

**CUYAHOGA COUNTY RECORDER
PATRICK J. O'MALLEY
DEED 03/27/2000 10:57:51 AM
200003270088**

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

LAKEHURST

BEING DEVELOPED AND BUILT BY:

**BRATENAHL LAND DEVELOPMENT CO. LTD., an
Ohio limited liability company**

THE INSTRUMENT PREPARED BY:

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AUDITOR

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MASTER DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS ("MASTER DECLARATION")

THIS MASTER DECLARATION made as of the _____ day of _____ 1999 , by BRATENAHL LAND DEVELOPMENT CO., LTD., an Ohio limited liability company (referred to herein as the "Declarant")

WITNESSETH:

WHEREAS, Declarant is the owner of certain land located in the Village of Bratenahl, Cuyahoga County, Ohio, the legal description of which is attached hereto as Exhibit "A" (the Declarant Property"), which land is hereby incorporated into this Master Declaration as if fully described and re-written herein; and

WHEREAS, the Declarant Property may be developed in whole or in part: (a) as one or more subdivisions or other non - condominium forms of ownership and submitted to homeowner or other residential declarations; (b) for recreational purposes; or (c) any use permitted under the Zoning Code of Bratenahl Village or as may otherwise be permitted; and

WHEREAS, the Declarant desires to provide for the orderly development of the Declarant 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 Declarant Property so that the residents of the Declarant Property may enjoy a fine environment for their families; and

WHEREAS, a central association will be required to regulate, administer and govern the Declarant Property for the fulfillment of the foregoing purposes;

NOW, THEREFORE, Declarant declares the Declarant Property and any other property as may by subsequent amendment be added to and subjected to this Master Declaration 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 an inure to the benefit of all persons having any right, title or interest in any part of the Declarant Property, or any other property as may by subsequent amendment be added to and subjected to this Master Declaration, and their respective heirs, personal representatives, successors and assigns as follows:

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

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Section 1.1 - Property Declared

The Declarant Property is hereby declared to be subject to and governed by these Master Declarations.

Section 1.2 - Expansion and Contraction of Property

(a) With the consent of the Village of Bratenahl, the Declarant reserves the right from time to time to add additional property to the Declarant Property and to subject the same to the provisions of this Master Declaration. To add any additional property, the Declarant shall execute and record an Amendment on which the Village has executed its consent which expressly provides that the land described therein shall become a part of the Declarant Property and subject to the Covenants and Restrictions set forth in this Master Declaration, except as the same may be modified by the Amendment.

(b) With the consent of the Village of Bratenahl, the Declarant reserves the right from time to time to delete lands from the Declarant Property and thereby to free such lands from the provisions of this Master Declaration. To delete such lands, the Declarant shall execute and record an Amendment on which the Village has executed its consent which expressly provides that the land described therein shall no longer be a part of the Declarant Property and shall no longer be subject to the Covenants and Restrictions set forth in this Master Declaration.

ARTICLE II
EXHIBITS AND DEFINITIONS

Section 2.1 - Exhibits

EXHIBIT "A": A legal description of Declarant Property

Section 2.2 - Definitions

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

(a) "AREAS OF COMMON RESPONSIBILITY" shall mean and refer to (a) all areas designated Open Space (as defined herein); (b) all real or personal property now or hereafter owned by the Master Association or otherwise held for the common use and enjoyment of the Owners or occupants ("Common Areas"); (c) recreational facilities or clubs the operation of which has become the responsibility of the Master Association; (d) all entrances to the Declarant Property; (e) the water lines, and other utility facilities servicing the Declarant Property to the extent not owned and operated by the utility provider or any governmental authority; (f) storm drainage that generally serves the Declarant Property; (g) real and personal property not owned by the Association but determined by the Board to be the responsibility of the Association; (h) those areas, if any, which by contract with any homeowners Association or other residential association, with any commercial establishment or association, or with any local governmental authority become the responsibility of the Master Association.

(b) "ASSESSMENTS". The share of common costs and expenses referred to in Article IX together with Other Charges (as defined herein) which from time to time are levied by the Board and are required to be paid by an Owner.

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

(d) "BYLAWS". The Bylaws of the Master Association. The Bylaws are sometimes also referred to as the "Master Bylaws".

(e) "COMMON EXPENSES". The actual and estimated expenses of operating the Master Association, both for general or special 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.

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

(g) "DECLARANT" Bratenahl Land Development Co. Ltd; an Ohio limited liability Company and the specifically designated successors or assigns of any of its rights as Declarant under this Master Declaration or under any supplement to this Master Declaration involving the Declarant Property as the same may from time to time be expanded. No person, real or corporate, shall be deemed to be a successor, alternate or additional Declarant for the purposes of this Master Declaration unless such person or entity has been specifically so designated by Declarant herein, by instrument in writing and placed of record on which the Village of Bratenahl has executed its consent.

(h) "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 of any improvements.

(i) "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 Declarant Property with Dwelling Units for sale and designated a Developer by Declarant. Such persons must have the prior written approval of the Village of Bratenahl.

(j) "DWELLING UNITS". All units of residential housing to be situated on separately plotted sublots within the Declarant Property or any other type of living unit permitted to be constructed upon the Declarant 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 Declarant Property intended for any type of independent ownership for use and occupancy as a single family residence.

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.

(k) "FLOOR AREA". The square footage of Dwelling 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, balconies, etc. as shown on the plans and specifications submitted to the Design Review Committee in connection with the construction of the Unit.

(l) "MASTER ASSOCIATION". Lakehurst Homeowners Association 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.

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

(r) "OCCUPANT". Any individual or group of individuals occupying or residing in a Dwelling Unit.

(o) "OPEN SPACES". Public or common land that is dedicated or permanently assigned to uses required by the Zoning Code of Bratenahl Village.

(p) "OTHER CHARGES". The share of common costs and expenses which the Master Association may charge 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 of 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 (ii) 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 12.12 hereof.

(q) "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 and a Developer (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. 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.

(r) "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.

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

(t) "RULES". Such rules and regulations to govern the operation and use of the Dwelling Units and the Areas of Common Responsibility 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.

(u) "SUBSEQUENT AMENDMENT". An amendment to this Master Declaration which adds additional property to that covered by this Master Declaration or deletes property from that which 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.

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

ARTICLE III
EASEMENTS

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Section 3.1 - Utility Easements

There is hereby reserved in favor of Declarant and granted to the Master Association and each Developer, their successor and assigns, an easement upon, across, over, through and under the Declarant 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 systems. 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 service or applicable governmental entity, to install and maintain facilities and equipment on the Declarant Property provided that such facilities shall not materially impair or interfere with any Dwelling Units and provided further that any areas disturbed by such installation and maintenance 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.

Section 3.2 - Easement for Ingress and Egress

There is hereby created an 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, as the case may be, to and from all of the various portions of the Declarant Property Notwithstanding the foregoing, the Declarant and/or the Master Association may limit this right of ingress and egress by a Subsequent Amendment.

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 Open Spaces 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 and Open Space necessary in connection with the construction, alteration, rebuilding, restoration, maintenance and repair of any Dwelling Unit and other structures and improvements within the Declarant Property or serving the Declarant Property; provided that in the exercise of any rights under this easement, there shall be no unreasonable interference with the use of any Dwelling Unit or other structure or improvement on the Declarant Property, and any Person benefiting 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 attorney fees resulting from any such construction, rebuilding, alteration, restoration, maintenance and repair and shall repair any damage caused in connection with such activities.

Section 3.5 - Scope of Easements and Dedication of Roadways and Utilities

As the improvements to be located within the Declarant 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: (a) limit such easements to specific areas and purposes, 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; (c) dedicate to public use specific areas (and the improvements contained therein) within the Declarant Property to meet the requirements of the Village and other public authorities having jurisdiction over the same. The Declarant or the Master Association may exercise any 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 Dwelling Units, 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.

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Section 3.6 - Easements to Run With the Lands

All easements and rights described herein are easements appurtenant to the Declarant Property (including the Dwelling Units) and 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 Declarant Property, or any part or portion thereof. Reference to the easements and rights described in any part of this Declaration, in any deed conveyance, lease, mortgage, trust, deed, 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 Declarant 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 and/or a Developer to maintain and carry on upon portions of the Common Areas such facilities and activities as, in the sole opinion of Declarant and/or such Developer, 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/or such Developer, 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.

ARTICLE IV
OWNERSHIP AND OPERATION OF OPEN SPACES
AND OTHER COMMON AREAS

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Section 4.1 - Conveyances of Open Spaces

Any Open Spaces conveyed to the Master Association by the Declarant shall be 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 resolutions and ordinances, if any. The Master Association shall hold title to said parcels subject to the provisions of this Master Declaration. The Open spaces shall be maintained and shall remain in a "natural" state with the exception of: (a) areas determined to be seeded with grass which shall be mowed and maintained; (b) areas, if any, that the Master Association develops for recreational purposes; and (c) areas that are subject to existing easement rights and areas that are subject to easement rights reserved and granted herein.

Section 4.2 - Conveyance for Recreational or Club Uses

The Declarant reserves the right to convey to others or dedicate and hold in the Declarant's name or any entity which is the successor in interest to the Declarant, such portion or portions of the Open Space which the Declarant intends for development as a private club, tennis club, or other recreational or dining activity permitted under the Zoning Code of Bratenahl Village or as may otherwise be agreed to with Bratenahl Village. Any such conveyance or dedication permitted or restricting the use of the Open Space shall be subject to deed restrictions restricting the use of the Open Space to the permitted purpose.

ARTICLE V
THE MASTER ASSOCIATION

Section 5.1 - Existence

The Master Association is an Ohio not for profit corporation.

Section 5.2 - Membership and Voting Rights

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(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 whichever of the following events shall first occur: i) Declarant no longer owns the Declarant Property; ii) five (5) years from the date this Declaration is executed and approved by the Village of Bratenahl; or iii) until Declarant voluntarily relinquishes its Class B Member status; 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 Master Association

Notwithstanding the rights and easements of enjoyment and use created in Article III of this Master Declaration, and in addition to any right the Master Association shall have pursuant to this Master 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 Areas of Common Responsibility, 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 Areas of Common Responsibility against foreclosure.
- (c) To convey the Common Areas, Open Space, or a portion thereof, to a successor; provided, however, that any such conveyance shall require the written consent of the Village 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.
- (d) To enter or authorize its agents to enter in or upon the Declarant 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.
- (e) To grant or obtain or dedicate to public use easements and rights-of-way for access (including any emergency access road) 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.
- (f) To enter into agreements with the Declarant and/or the County of Cuyahoga with respect to the operation, maintenance, repair and replacement of any portion of the Areas of Common Responsibility.

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.

The Master Association shall maintain the 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 Master Declaration. The Master Association shall provide equipment and supplies necessary for the maintenance (including landscape maintenance) and enjoyment of the property which the Master Association may own or operate from time to time. All work performed by the Master Association under this Article shall be performed in a good and workmanlike manner.

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 (including, but not limited to, homeowner associations) for all or any portion of the Declarant Property. 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 Declarant 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 Open Spaces owned by the Master Association, and any other property which the Master Association may own, or operate, including, without limitation, personal property taxes, general real estate taxes and special assessments, the same to be prorated to the date of conveyance.

Section 6.4 - Utilities

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 any property owned and/or operated by the Master Association. All such utility services shall be contracted for, metered and billed by and through the Master Association.

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 in the Areas of Common Responsibilities and may assume or assign the insurance responsibility for any improvements contained within any sub-association 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, 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 sub-association may obtain such insurance as a common expense of the sub-association to be paid by assessments. 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 sub-association, as applicable.

The Board shall also obtain a public liability policy covering the Areas of Common Responsibility, 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.

Premiums for all insurance shall be a Common Expense of the Master Association. Premiums for insurance provided to other sub-associations shall be charged to those sub-associations.

Cost of insurance coverage obtained by the Master Association 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 benefited parties.

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 canceled 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 Master Association that each individual Owner shall carry blanket all-risk property and casualty insurance on the Dwelling Units and structures constructed thereon as provided for in Subsection (a) of this Section 6.5. 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.

(c) Damage and Destruction

(i) Absent a specific agreement to the contrary, 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 improvement so damaged or destroyed shall be repaired or reconstructed.

(ii) In the event that it should be determined by the Master Association in the manner described above that the damage or destruction of Areas of Common Responsibility 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.

(d) 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, security personnel, 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 of 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 - 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 6.9 - 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 6.10 - Rules and Regulations

The Master Association, through its Board, may make and enforce reasonable rules and regulations governing the Areas of Common Responsibility, 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. 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 regulations or permit the Village or other governmental authority having jurisdiction to enforce resolutions, regulations or ordinances on the Property for the benefit of the Master Association and its Members.

Section 6.11 - 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 6.12 - Original Declarant's Rights

So long as the Declarant is exercising a majority of the voting rights of the Master Association pursuant to Article 5.2(c)(2) of this Declaration, the Declarant shall exercise all or any of the powers, rights, duties and functions of the Master Association, 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 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 Declarant 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 Declarant 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 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 Declarant 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 Declarant 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 Declarant 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 Declarant 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 Board 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 Declarant Property or within a Dwelling Unit if the Board finds a violation of this Section.

Section 7.6 - Signs

No signs or other advertising device of any nature shall be placed upon any portion of the Declarant 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 Declarant 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 surrounding property. No dumping shall be permitted on any part of the Declarant 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 - 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 Declarant 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 the leasing of a Dwelling Unit by the Declarant or any other Owner; or 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 7.9 - Storage of Vehicles and Machinery

No truck (except a two-axle truck with no more than four tires), camper, recreation vehicle, boat, airplane or other vehicle of any kind, licensed or unlicensed, shall be stored on any driveway in or upon the Declarant 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 Declarant Property except such machinery which is customarily required for the maintenance of said property and related improvements, lawns and landscaping. Such permitted machinery shall be stored out of sight of adjoining Dwelling Units, provided, however, that this provision shall not apply to vehicles and machinery being used for the construction, reconstruction or repair of any building or other structure in or upon the Declarant Property.

Section 7.10 - 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 Declarant Property, except for rodent control or except upon prior written approval of the Board.

Section 7.11 - 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 Declarant Property or on the public right-of-way adjoining any portion of the Declarant 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 Declarant Property.

Section 7.12 - 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 the Declarant Property. This provision, however, shall not be deemed to prohibit the use of tools, lawncare or landscaping equipment in the normal course of maintaining a Dwelling Unit or the improvements situated thereon.

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 Declarant Property without the prior approval of the Design Review Committee. This provision shall not apply for temporary facilities for the construction or repair of any building or other structure.

Section 7.14 - Clothes Drying

No outdoor clothes drying shall be permitted where it is visible by any person not physically present on the Dwelling Unit.

Section 7.15 - Mail Boxes

Mail boxes and newspaper containers shall be permitted provided that their style and location have been approved in advance by the Review Committee.

Section 7.16 - Exterior Appearance

The exterior of any building or structure in the Declarant 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 7.17 - Grading

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

Section 7.18 - Drainage Ditches - Access by the Village

No Person shall interfere with the free flow of water through any drainage ditches within the Declarant Property. The Village or other governmental authority having jurisdiction shall have the right to enter upon the Declarant Property to repair and maintain all storm, drainage, courses, ditches, structures and appurtenances within the Declarant Property, for the purpose of relieving any flooding condition or threatened flooding condition which might be harmful to the Declarant Property.

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 Declarant 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 any shorter period of time in the event of an emergency as determined by the Committee or the Board) or if such remedial action is not prosecuted with due diligence until satisfactory completion of same, the Declarant or 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, including a claim or action for money damages and legal fees. Subject to the provisions of the Bylaws a Person in violation of this Article VII shall be obligated to the Master Association and/or Declarant for money damages and for the amount of all costs and expenses, including attorney 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 Declarant 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 Declarant 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 homeowners association documents, restrictions imposed on sublots within subdivisions and restrictions imposed in deeds conveying the Declarant Property or portions thereof.

Section 7.22 - Certificate of Compliance with Restrictions

Upon the conveyance of a Dwelling Unit or an interest therein, the grantor shall have the right to request the Master Association to inspect the Dwelling Units 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 into or permitted to remain on the Declarant 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 Declarant Property or any part thereof, nor shall any grading be commenced or changed or landscaping installed or materially 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 document entitled "Minimum Building Standards" ("Building Standards") on file with the Association, as the same may be adopted and/or 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 Building Standards. PROVIDED, HOWEVER, the provisions of this subsection requiring submission of plans and specifications to and obtaining approval from the Design Review Committee shall not be applicable to the Declarant nor any entity related to or affiliated with the Declarant.

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

The decision of the Committee shall be based upon the applicable Building Standards (as then amended) in effect at 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 Master 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 Declarant Property or the buildings, structures or uses located upon other portions or in 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

If 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 Declarant 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 or any agent, employee or attorney of the Master Association or 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 (or any shorter period of time in the event of an emergency as determined by the Committee or the Board) 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 this 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 these Master Declarations, 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 Section 2.1(C), 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 "Common Cost" (as hereafter 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.

Section 8.8 - Failure of Design Review Committee to Act

In the event the Committee fails to conditionally or unconditionally approve or disapprove of plans and specifications within thirty (30) days after the plans and specifications have been submitted to it, approval hereunder shall not be required and this Article shall be deemed to have been fully complied with.

Section 8.9 - Approval of Plan

No building or structure shall be commenced, erected, placed, moved into or permitted to remain on the Declarant 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 Declarant Property or any part thereof, nor shall any grading be commenced or changed or landscaping installed or materially 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 Planning Commission and Design Review Board of the Village of Bratenahl, Ohio. Any such plan and/or specification shall conform to a document entitled "Lakehurst-Design Criteria, Bratenahl Subdivision, Bratenahl, Ohio KA/jn 97207-01," revised March 15, 1999.

ARTICLE IX
ASSESSMENTS

Section 9.1 - Definition of Assessments

As used in this Master 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) All amounts incurred in collecting Assessments, including all legal and accounting fees;
- (c) Reasonable reserves for uncollectible Assessments, unanticipated expenses, replacements, major repairs and contingencies;
- (d) Annual capital additions and improvements and/or capital acquisitions (but not repairs or replacements) not funded by Declarant having a total cost in excess of Twenty Thousand Dollars (\$20,000.00) without in each case the prior approval of a majority of the Class A Members. In case of an emergency requiring prompt action to avoid further loss, the Board shall have discretion to expend whatever is necessary; and
- (e) Such other costs, charges and expenses which the Master Association determines to be necessary and appropriate within the meaning and spirit of this Declaration.

Section 9.2 - Responsibility for Payment of Assessments

Each Owner shall be responsible for his pro rata share of Assessments. Payments of such Owner's share of Assessments shall commence on the date the Owner acquires title to his Dwelling Unit. The Declarant shall be responsible for payment of such Assessments attributable to Dwelling Units owned by Declarant.

Assessments may be levied against the Dwelling Units in particular portions of the Declarant Property or other residential associations for whose benefit Common Expenses are incurred.

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 Common Areas that are owned and/or operated by the Master Association.

Section 9.4 - Uniformity and Payment of Assessments

Except as otherwise provided herein, the Assessments and Other Charges hereunder shall be on a uniform basis and 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 title deed to a Dwelling Unit 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 and shall bind such Owner, his heirs, devisees, personal representatives, successors and assigns. A co-owner of a Dwelling Unit 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.

Section 9.6 - 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 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 liable, jointly and severally, for the Assessments accruing against the judicially sold Ownership Interest prior to the date of the judicial sale as well. 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.

Section 9.8 - Notices of Action

An institutional holder, insurer, or guarantor of a first mortgage on a Dwelling Unit 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 Declarant 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.

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, liens filed by a residential association against the Ownership Interest and liens of bona fide first mortgagees. 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, 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 12.9 of this Declaration or in the Court of Common Pleas of Cuyahoga County 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 Voting Rights

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 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, the Declarant and/or the Village 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, or their respective agents 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; and to collect costs of suit and reasonable attorney fees incurred in connection with the exercise by the Association of any remedies hereunder.

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.

ARTICLE XII
GENERAL PROVISIONS

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Section 12.1 - Covenants Run With The Declarant 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 Declarant 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 Declarant 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 12.2 - Duration

Unless sooner terminated 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 terminated by an instrument signed by members entitled to exercise not less than seventy-five percent (75%) of the voting power of the Master Association. In no event shall the Declaration be terminated without the approval of the Village of Bratenahl, its successors and assigns.

Section 12.3 - Notices

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

Section 12.4 - 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 12.5 - 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

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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 Declarant Property to the end that the Declarant Property shall be preserved and maintained as a high quality, residential community.

Section 12.6 - Reservations by Declarant - Exempt Property

(a) Declarant reserves the right and easement for itself and owners of nearby lands to whom Declarant, in 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 Declarant 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) 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 Declarant Property (as the Declarant 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) Declarant reserves the right to enter into covenants and easements with any utility or public authority which Declarant believes, in its sole discretion, to be in the best interests of the development of the Declarant Property.

(d) 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 Declarant 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) 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 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 12.7 - Assignability by Original Declarant

The 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. Any such assignment may provide that said assignee shall have the rights of a Declarant set forth in this Declaration with respect to the Dwelling Units and/or real property owned by such designee.

Section 12.8 - 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 12.9 - 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 Cuyahoga County, 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 12.10 - 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 Declarant 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 Declarant Property.

Section 12.11 - Amendment of Declaration

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

(a) So long as the Declarant or a successor designated by the Declarant is the Owner of a fee simple interest in some or all of the Declarant Property, the 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 Declarant 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; and provided further that any such amendment, modification or waiver shall require the approval of the Village if the amendment materially affects: (i) voting rights; (ii) assessments; (iii) reserves for maintenance, repairs or replacements of Areas of Common Responsibility (iv) rights of use of Areas of Common Responsibility (v) responsibility for maintenance and repair of the Declarant Property; (vi) expansion or contraction of the Declarant Property or the additional annexation, or withdrawal of property to or from the Master Declaration. To modify such Declaration in accordance with this paragraph, Declarant shall file a supplemental Declaration setting forth the Amendment, which supplemental Declaration need not be but shall at Declarant's request, be executed by the Master Association and all Owners of real property within the Declarant Property. Each such Owner hereby appoints 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 Declarant and filed for record with the Recorder of Cuyahoga County.

(b) This Declaration may also be amended by 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 Administration, the Veteran's Administration, or any other governmental agency or any other public, quasipublic 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 who make, purchase, sell, insure

or guarantee first mortgages; (3) correcting clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment hereto; or (4) complying with the underwriting requirements of insurance companies providing casualty insurance, liability insurance or other insurance coverage 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 Declarant Property 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 a Special Amendment. To effect said amendment, Declarant shall file a supplement to the Declaration setting forth the Amendment(s) which shall be signed by Declarant and shall be effective upon the filing of said Amendment with the Cuyahoga County Recorder.

(c) 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; provided further, that any amendment affecting the rights of Declarant in this Declaration shall not be effective without the prior written consent of Declarant; and provided further that any such amendment shall require the approval of the Village of Bratenahl if the amendment materially affects: i) voting rights; (ii) assessments; (iii) reserves for maintenance, repairs or replacements of Areas of Common Responsibility; (iv) rights of use of Areas of Common Responsibility; (v) responsibility for maintenance and repair of the Declarant Property. 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 of the county in which the Declarant Property or portion thereof is situated.

Section 12.12 - 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 12.13 - 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 12.14 - 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 Bill Clinton President of the United States of America, and Albert Gore, Vice President of the United States of America.

Section 12.15 - Covenants for the Benefits of the Village of Bratenahl

(a) Meaning of Village Approval. Any approval of this document by the Village of Bratenahl is only for the purpose of determining compliance with the ordinances and other requirements of the Village and does not constitute any approval of its contents or terms, nor the waiver of such requirements.

(b) Terms Hereof Subject to Ordinances. Notwithstanding any provisions herein, the terms of this Declaration of Covenants and Easements are subject to the ordinances and other requirement of the Village of Bratenahl and all other legal requirements of governmental authorities having jurisdiction. Any provision herein inconsistent with those requirements shall have no effect and shall not constitute any waiver of same unless waived by specific reference thereto.

(c) Enforcement. The provisions of the Declaration may be enforced by the Village of Bratenahl by legal and equitable remedies in addition to all other remedies, whether civil or criminal.

(d) Amendment. This Declaration may not be adjusted, modified, rescinded or amended without the written consent of the Village of Bratenahl.

IN WITNESS WHEREOF Declarant has signed this document this 20 day of Sept 1999

Signed in the Presence of:

Carol A. Bratenahl
John J. Ferchill

DECLARANT
BRATENAH L AND DEVELOPMENT
CO., LTD., an Ohio limited liability company

BY:

John J. Ferchill
John J. Ferchill, Manage

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STATE OF OHIO :
 : SS
CUYAHOGA COUNTY :

Before me, a Notary Public in and for said County and State personally appeared the above-named BRATENAHL LAND DEVELOPMENT CO., LTD., an Ohio limited liability company by John J. Ferchill, one of its managers, who acknowledged that there did sign the foregoing instrument and that the same is his free act and deed and the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and official seal at Cleveland, Ohio, this 20 day of Sept., 1999

Carol A. Buehner
Notary Public

CAROL A. BUEHNER
Notary Public - State of Ohio, Lake City.
My Commission Expires 12/31/02

1kh/46:77
9/9/99
7-17-99

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EXHIBIT "A"
LEGAL DESCRIPTION

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Parcel No. 1 Fee Simple

Situated in the Village of Bratenahl, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 355 and bounded and described as follows:

Beginning on the Easterly line of East 105th Street (formerly Doan Street) 60 feet wide at its intersection with the Southerly line of land conveyed to Eliza S. Clark by Deed dated June 14, 1862, and recorded in Volume 117, Page 470 of Cuyahoga County Records, said Southerly line being also the center line of Brookwood Avenue, proposed 60 feet wide;

thence Easterly along the center line of Brookwood Avenue proposed to the Southwesterly line of land conveyed to the Standard Land Company by Deed dated July 30, 1901, and recorded in Volume 796, Page 409 of Cuyahoga County Records;

thence Northwesterly along the Southwesterly line of land so conveyed to the Standard Land Company to the low water mark of Lake Erie,

thence Southwesterly along the low water mark of Lake Erie to its intersection with the Easterly line of East 105th Street,

thence Southerly along the Easterly line of East 105th Street to the place of beginning, representing approximately 18.68 acres±.

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EXCEPTING FROM the above described premises any part thereof resulting through the change in the shore line of Lake Erie occasioned by other than natural causes or by natural causes other than accretion.

FURTHER EXCEPTING THEREFROM the following described parcel as conveyed to John Carney by deed dated July 31, 1991 and recorded in Volume 91-6568, Page 18 of Cuyahoga County Records:

Situated in the Village of Bratenahl County of Cuyahoga and State of Ohio and known as being part of Original One Hundred Acre Lot Now 355, bounded and described as follows:

Beginning on the Easterly line of Bratenahl Road (formerly East 105th Street and Doan Street) at a point distant North 0°-00'-35" West, 275.00 feet as measured along said Easterly line of Bratenahl Road from the Southwesterly corner of land conveyed to R. E. Services. Inc., Trustee, by deed dated December 28, 1988 and recorded in Volume 89-1343, Page 31 of Cuyahoga County Records;

Course No. 1: thence North 0°-00'-35" West along said easterly line of Bratenahl Road, about 271 feet to the waters edge of Lake Erie;

Course No. 2: thence Northeasterly along the waters edge of Lake Erie about 245 feet to its intersection with a line drawn parallel with and distant 200.00 feet Easterly by rectangular measurement from said Easterly line of Bratenahl Road;

Course No. 3: thence South 0°-00'-30" East along said parallel line about 414 feet;

Course No. 4: thence South 89°-59'-25" West, 200.00 feet to the place of beginning, containing about 69,900 square feet of land (1.6047 acres) according to a survey by Garrett & Associates.

Parcel No. 2 - Easement

Easement for ingress and egress and utilities established in the Easement by and between Carney/Westlake Limited Partnership and John James Carney, James A. Carney and Joseph D Carney, Trustees ("Grantor") and R.E. Services, Inc. Trustee and Betty J. Karzen ("Grantee") dated October 30, 1996, filed for record October 31, 1996 and recorded in Volume 96-10787, Page 42 of Cuyahoga County Records over the following described premises:

THOMAS J. NEFF, P. E., P. S.
COUNTY ENGINEER TAX MAP DIVISION
LEGAL DESCRIPTION APPROVED FOR TRANSFER

DRIVE, WATER LINE AND GASOLINE EASEMENT

Situated in the Village of Bratenahl, County of Cuyahoga and State of Ohio, and known as being part of Block "B" in the Partition for R.E. Services, Inc., Trustee, not recorded, of part of Original 100 Acre Lot Number 355, being an easement area bounded and described as follows:

Beginning in the easterly line of Bratenahl Road, 60 feet wide, at the southwesterly corner of said Block "B";

Course No. 1: thence North 89°-59'-25" East along the southerly line of said Block "B", 200.00 feet to the southeasterly corner thereof;

Course No. 2: thence North 0°-00'-35" West along the easterly line of said Block "B", about 99.80 feet to its point of intersection with a line drawn parallel with and distant 5.00 feet northerly, by rectangular measurement, from an existing water main;

Course No. 3: thence South 69°-49'-24" West along said parallel line, about 213.06 feet to its intersection with said easterly line of Bratenahl Road;

Course No. 4: thence South 0°-00'-35" East along said easterly line of Bratenahl Road, about 26.35 feet to the place of beginning, be the same more or less, but subject to legal highways.

PERMANENT PARCEL NO. 631-04-001

Street Address: 193 Bratenahl Road, Bratenahl, Ohio 44108

APPROVED FOR
RECORD
TRANSFER
SPLIT

TAKES

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