 MacINTOSH LANE AT THE INTERSECTION OF BROADVIEW ROAD

LEGAL DESCRIPTION
 OF A PARCEL OF LAND
 TO BE SUBDIVIDED FROM PERMANENT PARCELS
 SBS-010-002 AND SBS-016-001
 BROADVIEW HEIGHTS, OHIO

Parcel "A"

Situated in the City of Broadview Heights, County of Cuyahoga and State of Ohio, and known as being part of Original Royalton Township Lot Number 25, further known as being part of a parcel of land conveyed to Zarembo-MacIntosh Co. by deed recorded in Volume 86-1442, Page 34 of the Cuyahoga County Deed Records, further bounded and described as follows:

Beginning at a point on the centerline of Broadview Road (60 feet wide), at its intersection with the easterly prolongation of the northerly right-of-way line of MacIntosh Lane, said point being 1784.84 feet distant from the intersection of said centerline and the centerline of Boston Road (60 feet wide) as measured along the centerline of Broadview Road, said point also being the PRINCIPAL PLACE OF BEGINNING;

Thence South-89°-03'-05"-West along said easterly prolongation and northerly right-of-way line a distance of 178.97 feet to a point of curvature thereon;

Thence along said northerly right-of-way line along the arc of a curve deflecting to the left, having a radius of 780.00 feet and a chord of 220.61 feet which bears South-80°-55'-17"-West a distance of 221.36 feet to a point of reverse curvature thereon;

Thence along said northerly right-of-way line along the arc of a curve deflecting to the right, having a radius of 720.00 feet and a chord of 29.00 feet which bears South-73°-56'-43"-West a distance of 29.00 feet to a point, said point also being the southeast corner of Phase I, Parcel "A" of MacIntosh Farms Condominium No. 1, as recorded in Volume 61, Page 75 of the Cuyahoga County Condominium Map Records;

Thence North-14°-54'-03"-West along the easterly line of said Parcel "A" a distance of 57.00 feet to a southerly corner of Phase III, Parcel "C" of MacIntosh Farms Condominium No. 1, as recorded in Volume 64, Page 00-23 of the Cuyahoga County Condominium Map Records;

Thence North-56°-58'-42"-East along an easterly line of said Parcel "C" a distance of 71.17 feet to an easterly corner thereof;

Thence North-23°-43'-05"-East along an easterly line of said Parcel "C" a distance of 100.00 feet to the most easterly corner

Legal Description
Of a Parcel Of Land To Be Subdivided
from Permanent Parcels 585-010-002 and 585-016-001
Parcel "A"
Page Two

Thence North-66°-16'-55"-West along a northerly line of said Parcel "C" a distance of 75.00 feet to an interior corner thereof;

Thence North-01°-16'-55"-West along an easterly line of said Parcel "C" a distance of 39.00 feet to an angle point thereon;

Thence North-03°-20'-39"-West along an easterly line of said Parcel "C" a distance of 82.17 feet to the southwesterly corner of Phase V, Parcel "A" of MacIntosh Farms Condominium No. 1;

Thence North-89°-03'-05"-East along the southerly line of said Parcel "A" a distance of 88.95 feet to the southeasterly corner thereof, said point also being the southwesterly corner of Phase vi, Parcel "F" of MacIntosh Farms Condominium No. 1;

Thence South-62°-42'-39"-East along the southerly line of said Parcel "F" a distance of 104.29 feet to the southeasterly corner thereof, said point also being the northwesterly corner of a parcel of land conveyed to Edward F. and P.L. Zastawny by deed recorded in Volume 13846, Page 349 of the Cuyahoga County Deed Records;

Thence South-00°-30'-00"-East along the westerly line of said parcel of land and a parcel of land conveyed to T.L. Tibbitts by deed recorded in Volume 15314, Page 989 of the Cuyahoga County Deed Records a distance of 228.29 feet to the southwest corner of land so conveyed to T.L. Tibbitts;

Thence North-89°-03'-05"-East along the southerly line of land so conveyed to T.L. Tibbitts a distance of 180.16 feet to a point of curvature thereon;

Thence along said southerly line along the arc of a curve deflecting to the left, having a radius of 20.00 feet and a chord of 28.17 feet which bears North-44°-16'-33"-East a distance of 31.26 feet to a point on the westerly right-of-way line of Broadview Road (60 feet wide);

Thence North-89°-03'-05"-East, perpendicular to said westerly right-of-way line a distance of 30.00 feet to a point on the centerline of said Broadview Road;

Legal Description

Of a Parcel Of Land To Be Subdivided
from Permanent Parcels 585-010-002 and 585-016-001
Parcel "A"
Page Three

Thence South-00°-30'-00"-East along said centerline a distance of
39.84 feet to the PRINCIPAL PLACE OF BEGINNING and containing 1.2486
acres of land, be the same more or less but subject to all legal
highways.

January 18, 1989
psc Project Number 7533

7835 Broadview Road
Cleveland, Ohio 44131
216/524-9098

- Environmental Systems Design
- Zoning Studies & Land Use Planning
- Construction Contractor's Support Services

ENTRANCE PARCEL SITUATED ON THE SOUTH SIDE OF
MacINTOSH LANE AT THE INTERSECTION OF BROADVIEW ROAD

LEGAL DESCRIPTION
OF A PARCEL OF LAND TO BE SUBDIVIDED
FROM PERMANENT PARCEL SBS-016-001
BROADVIEW HEIGHTS, OHIO

Parcel "B"

Situated in the City of Broadview Heights, County of Cuyahoga and State of Ohio, and known as being part of Original Royalton Township Lot Number 25, further known as being part of a parcel of land conveyed to Zaremba-MacIntosh Co. by deed recorded in Volume 86-1442, Page 34 of the Cuyahoga County Deed Records, further bounded and described as follows:

Beginning at a point on the centerline of Broadview Road (60 feet wide), at its intersection with the easterly prolongation of the southerly right-of-way line of MacIntosh Lane as recorded in Volume 235, Page 78 of the Cuyahoga County Map Records, said point being 1664.84 feet distant from the intersection of said centerline and the centerline of Boston Road (60 feet wide) as measured along the centerline of Broadview Road, said point also being the PRINCIPAL PLACE OF BEGINNING;

Thence South-00°-30'-00"-East along said centerline a distance of 20.00 feet to a point thereon, said point also being the northeast corner of a parcel of land conveyed to Dennis M. Millard, et. al. by deed as recorded in Volume 83-0886, Page 62 of the Cuyahoga County Deed Records;

Thence South-89°-03'-05"-West, perpendicular to said centerline and along the northerly line of land so conveyed to Dennis M. Millard, et. al. a distance of 230.00 feet to the northwesterly corner thereof;

Thence South-00°-30'-00"-East along the westerly line of land so conveyed to Dennis M. Millard, et. al. a distance of 100.90 feet to the southwesterly corner thereof, said point also being on the northerly line of a parcel of land conveyed to Wm.&B.&M.&M. Kilarsky by deed as recorded in Volume 15679, Page 69 of the Cuyahoga County Deed Records;

Thence South-88°-47'-43"-West along the northerly line of land so conveyed to Wm.&B.&M.&M. Kilarsky a distance of 210.48 feet to the northwesterly corner thereof;

Thence South-00°-30'-00"-East along the westerly line of land so conveyed to Wm.&B.&M.&M. Kilarsky a distance of 39.69 feet to a point thereon; said point also being the southeast corner of Phase VI, Parcel "D" of MacIntosh Farms Condominium No. 1;

Thence South-89°-03'-05"-West along the Northerly line of said Parcel "D" a distance of 88.41 feet to an easterly corner of Phase IV, Parcel "B" of MacIntosh Farms Condominium No. 1;

Legal Description
 Of a Parcel Of Land To Be Subdivided
 from Permanent Parcel 585-016-001
 Parcel "B"
 Page Two

Thence North-61°-56'-55"-West along a northerly line of said Parcel "B" a distance of 48.82 feet to a northerly corner thereof;

Thence South-89°-03'-05"-West along the northerly line of said Parcel "B" a distance of 40.78 feet to a point;

Thence along the arc of a curve deflecting to the left, having a radius of 40.00 feet and a chord of 46.34 feet which bears North-18°-32'-54"-West a distance of 49.43 feet to a point;

Thence North-36°-03'-05"-East along an easterly line of Phase III, Parcel "A" of MacIntosh Farms Condominium No. 1 a distance of 65.18 feet to a northeasterly corner thereof;

Thence North-13°-56'-55"-West along an easterly line of said Parcel "A" a distance of 42.72 feet to a point, said point also being on the southerly right-of-way line of MacIntosh Lane (60 feet wide), as recorded in Volume 235, Page 78 of the Cuyahoga County Map Records;

Thence along said southerly right-of-way line along the arc of a curve deflecting to the left, having a radius of 780.00 feet and a chord of 156.00 feet which bears North-83°-18'-44"-East a distance of 156.26 feet to a point of reverse curvature thereon;

Thence continuing along said southerly right-of-way line along the arc of a curve deflecting to the right, having a radius of 300.00 feet and a chord of 135.87 feet which bears South-89°-20'-19"-East a distance of 137.06 feet to a point of reverse curvature thereon;

Thence continuing along said southerly right-of-way line along the arc of a curve deflecting to the left, having a radius of 360.00 feet and a chord of 92.10 feet which bears South-83°-35'-58"-East a distance of 92.35 feet to a point of tangency thereon;

Thence North-89°-03'-05"-East along said southerly right-of-way line and easterly prolongation thereof a distance of 215.64 feet to a point on the centerline of Broadview Road (60 feet wide), said point also being the PRINCIPAL PLACE OF BEGINNING and containing 1.3590 acres of land, be the same more or less but subject to all legal highways.

January 18, 1989
 psc Project Number 7533

7835 Broadview Road
Cleveland, Ohio 44131
16/524-9098

- Environmental Systems Design
- Zoning Studies - Land Use Planning
- Construction Contractor's Support Services

RECREATION AREA PARCEL SITUATED ON THE NORTH SIDE OF MacINTOSH LANE

LEGAL DESCRIPTION
OF A PARCEL OF LAND
TO BE SUBDIVIDED FROM PERMANENT PARCEL 585-016-002
BROADVIEW HEIGHTS, OHIO

Parcel "C":

Situated in the City of Broadview Heights, County of Cuyahoga and State of Ohio, and known as being part of Original Royalton Township Lot Number 25, further known as being part of a parcel of land conveyed to Zarembo-MacIntosh Co. by deed recorded in Volume 86-1442, Page 34 of the Cuyahoga County Deed Records, further bounded and described as follows:

Beginning at a point on the centerline of MacIntosh Lane (60 feet wide), as recorded in Volume 235, Page 78 of the Cuyahoga County Map Records, said point also being 1160.19 feet distant from the intersection of the centerline of MacIntosh Lane with the centerline of Broadview Road, State Route 176 (60 feet wide) as measured along the centerline of MacIntosh Lane;

Thence South-75°-00'-00"-West along said centerline a distance of 162.98 feet to a point thereon;

Thence North-15°-00'-00"-West, perpendicular to said centerline, a distance of 30.00 feet to a point on the northerly right-of-way line of MacIntosh Lane (60 feet wide); said point also being the PRINCIPAL PLACE OF BEGINNING;

Thence continuing along said right-of-way line South-75°-00'-00"-West a distance of 101.42 feet to a point of curvature thereon;

Thence continuing along said right-of-way line along the arc of a curve deflecting to the left, having a radius of 1030.00 feet and a chord of 147.47 feet which bears South-70°-53'-41"-West a distance of 147.60 feet to a point of reverse curvature thereon;

Thence continuing along said right-of-way line along the arc of a curve deflecting to the right, having a radius of 498.83 feet and a chord of 232.07 feet which bears South-80°-14'-26"-West a distance of 234.21 feet to a point of compound curvature thereon;

Thence continuing along said right-of-way line along the arc of a curve deflecting to the left, having a radius of 709.92 feet and a chord of 49.96 feet which bears North-84°-17'-31"-West a distance of 49.98 feet to a point thereon;

Thence North-18°-15'-42"-East a distance of 165.96 feet to a point;

Legal Description
Of a Parcel Of Land To Be Subdivided
From Permanent Parcel SBS-016-002
Parcel "C"
Page Two.

Thence North-01°-44'-00"-East a distance of 38.00 feet to a point;

Thence North-88°-16'-00"-West a distance of 28.00 feet to a point;

Thence North-01°-44'-00"-East a distance of 56.00 feet to a point;

Thence South-88°-16'-00"-East a distance of 28.00 feet to a point;

Thence North-01°-44'-00"-East a distance of 36.00 feet to a point;

Thence North-88°-24'-53"-East a distance of 381.88 feet to a point, said point also being the most northerly corner of Phase VI, Parcel "G" of MacIntosh Farms Condominium No. 1;

Thence South-24°-46'-38"-East along the westerly line of said Parcel "G" a distance of 155.67 feet to a point, said point also being the most westerly corner of Phase V, Parcel "C" of MacIntosh Farms Condominium No. 1;

Thence South-15°-00'-00"-East along the westerly line of said Parcel "C" a distance of 49.57 feet to a point on the northerly right-of-way line of MacIntosh Lane (60 feet wide); said point also being the PRINCIPAL PLACE OF BEGINNING and containing 2.6623 acres of land, be the same more or less but subject to all legal highways.

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January 18, 1989
psc Project Number 7533

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS IMPOSED UPON THE LANDS WITHIN MacINTOSH FARMS, BROADVIEW HEIGHTS, OHIO, THAT ARE BEING DEVELOPED AS RESIDENTIAL SUBDIVISIONS

THIS DECLARATION made this 9th day of May, 1995, by MacINTOSH LAND COMPANY LIMITED PARTNERSHIP, an Ohio limited partnership ("Declarant"), having its principal place of business at 868 Corporate Way, Westlake, Ohio 44145.

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real property ("Property") situated within the MacIntosh Farms Planned Residential Community in the City of Broadview Heights, County of Cuyahoga, State of Ohio as more fully described in Exhibit "A" attached hereto and made a part hereof;

WHEREAS, it is intended that the Property (the "Property") will be subdivided by Declarant and/or others into residential subdivisions ("Subdivisions") and that single-family homes ("Living Units") and other improvements will be constructed on the sublots ("Sublots") created within the Subdivisions;

WHEREAS, the Property and the balance of MacIntosh Farms has been submitted to a document entitled Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, a Planned Residential Community ("Master Declaration") recorded on August 6, 1986, in Volume 86-4890, Page 60 of Cuyahoga County Records (as supplemented and amended) and to the Bylaws of MacIntosh Farms Community Association, Inc., an Ohio non-profit corporation ("Master Association");

WHEREAS, Declarant desires to implement the Master Declaration pursuant to the terms of the same by imposing certain covenants, conditions and restrictions on the Property and the Subdivisions and Sublots to be created within the Property that shall be binding upon the purchaser of each Sublot, the owner of each Sublot, mortgagees or persons holding or entitled to any interest therein, and the respective heirs, executors, administrators, successors and assigns of any of them.

NOW, THEREFORE, Declarant, for the benefit of itself and its successors and assigns, and in consideration of the premises and for the purpose of implementing the provisions of the Master Declaration, does hereby make known, publish, declare, covenant and agree that the Property shall, in addition to any easements, rights-of-way, building and use restrictions, laws, ordinances and lawful requirements of the proper public authorities, be subject to the following covenants, conditions and restrictions, which shall hereafter be taken to be covenants running with the land and binding on all purchasers and/or owners of the Sublots, mortgagees or persons holding or entitled to hold any interest therein, and the respective heirs, executors, administrators, successors and assigns, and successors in title of any of them.

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Section I - Minimum Building Standards

- (A) Each Sublot shall be used only for private, single family residential purposes and only one single family residence with one attached car garage (two [2] car minimum, three [3] car maximum), shall be construed or permitted to remain on any one Sublot. Other buildings or structures may not be built, permitted to remain, maintained or altered on any Sublot without the prior written approval of the Design Review Committee ("Design Review Committee") established by the Master Declaration. In the area of a Sublot between the residence building located thereon and the street lines of such Sublot, only walks, driveways, grass, shrubs, ornamental plantings and post lights shall be permitted. No tent, trailer, shack, barn or other out-building, nor any form of living quarters of a temporary nature shall be placed or permitted to remain on any Sublot, except as specifically provided herein. No more than one Living Unit may be erected on any Sublot.
- (B) No building or other structure shall be erected until the plans, working drawings with all elevations reflected thereon, and specifications, including a plot plan showing the location of the buildings or other structure, terraces, patios, walls, fences, driveways, property lines and setbacks, is submitted to and approved by the Design Review Committee. No alteration in the exterior appearance of any building or structures shall be made without like approval. The exterior appearance of the main building and other buildings on a Sublot shall be the same. The issuance of a building permit by Cuyahoga County or the City of Broadview Heights shall not preclude or limit the enforcement of these provisions.
- (C) While it is anticipated that most Living Units will be larger, no Living Unit shall contain less than the following square footages, exclusive of unfinished basements, open porches and attached garages:
- (i) One (1) story without basement 2,100 square feet.
 - (ii) One (1) story with basement, 2,000 square feet.
 - (iii) Two (2) story without basement 2,500 square feet.
 - (iv) Two (2) story with basement 2,400 square feet.
- The area of any Living Unit shall be computed on the outside foundation of the first floor and the exterior dimensions of the second floor, and shall exclude garages, crawl spaces and basements. In case of open ceilings to the second floor, the upper open space may be computed as second floor footage. In no event shall washers and/or dryers be allowed in any garage or other area except in a basement or a utility room for such purpose. All basements shall have a floor area of at least fifty percent (50%) of the floor area of the first floor.
- (D) Each garage shall be attached to the Living Unit. All garages shall be equipped with electric door operators.

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- (E) No fence or other device installed for the purpose of separating Sublots (other than natural shrubbery) shall be maintained on any Sublot, unless the same has been approved in writing by the Design Review Committee.
- (F) Each Owner shall, at his expense, furnish and install at least two (2) living shade trees with a minimum caliper of 2 1/4" upon each Sublot at such locations as are approved by the Design Review Committee, unless the Committee determines that the subplot has sufficient existing shade trees. Such trees shall be selected from the following varieties: Littleleaf Linden, Crimson King Maple, Summer Shade Maple, Sugar Maple, October Glory Maple, Red Sunset Maple, London Planetree, Red Oak, Shumardi Oak and Sweetgum.
- (G) Each Owner shall have his or her Sublot fully landscaped within three (3) months after taking possession of his Living Unit, including the lawn, two (2) shade trees and foundation shrubbery, or as soon as weather will permit.
- (H) All driveways shall be asphaltic type (blacktop) or concrete and shall be installed within six (6) months after the Owner takes possession of his Living Unit. No gravel driveways shall be allowed.
- (I) All materials for construction are subject to the approval of the Design Review Committee and shall be appropriate to the style of architecture.
- (J) Glass block, concrete block or similar materials shall not be permitted as an exterior material.
- (K) Exposed portions of foundation walls shall be brick or stone.
- (L) Roofs shall be of slate, wood shingles or shakes, fiberglass shingles, or asphalt shingles. Flat port roofs may have composition built-up roofing.
- (M) All buildings shall have a sloping roof with a minimum pitch of 8 to 12 and a maximum of 15 to 12. The highest point of the roof shall be considered at the ridge pole, which shall be located near the center line of the building, and the roof shall fall toward the outside of the exterior perimeter of the building, the low line of the roof shall parallel the exterior perimeter. Cornices on roof overhangs shall not extend beyond the wall less than twelve (12) inches and more than eighteen (18) inches except in special cases where the extension serves the purpose of shelter over a doorway, or where the extension is made pursuant to an authentic replication of a historic dwelling and such extension is approved by the Design Review Committee.
- (N) All structures shall be provided with gutters and downspouts.

- (O) The architectural style of all homes shall be that of the traditional American homes such as Williamsburg, Western Reserve Victorian, or Georgetown styles. All necessary buildings shall be the same architectural style as the main Living Unit and shall be the same material.
- (F) No television or radio antenna, transmitter, receiver or other communications device shall be erected upon any building, structure or Sublot unless its design and location have been previously approved by the Design Review Committee.
- (Q) All exterior air-conditioning units shall be placed at the rear of a Living Unit and no air-conditioner shall protrude from the sides or the front of a Living Unit.
- (R) Dormers and other architectural features shall face the street.

Section 2 - Minimum Use Standards

- (A) No sign or other advertising device of any nature shall be placed upon any portion of the Property except for signs and advertising devices installed by or at the direction of the Design Review Committee, or which the Design Review Committee approves as to color, location, nature, size and similar characteristics.
- (B) No animals, livestock or poultry of any kind shall be raised, bred or kept for commercial purposes, nor shall any Sublot be used for any other commercial purposes whatsoever, nor shall the same be used in any way or for any purpose which may endanger the health, or unreasonably disturb the quiet, of any Owner of any other Sublot.
- (C) Temporary structures or trailers of any kind are prohibited provided, however, that this restriction shall not prohibit construction trailers or temporary construction structures used in connection with the building of an Owner's home. Recreational vehicles, truck campers, commercially placed vehicles, motor homes, trailers, boat trailers, and the like shall not be kept or stored on any Sublot unless fully contained within an enclosed garage.
- (D) All garbage and trash receptacles, oil or bottled gas tanks, and similar containers shall be inside of a structure, placed underground or screened so that they shall not be visible by any person not physically present on the Sublot.
- (E) No outdoor clothes drying shall be permitted where it is visible by any person not physically present on the Sublot.
- (F) No unsightly growth such as weeds, underbrush or the like shall be permitted to grow or remain upon any Sublot and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. The natural wooded and ground cover conditions on portions of the Sublot may remain; provided that

they are aesthetically pleasing to the appearance of a Subdivision as a whole. If any Owner shall fail or refuse to keep his Sublot free from weeds, underbrush or refuse piles, or other unsightly growths of objects, the Declarant or the Master Association shall have the right upon fourteen (14) days written notice to the offending Sublot Owner, to remove the same at the expense of the Owner and to add such expense to the assessment charged to the Sublot.

- (G) Maintenance, Repair and Nuisance. All structures and Sublots shall be maintained neatly and in good repair. No activity shall be carried on which constitutes an annoyance or nuisance.
- (H) Parking of Trucks and Temporary Repairs of Vehicles. No trucks (other than two [2] axle trucks with no more than four [4] tires) shall be parked in front of or on any Sublot except in an enclosed structure. No Owner shall make repairs to a vehicle of any kind in front of or on any Sublot except in an enclosed structure.
- (I) Trash and Garbage. No Owner shall allow trash or garbage to accumulate on any Sublot except in containers that are emptied periodically.
- (J) Mail Boxes. Mail boxes and newspaper containers shall be permitted provided that their style and location has been approved in advance by the Design Review Committee.
- (K) Trade or Business. No Owner shall carry on or permit to be carried on, any trade, business or profession which can be perceived in any manner by any person, not physically present on the Sublot upon which such trade, business or profession is being carried on or which violates any governmental ordinance.
- (L) Motorized Recreational Equipment and Vehicles. No Owner shall operate, or permit to be operated, any motorized recreational equipment or vehicle, including but not limited to, any motorcycle, motorbike, snowmobile or all-terrain vehicle, over or upon a Sublot or an Open Space or other Common Area. This provision, however, shall not be deemed to prohibit the use of tools, lawncare or landscaping equipment in the normal course of maintaining a Sublot or the improvements situated thereon.

Section 3 - Design Control Procedures

The following outline has been prepared by Declarant, to assist in the approval process of architectural designs and sitings of each house to be built in the Subdivision:

- (A) Prior to submitting plans to the City of Broadview Heights for approval, the applicant shall submit to the Design Review Committee at least two (2) complete sets of plans prepared by a qualified architect, said plans to include the following:

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- (i) a siting plan showing the home type; set back, building heights; lot elevations; driveway location; and location of services and utilities;
 - (ii) floor plans;
 - (iii) elevations of front, rear and sides, indicating materials and colors to be used (samples of exterior materials and colors to be submitted with plans);
 - (iv) grading plan and drainage plans; and
 - (v) landscape plan.
- (B) The Design Review Committee shall review the plans to determine their compliance with the provisions of the Minimum Building Standards and may request such additional information as the Design Review Committee reasonably requires for its determination.
- (C) The Design Review Committee shall consider such variations, omissions and excepts from the provisions of the Minimum Building Standards as may be requested in writing by the applicant and may, by the affirmative vote of a majority of its members, authorize such variations, omissions and exceptions as the Design Review Committee, in its discretion, finds to be necessary due to the size, shape, vegetation, or topography of the Sublot; or the existence of other buildings or structures.
- (D) At the conclusion of its review, the Design Review Committee shall either approve or disapprove such plans and specifications by majority vote of its members and shall promptly notify the applicant in writing of its action.
- (E) Approval by the Design Review Committee shall be independent of any approvals required by State statute or municipal ordinance and it shall be the sole responsibility of the application to obtain all necessary permits as required by law.
- (F) If the Design Review Committee fails to conditionally or unconditionally approve or disapprove of the plans and specifications within a period of thirty (30) days after the plans and specifications have been submitted to it, approval hereunder shall not be required and this Section shall be deemed to have been fully complied with.

Section 4 - Declarant Reservation.

- (A) Declarant further reserves for itself, its successors and assigns, the right to grant a variance from, or to change, waive, amend or modify any and all of the covenants, conditions and restrictions contained in this Declaration, if in its sole judgment, the development or lack of development or topography of the land involved in Declarant's judgment makes such course of action necessary or advisable, with the understanding that the Declarant herein may assign or relinquish the power herein reserved in the event it decides to do so.

- (B) The Declarant further reserves for itself, its successors and assigns, the right at any time and from time to time to amend these Covenants and Restrictions for the purpose of: (1) complying with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (2) including any of such agencies' or entities' right to make, purchase, sell, insure, or guarantee first mortgages; or (3) correcting obvious factual errors, or correcting clerical or typographical errors in these Covenants and Restrictions. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to vote in favor of, make, or consent to any such amendment on behalf of the owner of a Sublot as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Sublot and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of the power of the Declarant to vote in favor of, make and record of any such amendment. To effect such amendment, Declarant shall file a supplement to these Covenants and Restrictions setting forth the amendment(s) which shall be signed by Declarant and shall be effective upon the filing of said supplement with the Cuyahoga County Recorder.

Section 5 - Assignability of Declarant.

The Declarant, and its successors, shall have the right from time to time to assign all or any part of its rights as the Declarant under this Declaration, provided that a deed or other writing as shall be selected by Declarant, in Declarant's sole discretion, shall expressly state that the rights of the Declarant are being so assigned. Any such assignment may provide that such assignee shall have the rights of the Declarant set forth in this Declaration.

Section 6 - Arbitration.

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

Section 7 - Duration.

The herein enumerated covenants, conditions and restrictions shall be deemed to run with the land and not as conditions hereof and shall remain effective until January 1, 2025, on which date and at ten (10) year intervals thereafter, they shall be automatically extended, unless the owners of two-thirds (2/3) of the Sublots of the Subdivision by appropriate instrument recorded in the Cuyahoga County Recorder's Office have agreed to the amendment or termination thereof.

Section 8 - Enforcement

The violation of any restriction, covenant or provision contained in this Declaration shall give the Declarant and/or the Master Association the right, in addition to all other rights herein set forth and those provided by law, (a) to enter upon the Living Unit or portion thereof upon which, or as to which, such violation or breach exists and summarily abate and remove, at the expense of the owner of the Sublot where the violation exists, any structure, thing, or condition that may exist thereon, contrary to the intent and meaning of this Declaration, without being deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; and/or (c) to commence and prosecute an action to recover any damages which may have been sustained to the remedies set forth above, an owner of a Sublot violating this Declaration shall be responsible for costs of suit, legal interest on damages and reasonable attorneys' fees.

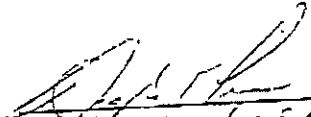
Section 9 - Severability: Conflict

The invalidation of any part of the covenants, conditions and restrictions contained in this instrument shall in no way affect the remainder thereof and the same shall continue in full force and effect. Furthermore, in the event of a conflict between the provisions of this Declaration and the provisions of the Master Declaration, the more restrictive provisions shall govern.

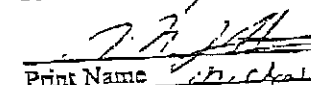
DECLARANT:

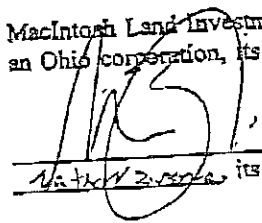
In the presence of:

MacINTOSH LAND COMPANY LIMITED PARTNERSHIP, an Ohio limited partnership


Print Name King Lee S. Kwon

BY: MacIntosh Land Investment Corporation, an Ohio corporation, its General Partner


Print Name Walter Z. Zwick

By: 
Walter Zwick its V.P. President

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COUNTY OF CUYAHOGA)

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SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named MacINTOSH LAND COMPANY LIMITED PARTNERSHIP; an Ohio limited partnership, by MacIntosh Land Investment Corporation, an Ohio corporation, its General Partner, by Richard A. Rosner, its Attorney, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said partnership and corporation and his free act and deed personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 7 day of MAY, 1995.



NOTARY PUBLIC
DOUGLAS F. CURRIE, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has an expiration date
Section 147.03 R.C.

This Instrument Prepared By:

Richard A. Rosner, Attorney at Law
Kahn, Kleiman, Yanowitz & Arnson Co., L.P.A.
Suite 2600, Tower at Erieview
1301 East Ninth Street
Cleveland, Ohio 44114
(216) 696-3311

The Reserve at
MacIntosh Farms
Phase 2

EXHIBIT "A"

LEGAL DESCRIPTION

Situated in the City of Broadview Heights, County of Cuyahoga, and State of Ohio, and known as being part of Original Royalton Township Lots 24 and 25, and bounded and described as follows:

Beginning at a point in the centerline of Orchard Lane, 60 feet wide, at its intersection with the northeasterly prolongation of the northwesterly line of Sublot 12 in The Reserve at MacIntosh Farms Phase 1, as shown by the recorded plat in Volume 271, Page 7 of Cuyahoga County Map Records, and from which point an iron monument found in the centerline of Orchard Lane bears South 53 degrees 33 minutes 41 seconds East, 379.87 feet;

Thence South 36 degrees 26 minutes 19 seconds West, 230.00 feet to a point;

Thence North 55 degrees 09 minutes 00 seconds West, 726.09 feet to a point;

Thence North 37 degrees 48 minutes 57 seconds West, 200.00 feet to a point;

Thence southwesterly along the arc of a curve deflecting to the right, 41.65 feet to a point, said arc having a radius of 1430.00 feet and a chord which bears South 53 degrees 01 minutes 06 seconds West, 41.65 feet;

Thence North 36 degrees 08 minutes 50 seconds West, 260.00 feet to a point;

Thence North 34 degrees 23 minutes 24 seconds West, 175.71 feet to a point;

Thence southwesterly along the arc of a curve deflecting to the right, 2.99 feet to a point, said arc having a radius of 810.00 feet and a chord which bears South 66 degrees 19 minutes 53 seconds West, 2.99 feet;

Thence North 23 degrees 33 minutes 46 seconds West, 233.04 feet to a point;

Thence North 81 degrees 11 minutes 49 seconds East, 177.31 feet to a point;

Thence North 69 degrees 44 minutes 52 seconds East, 60.00 feet to a point;

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The Reserve at
MacIntosh Farms
Phase 2

EXHIBIT "A" CONTINUED

Thence southeasterly along the arc of a curve deflecting to the left, 36.14 feet to a point, said arc having a radius of 40.00 feet and a chord which bears South 22 degrees 28 minutes 44 seconds East, 36.13 feet;

Thence North 65 degrees 17 minutes 40 seconds East, 222.18 feet to a point;

Thence South 37 degrees 50 minutes 45 seconds East, 418.89 feet to a point;

Thence South 46 degrees 59 minutes 17 seconds East, 128.43 feet to a point;

Thence South 62 degrees 30 minutes 45 seconds East, 402.08 feet to a point;

Thence South 41 degrees 37 minutes 14 seconds East, 302.70 feet to a point;

Thence southwesterly along the arc of a curve deflecting to the left, 98.89 feet to a point, said arc having a radius of 135.00 feet and a chord which bears South 44 degrees 53 minutes 41 seconds West, 98.53 feet;

Thence South 36 degrees 26 minutes 19 seconds West, 85.00 feet to a point;

Thence southwesterly along the arc of a curve deflecting to the right, 39.27 feet to a point, said arc having a radius of 25.00 feet and a chord which bears South 81 degrees 26 minutes 19 seconds West, 35.36 feet;

Thence South 53 degrees 33 minutes 41 seconds East, 66.90 feet to a point in the northwesterly line of Orchard Lane;

Thence South 36 degrees 26 minutes 19 seconds West along the northwesterly line of Orchard Lane, 10.00 feet to the place of beginning, and containing 15.8127 acres of land as described by Donald G. Bohning & Associates, Inc. in May, 1995, and further known as being The Reserve at MacIntosh Farms Phase 2 (proposed).

AMENDED AND RESTATED

FIRST AMENDMENT TO THE BYLAWS
OF
MacINTOSH FARMS COMMUNITY ASSOCIATION, INC.,

An Ohio Non-Profit Corporation

This Amended and Restated First Amendment to the Bylaws of Macintosh Farms Community Association hereby completely and entirely supplants and replaces a previous version that was recorded July 29, 2003 as Instrument No. 200307291248 of Cuyahoga County Records.

WHEREAS, ZAREMBA-MacINTOSH CO., an Ohio corporation, ("Zaremba-MacIntosh") as "Declarant" therein, filed for record the Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, a Planned Residential Community, Broadview Heights, Ohio (the "Master Declaration") on August 6, 1986 as Vol. 86-4890, Page 60 et seq., Cuyahoga County Records; and

WHEREAS, Zaremba-MacIntosh also caused to be formed the MacINTOSH FARMS COMMUNITY ASSOCIATION, INC., as an Ohio non-profit corporation, (hereinafter referred to as the "Master Association") to regulate, administer and govern the Property subject to the Master Declaration; and

WHEREAS, contemporaneously with the preparation of the Master Declaration Zaremba-MacIntosh prepared the BYLAWS of MacINTOSH FARMS COMMUNITY ASSOCIATION, INC. (hereinafter the "Bylaws") to provide the terms and conditions of operation of the Master Association; and

WHEREAS, MacINTOSH DEVELOPMENT CORPORATION, an Ohio corporation, (hereinafter referred to as the "Declarant") is the successor in interest as Declarant to Zaremba-MacIntosh as Declarant under the Master Declaration and Bylaws; and

WHEREAS, Article II, Section 11 of the Bylaws provides that the presence in person or proxy of one-third of the Members of the Association shall constitute a quorum at all meetings of the Association; and

WHEREAS, the Declarant desires to reduce the quorum requirement to make it easier to conduct Association business by permitting smaller meetings and reducing the need for canceling meetings if a quorum is not reached; and

WHEREAS, Article III, Section 2 of the Bylaws provides that the Board of Trustees of the Master Association shall be selected by the Declarant for so long as the Class B Membership (as provided for in the Master Declaration) exists, unless the Declarant shall earlier surrender this right to select the Board Members; and

WHEREAS, although the Class B Membership has not yet terminated, the Declarant now desires to surrender the right to select Board Members to the Class A Members; and

WHEREAS, Article III of the Bylaws further includes provisions regarding the composition of the Board of Trustees of the Master Association, including provisions governing the number of Board Members, the election of Board Members, and the term of office of such Board Members; and

WHEREAS, the Declarant (as the Class B Member), and a majority of the Class A Members desire to amend the provisions of the Bylaws regarding the composition of the Board of Trustees of the Master Association as herein provided; and

WHEREAS, Article VII, Section 6 of the Bylaws provides that the Bylaws may be amended by the affirmative vote (in person or by proxy) or written consent of Members representing a majority of the total votes of the Master Association, which, while the two class voting structure is still in effect, shall include a majority of each class of Members; and

WHEREAS, a previous version of this First Amendment to the Bylaws of Macintosh Farms Community Association that erroneously omitted the provisions herein regarding a quorum was recorded July 29, 2003 as Instrument No. 200307291248 of Cuyahoga County Records, and this Amended and Restated First Amendment to the Bylaws of Macintosh Farms Community Association hereby completely and entirely supplants and replaces said earlier version.

NOW, THEREFORE, the Master Association, pursuant to the authority of a majority of the voting power of the Class A Members of the Master Association, and upon the approval of the sole Class B Member, hereby declares that the Bylaws be and are hereby supplemented and amended as follows (unless otherwise expressly provided herein, the capitalized terms used herein shall have the same meanings as defined in the Master Declaration and Bylaws):

1. Article II, Section 11 is hereby deleted in its entirety and replaced with the following:

Section 11. Quorum. Except as otherwise provided in these Bylaws or in the Master Declaration, those Members present at a meeting of the Association in person or by proxy shall constitute a quorum at all meetings of the Association. Any provision in the Master Declaration concerning quorums is specifically incorporated herein.
2. Declarant, as the sole Class B Member, and pursuant to the right to do so provided in Article III, Section 2 of the Bylaws, hereby surrenders to the Class A Members the right to select the Board Members of the Master Association in accordance with the provisions of the Master Declaration and the Bylaws (as hereby amended). Declarant specifically retains all other rights vested in Declarant as the sole Class B Member of the Master Association.
3. Notwithstanding the Declarant's surrender of the right to select the Board Members of the Master Association to the Class A Members, and notwithstanding the fact that the Declarant continues as the sole Class B Member of the Master Association, Declarant shall have, from the date hereof until such time as such right is terminated in accordance

with the provisions of Article III, Section 3 of the Bylaws, full veto power over all actions of the Board and the Modifications Committee, as is more fully provided in said Article III, Section 3 of the Bylaws.

4. Article III, Section 4 of the Bylaws is hereby deleted in its entirety and replaced with the following:

Section 4. Number of Board Members. The number of Board Members in the Association shall be five (5).

5. Article III, Section 6 of the Bylaws is hereby deleted in its entirety and replaced with the following:

Section 6. Election and Term of Office. Within thirty (30) days after the execution of this Amended and Restated First Amendment to Bylaws the Association shall call a special meeting to be held at which the Members other than the Declarant shall elect the five (5) Board Members. The composition of the Board elected by the Members other than the Declarant, and the initial and subsequent terms of office of the Board Members so elected, shall be as follows:

- (a) Composition of Board. The five (5) Board Members shall be elected to represent three (3) Electoral Districts as follows:

(i) Two (2) Board Members (the "Condominium Board Members") shall be elected to represent the Owners of Condominium Units within the Property which are within the Electoral District to be comprised of the following four (4) Condominium Developments; MacIntosh Farms Condominium No. 1, MacIntosh Farms Condominium No. 2, MacIntosh Farms Condominium No. 3, and The Villas of MacIntosh Farms Condominium. The two (2) Condominium Board Members shall be Owners (or spouses of Owners) of Condominium Units, and may be from the same, or different, Condominium Developments. Only those Members who are Owners within the Condominium Developments shall vote for the Condominium Board Members. Each such Member may vote for two (2) Condominium Board Members at the initial election of such Board Members.

(ii) Two (2) Board Members (the "Cluster Home Board Members") shall be elected to represent the Owners of Living Units within the Property which are within the Electoral District to be comprised of the following two (2) Cluster Home Developments; The Villas of MacIntosh Farms Cluster Development, and Barnsley Way Cluster Development. The two (2) Cluster Home Board Members shall be Owners (or spouses of Owners) of cluster homes, and may be from the same, or different, Cluster Home Developments. Only those Members who are Owners within the Cluster Home Developments shall vote for the Cluster Home Board Members. Each such Member may vote for two (2) Cluster Home Board Members at the initial election of such Board Members.

- (iii) One (1) Board Member (the "Single Family Board Member") shall be elected to represent the Owners of Living Units within the Property which are within the Electoral District to be comprised of all Living Units which are single family homes and which are not within a Condominium Development or Cluster Home Development represented by the Condominium Board Members or Cluster Home Board Members. The Single Family Board Member shall be the Owner (or spouse of an Owners) of a single family home. Only those Members who are Owners of such single family homes shall vote for the Single Family Board Member.

In the election of the initial Condominium Board Members and the initial Cluster Home Board Members, the two (2) such candidates receiving the most votes in each category shall be elected as such Board Member. In all other elections where only one (1) Board Member is being elected, the candidate receiving a majority vote shall be elected, and, in the event no candidate receives a majority vote at the first balloting, a run-off shall be held at such meeting between the top two (2) candidates.

- (b) Terms of Office. Upon the initial election of the Board Members by the Members other than the Declarant, the initial terms of the Board Members shall be as follows:

Condominium Board Member A	-	1 year initial term
Condominium Board Member B	-	2 year initial term
Cluster Home Board Member A	-	1 year initial term
Cluster Home Board Member B	-	2 year initial term
Single Family Board Member	-	3 year initial term

The Board Members shall among themselves agree which Board Members serve one (1) year initial terms and which serve two (2) year initial terms. In the absence of such agreement, the terms shall be determined by the flip of a coin. At the expiration of the initial terms of office of each Board Member, Board Members shall then be elected to serve terms of three (3) years each. The Board Members shall hold office until their respective successors shall have been elected by the Association.

6. Except as amended herein, the Bylaws shall remain in full force and effect.

IN WITNESS WHEREOF, the Association hereby certifies that this Amended and Restated First Amendment has been approved by a majority of the voting power of the Class "A" Members of the Association. The Association and the Declarant have caused their names to be signed to this Amended and Restated First Amendment this 27th day of August, 2003.

ASSOCIATION:

MacINTOSH FARMS COMMUNITY
ASSOCIATION, INC.,
a Ohio non-profit corporation

By: [Signature], its President

Print: Nathan Zaremba

By: _____, its Secretary

Print: _____

DECLARANT:

MacINTOSH DEVELOPMENT CORPORATION
an Ohio corporation

By: [Signature]
Nathan Zaremba, President

STATE OF OHIO)

) SS:

COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named MacINTOSH FARMS COMMUNITY ASSOCIATION, INC., a non-profit Ohio corporation, by Nathan Zaremba, its President, and by _____, its Secretary, who acknowledged that they executed the within instrument and that such execution was the free act and deed of said corporation and was their free act and deed both individually and in their capacity as officers of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal this 27th day of August, 2003.

[Signature]


NOTARY PUBLIC

Linda J. Mengelkamp
Notary Public State of Ohio
Recorded In Lake County
Commission Expires April 19 2006

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named MacINTOSH DEVELOPMENT CORPORATION, an Ohio corporation, by Nathan Zaremba, its President, who acknowledged that he executed the within instrument and that such execution was the free act and deed of said corporation and was his free act and deed both individually and in his capacity as officer of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal this 27th day of August, 2003.


NOTARY PUBLIC
Linda J. Mengelkamp
Notary Public State of Ohio
Recorded In Lake County
Commission Expires April 19, 2006

This Instrument Prepared By:
Mark J. Stockman, Attorney At Law
Kahn, Kleinman, a Legal Professional Association
2600 Erieview Tower
1301 East Ninth Street
Cleveland, Ohio 44114-1824
(216) 696-3311

**FOURTH SUPPLEMENT TO MASTER DECLARATION
OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS
OF MACINTOSH FARMS, A PLANNED RESIDENTIAL COMMUNITY**

THIS FOURTH SUPPLEMENT TO MASTER DECLARATION ("Amendment") made as of the 20th day of February, 2008 by MACINTOSH DEVELOPMENT CORPORATION (the "Declarant"), an Ohio corporation, and the Board of Trustees (the "Board"), of MacINTOSH FARMS COMMUNITY ASSOCIATION, INC. (the "Master Association").

PREAMBLE

A. On August 6, 1986, Zaremba MacIntosh Co. (aka Zaremba-MacIntosh Co.), an Ohio corporation (the "Original Declarant") caused a document entitled *Master Declaration of Covenants, Conditions, Easements and Restrictions of Mac Intosh Farms, a Planned Residential Community* (the "Master Declaration"), to be recorded in Volume 86-4890, Page 60, *et seq.*, of Cuyahoga County Records, submitting Property to be governed by the Master Declaration. Unless otherwise expressly provided herein, the capitalized terms used herein shall have the same meaning as defined in the Master Declaration.

B. On July 7, 1989, the Original Declarant caused a document entitled *First Supplement to the Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, a Planned Residential Community* to be recorded in Volume 89-3325, Page 26, *et seq.*, of Cuyahoga County Records, amending the legal descriptions set forth in *Exhibit "D"* of the Master Declaration.

C. On February 6, 1995, the Original Declarant caused a document entitled *Designation of Successor Declarant* to be recorded in Volume 95-00859, Page 6, of Cuyahoga County Records, designating Declarant as a Successor Declarant with its rights under the Master Declaration.

D. On April 27, 1995 the Declarant caused a document entitled *Second Supplement to Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, a Planned Residential Community* to be recorded in Volume 95-03067, Page 11, *et seq.*, of Cuyahoga County Records, supplementing the Master Declaration with the addition of Section 7.23 entitled "*Notice With Respect to Use of North MacIntosh Lane for Construction Traffic*".

E. On May 18, 2001 the Declarant caused a document entitled *Subsequent Amendment No. 3 to Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, A Planned Residential Community, Deleting a Parcel of the Real Estate Containing Approximately 310 Acres from the Operation of the Master Declaration* to be recorded as Instrument No. 200105180666 of Cuyahoga County Records, deleting a parcel of real estate containing approximately 310 acres from the operation of the Master Declaration.

WHEREAS, pursuant to Section 15.11(a) of Article XV of the Master Declaration, the Declarant is an Owner of a fee simple interest in the Total Property as defined in the Master Declaration, and the Declarant and the Board desire to amend Section 7.10 of the Master Declaration, entitled "*Storage of Vehicles and Machinery*", and to supplement the Master Declaration with the addition of Section 7.24, entitled "*Swimming Pool Restrictions*", as provided herein. The Declarant and the Board desire to so amend the Master Declaration, as in their judgment, the purposes of the general plan of the development of the Dwelling Units will be better served by such modification, and have determined that such modification will not materially and adversely affect the value of the existing Dwelling Units and will not prevent a Dwelling Unit from being used by the owner in the same manner that said Dwelling Unit was used prior to the adoption of this Amendment.

NOW, THEREFORE, pursuant to Section 15.11(a) of the Master Declaration, the undersigned hereby declares that the Master Declaration be and hereby is amended as follows:

1. The Preamble is incorporated in and made a part of this Amendment.
2. Section 7.10 of the Master Declaration is deleted in its entirety and replaced with the following:

Section 7.10 - Storage of Vehicles and Machinery

No commercial truck, nor non-commercial truck with more than two axles and four wheels, camper, camper trailer, recreation vehicle, boat, airplane or other vehicle of any kind, licensed or unlicensed, shall be stored on any driveway or other area in or upon the Development Property, except for in the confines of the garages or parking areas approved by the Board. No machinery of any kind shall be placed or operated upon any portion of the Property except such machinery which is customarily required for the maintenance of the Property, related improvements, lawns and landscaping. Such permitted machinery shall be stored out of sight of adjoining Condominium Buildings or Non-Condominium Residential Building, provided, however, that this provision shall not apply to vehicles and machinery necessary for the construction, reconstruction or repair of any building or other structure.

3. Article VII entitled "Covenants and Restrictions" is amended and supplemented by the addition of the following Section:

Section 7.24 – Swimming Pool Restrictions.

No above-ground swimming pools (including wading pools) are permitted on the Property other than such pools existing as of the date of this Amendment (which existing pools may be repaired and replaced with substantially similar pools no larger than the prior pools).

IN WITNESS WHEREOF, MacIntosh Development Corporation and all of the Members of the Board of Trustees of MacIntosh Farms Community Association, Inc. have signed this Fourth Supplement this 20th day of February, 2008.

DECLARANT:

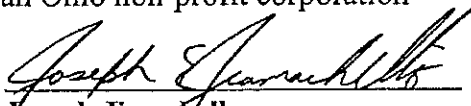
MacINTOSH DEVELOPMENT CORPORATION
an Ohio corporation

By: 
Nathan Zaremba, President

And by:

**MEMBERS OF THE BOARD OF
TRUSTEES OF MacINTOSH FARMS
COMMUNITY ASSOCIATION, INC.,**
an Ohio non-profit corporation

Execution Date: MARCH 6, 2008


Joseph Jiamchello


Execution Date: March 13, 2008


~~James Earl~~ RONALD JEWETT

Execution Date: March 11, 2008


Susan Young

Execution Date: March 11, 2008


Roger Robertson

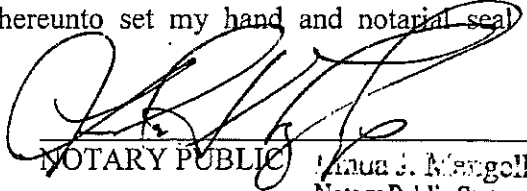
Execution Date: March 13, 2008


Mary DePalmo

STATE OF OHIO)
)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named MacIntosh Development Corporation, an Ohio corporation, by **NATHAN ZAREMBA**, its President, who acknowledged that he did sign the foregoing instrument, and that the same was his free act and deed, both individually and in his capacity as such officer, and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal this 20th day of February, 2008.




NOTARY PUBLIC Anna S. Margolkamp
Notary Public State of Ohio
Recorded In Lake County
Commission Expires April 19, 2011


STATE OF OHIO)
)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named **JOSEPH JIAMACHELLO**, a member of the Board of Trustee of MacIntosh Farms Community Association, Inc. (the "Association"), a non-profit Ohio corporation, who acknowledged that he did sign the foregoing instrument, and that the same was his free act and deed, both individually and in his capacity as such Trustee of said Association, and the free act and deed of the Association.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal this 6th day of March, 2008.



NOTARY PUBLIC
DEBRA A. JIAMACHELLO
NOTARY PUBLIC, STATE OF OHIO
Recorded in Cuyahoga County
My Comm. Expires Mar. 15, 2008



TRANSFER NOT REQUIRED

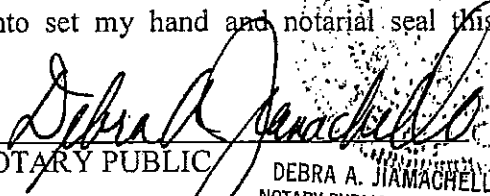
MAR 21 2008

Frank Russo
CUYAHOGA COUNTY AUDITOR

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named ~~JAMES EARL~~ ^{ROBERT JAMES}, a member of the Board of Trustee of MacIntosh Farms Community Association, Inc. (the "Association"), a non-profit Ohio corporation, who acknowledged that he did sign the foregoing instrument, and that the same was his free act and deed, both individually and in his capacity as such trustee of said Association, and the free act and deed of the Association.

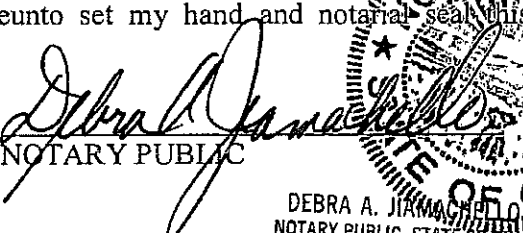
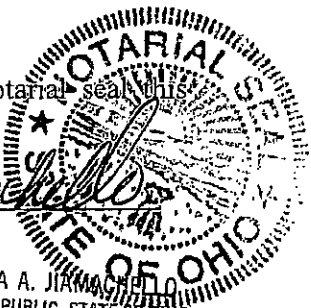
IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal this 13 day of MARCH, 2008.


NOTARY PUBLIC
DEBRA A. JIAMACHELLO
NOTARY PUBLIC, STATE OF OHIO
Recorded in Cuyahoga County
My Comm. Expires Mar. 15, 2008

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named **SUSAN YOUNG**, a member of the Board of Trustee of MacIntosh Farms Community Association, Inc. (the "Association"), a non-profit Ohio corporation, who acknowledged that she did sign the foregoing instrument, and that the same was her free act and deed, both individually and in her capacity as such trustee of said Association, and the free act and deed of the Association.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal this 11th day of March, 2008.

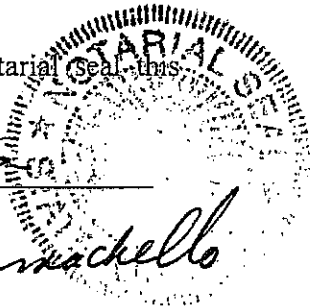

NOTARY PUBLIC

DEBRA A. JIAMACHELLO
NOTARY PUBLIC, STATE OF OHIO
Recorded in Cuyahoga County
My Comm. Expires Mar. 15, 2008

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named **ROGER ROBERTSON**, a member of the Board of Trustee of MacIntosh Farms Community Association, Inc. (the "Association"), a non-profit Ohio corporation, who acknowledged that he did sign the foregoing instrument, and that the same was his free act and deed, both individually and in his capacity as such trustee of said Association, and the free act and deed of the Association.

16th IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal, this
day of March, 2008.

Roger Robertson
NOTARY PUBLIC
Debra Jiamachello




STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above-named **MARY DePALMO**, a member of the Board of Trustee of MacIntosh Farms Community Association, Inc. (the "Association"), a non-profit Ohio corporation, who acknowledged that she did sign the foregoing instrument, and that the same was her free act and deed, both individually and in her capacity as such trustee of said Association, and the free act and deed of the Association.

13 IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal, this
day of March, 2008.

Debra Jiamachello
NOTARY PUBLIC



This Instrument was Prepared By:

Mark J. Stockman, Attorney at Law
Kahn, Kleinman, a Legal Professional Association
2600 Erievue Tower
1301 East Ninth Street
Cleveland, Ohio 44114-1824
(216) 696-3311

CUYAHOGA COUNTY
OFFICE OF FISCAL OFFICER - 6
DEED 8/23/2011 1:11:47 PM

201108230294

FIFTH SUPPLEMENTAL AMENDMENT TO THE
MASTER DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS
OF
MACINTOSH FARMS, A PLANNED RESIDENTIAL COMMUNITY

PLEASE CROSS MARGINAL REFERENCE WITH THE MASTER
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND
RESTRICTIONS OF MACINTOSH FARMS RECORDED AT VOLUME 86-4890,
PAGE 60 ET SEQ. OF THE CUYAHOGA COUNTY RECORDS.

FIFTH SUPPLEMENTAL AMENDMENT TO THE
MASTER DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
AND RESTRICTIONS OF MACINTOSH FARMS, A PLANNED RESIDENTIAL
COMMUNITY

THIS FIFTH SUPPLEMENT TO MASTER DECLARATION ("Amendment") made as of the _____ day of _____, 2011 by MACINTOSH DEVELOPMENT CORPORATION (the "Declarant"), an Ohio corporation, and the Board of Directors (the "Board"), of MACINTOSH FARMS COMMUNITY ASSOCIATION, INC. (the "Master Association").

PREAMBLE

A. On August 6, 1986, Zaremba/MacIntosh Co: (aka Zaremba-MacIntosh Co.), an Ohio corporation (the "Original Declarant") caused a document entitled *Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, a Planned Residential Community* (the "Master Declaration"), to be recorded in Volume 86-4890, Page 60, *et seq.*, of Cuyahoga County Records, submitting Property to be governed by the Master Declaration. Unless otherwise expressly provided herein, the capitalized terms used herein shall have the same meaning as defined in the Master Declaration.

B. On July 7, 1989, the Original Declarant caused a document entitled *First Supplement to the Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms Planned Residential Community* to be recorded in Volume 89-3325, Page 26, *et seq.*, of Cuyahoga County Records, amending the legal descriptions set forth in *Exhibit "D"* of the Master Declaration.

C. On February 6, 1995, the Original Declarant caused a document entitled *Designation of Successor Declarant* be recorded in Volume 95-00859, Page 6, *et seq.*, of Cuyahoga County Records, designating Declarant as a Successor Declarant with its rights under the Master Declaration.

D. On April 27, 1995 the Declarant caused a document entitled *Second Supplement to Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, a Planned Residential Community* to be recorded in Volume 95-03067, Page 11, *et seq.*, of Cuyahoga County Records,

supplementing the Master Declaration with the addition of Section 7.23 entitled "*Notice With Respect to Use of North MacIntosh Lane for Construction Traffic.*"

E. On May 18, 2001 the Declarant caused a document entitled *Subsequent Amendment No. 3 to Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, A Planned Residential Community, Deleting a Parcel of the Real Estate Containing Approximately 310 Acres from the Operation of the Master Declaration* to be recorded as Instrument No. 200105180666 of Cuyahoga County Records, deleting a parcel of real estate containing approximately 310 acres from the operation of the Master Declaration.

F. On March 21, 2008 the Declarant caused a document entitled *Fourth Supplemental to Master Declaration of Covenants, Conditions, Easements and Restrictions of MacIntosh Farms, A Planned Residential Community* to be recorded as Instrument No. 200803210145 of Cuyahoga County Records, modifying Section 7.6 of the Master Declaration, entitled "*Storage of Vehicles and Machinery*" and supplementing the Master Declaration with the addition of Section 7.24 entitled "*Swimming Pool Restrictions*".

WHEREAS, pursuant to Section 15.11(a) of Article XV of the Master Declaration, the Declarant is an Owner of a fee simple interest in the Total Property as defined in the Master Declaration, and the Declarant and the Board desire to amend Section 7.6 of the Master Declaration, entitled "*Signs*", as provided herein. The Declarant and the Board desire to so amend the Master Declaration, as in their judgment, the purposes of the general plan of the development of the Dwelling Units will be better served by such modification, and have determined that such modification will not materially and adversely affect the value of the existing Dwelling Units and will not prevent a Dwelling Unit from being used by the Owner in the same manner that said Dwelling Unit was used prior to the adoption of this Amendment.

NOW, THEREFORE, pursuant to Section 15.11(a) of the Master Declaration, the undersigned hereby declares that the Master Declaration be and hereby is amended as follows:

1. The Preamble is incorporated in and made a part of this Amendment.
2. Section 7.6 of the Master Declaration is modified as follows: (deleted language is struck-through; new language is underlined)

Section 7.6 – Signs.

No sign or other advertising device of any nature shall be placed upon any portion of the Property except for signs and advertising devices installed by or at the direction of the Design Review Committee, or which the Design Review Committee approves as to color, location, nature, size and similar characteristics, except that one professionally prepared “For Sale” sign, not to exceed 3’ x 5’, shall be permitted in one window of a Dwelling Unit and one professionally prepared “For Sale” sign, not to exceed 3’ x 5’, shall be permitted in the front yard of a single family detached home without the approval of the Design Review Committee and as further restricted below.

The one (1) customary, professional “For Sale” sign shall not to exceed 3’ wide x 5’ high as installed above ground, including the frame or post and hardware, and which may include one customary, professional display box or tube for information about the Dwelling Unit. The Design Review Committee or Board shall have the authority to determine if a “For Sale” sign and/or display box or tube is customary and/or professional and to adopt Rules to further define and clarify, but not prohibit, the provision on “For Sale” signs, including, without limitation, the permitted appearance or placement location of such signs.

Any conflict between this provision and any other provisions of the Declaration and/or Bylaws shall be interpreted in favor of this modification regarding signs. The invalidity of any part of the above provision, shall not impair or affect in any manner the validity, enforceability, or effect the remainder of the provision. Upon the recording of this amendment, only Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendment.

IN WITNESS WHEREOF, MacIntosh Development Corporation and all of the Members of the Board of Directors of MacIntosh Farms Community Association, Inc. have signed this Fifth Supplement this 9th day of August, 2011.

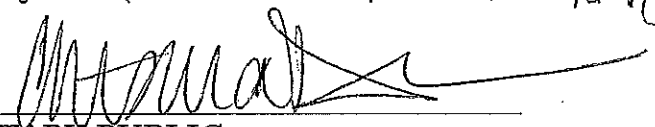
DECLARANT: MACINTOSH DEVELOPMENT CORPORATION,
an Ohio corporation

By: 
NATHAN ZAREMBA, its President

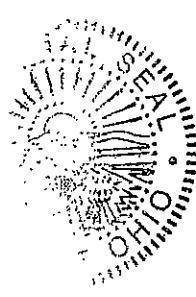
STATE OF OHIO)
)
COUNTY OF Cuyahoga) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named MacIntosh Development Corporation, by its President, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of him personally and as such officers:

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Cleveland, Ohio, this 9th day of August, 2011.


NOTARY PUBLIC

Place notary stamp/seal here:



CHRISTINA DUNN
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Cuyahoga County
My Comm. Exp. 9/7/14

IN WITNESS WHEREOF, the said MacIntosh Farms Community Association, Inc. has caused the execution of this instrument this 11th day of August, 2011.

MACINTOSH FARMS COMMUNITY ASSOCIATION, INC.

By: [Signature]
JOSEPH JIAMACHELLO, its President

By: [Signature]
SUZANNE F. YOUNG, its Secretary

STATE OF OHIO)
) SS
COUNTY OF Summit)

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named MacIntosh Farms Community Association, Inc., by its President and its Secretary, who acknowledged that they did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Sagamore Hills, Ohio, this 11th day of August, 2011.

[Signature]
NOTARY PUBLIC

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

