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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

THE PRESERVE COMMUNITIES

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE PRESERVE AT NEW ALBANY

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS is made on the 17th day of May, 1999, by THE NEW ALBANY COMPANY LLC, a Delaware limited liability company, successor in interest to The New Albany Company Limited Partnership, a Delaware limited partnership and The New Albany Company, an Ohio general partnership, hereinafter referred to as the "Declarant".

Declarant is the owner of all that certain real property located in Franklin County, Ohio, more particularly described on Exhibit A attached hereto (the "Initial Property," which property, together with all real property submitted to this Declaration from time to time pursuant to Article III hereafter, is collectively referred to as "The Preserve Communities") and hereby makes this Declaration of Covenants, Conditions, Restrictions and Easements (the "Declaration") for The Preserve Communities for the purposes hereinafter set forth.

Declarant hereby declares that the Initial Property and any properties subsequently Annexed hereto in accordance with the provisions of this Declaration, shall be held, sold, conveyed, encumbered, leased, occupied and improved subject to the following covenants, conditions, restrictions, easements and provisions, which shall run with the Initial Property and any such subsequently annexed properties and shall be binding upon, and inure to the benefit of, all parties now or hereafter having any right, title or interest in such property or any part thereof, and their heirs, personal and legal representatives, successors and assigns.

ARTICLE I

PURPOSE AND INTENT

Declarant is the owner of certain real property located in Franklin County, Ohio, now known as or to be known as The Preserve Communities. In order to establish and create a general plan and common scheme for the improvement and maintenance of the property now or in the future comprising The Preserve Communities and in order to protect property values and to contribute to the health, safety and welfare of the property owners and residents of The Preserve Communities, the Declarant has declared that the Initial Property and other properties located within the Expansion Properties and later Annexed to The Preserve Communities shall be held, sold, conveyed, encumbered, leased, occupied and improved subject to the covenants, conditions, restrictions, easements, encumbrances, rights and other matters set forth in this Declaration and in the other Master Community Documents.

It is the intention of Declarant that The Preserve Communities shall consist of separately developed Communities. Owners in each Community either have or will have interests common to all other Owners within all Communities comprising The Preserve Communities. As is or may be the case with each Community now or hereafter comprising The Preserve Communities, Owners within each Community may have certain interests in addition to those common to and distinct from owners within other communities. Therefore, all properties within The Preserve Communities shall be subject not only to the Master Community Documents, but also to any Community Documents applicable to that Community.

TRANSFERRED
NOT NECESSARY
MAY 18 1999
JOSEPH W. TESTA
AUDITOR
FRANKLIN COUNTY, OHIO

CONVEYANCE TAX
EXEMPT
JOSEPH W. TESTA
FRANKLIN COUNTY AUDITOR

Declarant desires and intends to develop a quality project in The Preserve Communities including residential facilities of all types and possible recreational facilities and amenities. This Declaration is imposed for the benefit of all Owners and creates specific rights and privileges which may be shared and enjoyed by all Owners and certain obligations which must be performed by all Owners.

ARTICLE II

DEFINITIONS

Certain words and terms as used in this Declaration shall have the meanings given to them by the definitions and descriptions in this Article.

"Annexation" or "Annexed" or 'Annex" shall mean the process by which portions of the Expansion Properties are made subject to this Declaration pursuant to Article III hereof.

"Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of the Master Association which are filed with the Secretary of State of Ohio.

"Assessed Valuation" of any Site situated in The Preserve Communities shall mean, as the context requires, one of the following:

(a) the 100% full market valuation (being for purposes of real property taxation the "true value" as opposed to a percentage thereof giving the "taxable value") of the land and the Buildings and other Improvements situated thereon as determined by the Franklin County, Ohio Auditor as of January 1 of each year for Franklin County, Ohio real estate tax purposes pursuant to Ohio Revised Code Chapter 5713 and as reflected on November 1 of that year in the real property records adopted, from time to time, by the Franklin County, Ohio Auditor pursuant to Ohio Revised Code Section 5713.03 regardless of (i) any reduction or rebate of real estate taxes assessed against such property, (ii) any reduction of real property taxes on such property by virtue of the homestead reduction available to persons 65 years of age or older pursuant to Ohio Revised Code Section 323.152 and (iii) any reduction of real property taxes on such property pursuant to any other applicable statute or ordinance enacted for the purpose of reducing real estate taxes for certain persons in the State of Ohio, or

(b) if the real property records in the Franklin County, Ohio Auditor's office do not reflect on November 1 of each year the completed value of the Building(s) on a Privately Owned Site as of January 1 of that year and a building permit for the Building(s) has been issued by any governmental authority prior to November 1 of that year for such Site, then the 100% full market valuation of land only for that Site (as determined in subpart (a) above) plus the cost of the proposed Building(s) stated on such building permit, or

(c) if the Franklin County, Ohio Auditor's office has not yet assigned a true value to a Site on November 1 of any year or if the Franklin County, Ohio Auditor shall ever cease to determine the true value of real property or to impose or collect real estate taxes, then the true value of the real property determined by the Board using such criteria as the Board may reasonably and in good faith establish from time to time.

"Assessments" shall mean Base Assessments levied by the Master Association pursuant to the terms of this Declaration to provide the funds to meet the estimated cash requirements of the Master Association.

"Base Assessment" shall mean the Assessments levied in accordance with Section 8.4 of this Declaration.

"Board of Trustees" or "Board" shall mean the board of trustees of the Master Association.

"Building" shall mean a building or structure constructed on a Privately Owned Site or on the Common Area.

"C.P.I." shall mean and refer to the Consumer Price Index for all Urban Consumers, U.S. City Average, All Items, 1982-84=100, published by the Bureau of Labor Statistics, United States Department of Labor; provided, however, that if the compilation or publication, or both, of the index shall be transferred to any other department, bureau or agency of the United States government, or if the bureau shall adopt a successor index, the index published by such successor department, bureau or agency or the successor index shall be adopted and used as a standard hereunder. In the event no index level is published on any date on which adjustment is required to be made under this Declaration, the levels for computation shall be arrived at by interpolation from the published levels nearest to the date on which the levels are to be determined.

"Code of Regulations" shall mean the code of regulations of the Master Association.

"Common Area" shall mean all real property in which the Master Association owns an interest for the common use and enjoyment of all of the Members. Such interest may include, without limitation, estates in fee, for a term of years, or easements.

"Community" shall mean a particular area located within The Preserve Communities which is designated as a Community in a declaration of covenants, condition, restrictions and easements for that Community recorded in the office of the Recorder of the county or counties in which that Community is located.

"Community Association" shall mean and refer to any non-profit corporation established in accordance with Community Documents for a Community.

"Community Association Properties" shall mean all real and personal property now or hereafter owned by any Community Association or, with respect to which any Community Association holds an easement for the use, care or maintenance thereof or with respect to which it holds any right, title or interest.

"Community Documents" shall mean any and all documents, instruments and agreements creating and governing any Community including, but not limited to, for such Community, the declaration of covenants, conditions, restrictions and easements, the articles of incorporation and code of regulations of the Community Association, the design guidelines and any procedures, rules, regulations or policies adopted thereunder by the Community Association

or the architectural review committee.

"Community Representatives" shall mean and refer to the persons elected by the members of a Community to vote on behalf of the members of a Community on Master Association matters.

"Declarant" shall mean The New Albany Company LLC, a Delaware limited liability company, and its successors in interest. A person or entity shall be deemed a successor in interest of Declarant only if specifically so designated in a duly recorded written instrument as a successor or assign of Declarant under this Declaration and/or under a Supplemental Declaration and shall be deemed a successor in interest of Declarant only as to the particular rights or interests of Declarant under this Declaration or under such Supplemental Declaration which are specifically designated in the recorded written instrument.

"Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements as amended or supplemented by Supplemental Declarations from time to time.

"Dwellings" is defined in Section 10.30 hereof.

"Eligible Holder" is defined in Section 11.2 hereof.

"Expansion Properties" shall mean any real property within the area described in Exhibit B.

"FHLMC" shall mean Federal Home Loan Mortgage Corporation or the mortgage corporation created by Title III of the Emergency Home Finance Act of 1970, including any successor thereto.

"FNMA" shall mean Federal National Mortgage Association, a government sponsored private corporation established as such pursuant to Title VIII of the Housing and Urban Development Act of 1968, including any successor thereto.

"Government Mortgage Agencies" shall mean the FHLMC, the FNMA, and any similar entity, public or private, authorized, approved or sponsored by any governmental agency to insure, guarantee, make or purchase Mortgage loans.

"Improvement" shall mean any and all Buildings and structures, parking areas, loading areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, recreational facilities, signs, excavation and any and all other site work including, without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement" does not include turf, shrub, or tree repair or replacement of a magnitude which does not materially change exterior colors or exterior appearances. "Improvement" does include both original Improvements and all later changes and Improvements.

"Initial Property" shall mean all of the real property described in Exhibit A attached hereto.

"Maintenance Fund" shall mean the fund created by Assessments and fees levied pursuant to Article VIII hereof to provide the Master Association with the funds it requires to carry out its duties hereunder.

"Manager" shall mean any person or entity retained by the Master Association to perform certain functions of the Master Association pursuant to this Declaration.

"Master Association" shall mean The Preserve Communities Master Association, Inc., an Ohio nonprofit corporation, or any successor thereof by whatever name, charged with the duties and obligations set forth in this Declaration and the Articles of Incorporation and/or Code of Regulations.

"Master Association Properties" shall mean all real and personal property, including, but not limited to, the Common Area and Improvements, now or hereafter owned by the Master Association or with respect to which the Master Association holds an easement for the use, care or maintenance thereof or with respect to which it holds any right, title or interest.

"Master Association Rules" shall mean the rules adopted by the Master Association as provided in Section 5.15.

"Master Community Documents" shall mean any and all documents, instruments, and agreements established by Declarant creating and governing The Preserve Communities including, but not limited to, this Declaration, the Articles of Incorporation and/or Code of Regulations and any procedures, rules, regulations or policies adopted by the Master Association.

"Member" shall mean any person or entity holding membership in the Master Association.

"Mortgage" shall mean any mortgage, deed of trust, or other document pledging a Privately Owned Site or interest therein as security for the payment of a debt or obligation. "First Mortgage" means any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

"Mortgagee" shall mean the holder or beneficiary of a Mortgage as well as a named mortgagee. "First Mortgagee" means any person named as a Mortgagee under a First Mortgage, or any successor to the interest of any such person under a First Mortgage.

"Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Privately Owned Site, but shall not mean or refer to any person or entity who holds such interest merely as Mortgagee, unless and until such person or entity has acquired fee simple title whether pursuant to foreclosure or otherwise.

"Plat" shall mean any plat map filed in the office of the Recorder of Franklin County, Ohio, as they may be amended from time to time, describing all or any portion of The Preserve Communities.

"Privately Owned Site" or "Site" shall interchangeably mean (a) any lot or parcel of land

depicted on a Plat, (b) any real property identified as a separate tax parcel in the office of the Auditor of Franklin County, Ohio, or (c) any real property designated as a Privately Owned Site by Declarant (provided such designation is made during such time that Declarant owned such real property) including any Improvements thereon within The Preserve Communities provided, however, "Privately Owned Site" or "Site" shall not include: (i) any property owned by a public body, (ii) the Master Association Properties, or (iii) any Community Association Properties.

"Related User" shall mean a person who obtains all or certain rights of an Owner by reason of such person claiming or being entitled to such rights by, through or under such Owner. Without limiting the generality of the foregoing, "Related User" shall include any occupant, tenant, family member or contract purchaser of an Owner who resides on the Privately Owned Site of such Owner and any natural person who is a guest or invitee of such Owner or of such person.

"Scenic Corridor" is defined in Section 5.3 hereof.

"Supplemental Declaration" shall mean a written instrument which is executed and recorded for the purpose of amending, modifying or supplementing this Declaration or for the purpose of subjecting all or any portion of the Expansion Properties to this Declaration.

"The Preserve Communities" shall mean the Initial Property, together with any additional real property which is or hereafter may become subject to this Declaration pursuant to the terms hereof.

"Turnover Date" is defined in Section 4.5 hereof.

"Voting Member" shall mean the Members of the Master Association entitled to vote on Master Association matters.

ARTICLE III

EXPANSION

Declarant reserves the right, but shall not be obligated, to expand The Preserve Communities to include all or part of the Expansion Properties. Declarant shall have the unilateral right to transfer to any other person the right to expand which is hereby reserved by an instrument duly recorded. Such expansion may be accomplished by recording a Supplemental Declaration in the records of the Recorder of the county or counties in which such Expansion Properties are located, describing the real property to be Annexed and submitting it to the covenants, conditions, restrictions, easements and provisions of this Declaration. Such Supplemental Declaration shall not require the consent of the Owners. Any such expansion shall be effective upon the filing for record of such Supplemental Declaration except as provided therein. The expansion may be accomplished in stages by successive Supplemental Declarations or in one Supplemental Declaration.

ARTICLE IV

MASTER ASSOCIATION OPERATIONS

Section 4.1. Master Association. The Master Association has been or will be formed as an Ohio nonprofit corporation. The Master Association shall have the duties, powers and rights set forth in this Declaration and in the Articles of Incorporation and/or Code of Regulations.

Section 4.2. Membership in the Master Association. Each Owner of a Privately Owned Site within The Preserve Communities shall be a Member of the Master Association. There shall be one membership in the Master Association for each Privately Owned Site within The Preserve Communities. Each Community Representative shall be deemed to be a Voting Member of the Master Association. The person or persons who constitute the Owner of a Privately Owned Site shall automatically be the holder or holders of the membership in the Master Association appurtenant to that Privately Owned Site, and such membership shall automatically pass with fee simple title to the Privately Owned Site. No Owner, whether one or more persons, shall have more than one membership per Site owned, and in the event the Owner of a Site is more than one person, votes and rights of use and enjoyment shall be as provided hereinafter and in the Code of Regulations. The membership rights of a Site owned by a corporation, partnership or other legal entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Master Association, subject to the provisions of this Declaration and the Code of Regulations. Declarant shall hold a separate membership in the Master Association for each Privately Owned Site owned by Declarant. Membership in the Master Association shall not be assignable separate and apart from fee simple title to a Privately Owned Site, except that an Owner may assign some or all of such Owner's rights as an Owner to use Improvements or otherwise to a Related User or Mortgagee and may arrange for a Related User to perform some or all of such Owner's obligations as provided in this Declaration, but no assignment shall be permitted to relieve such Owner of the responsibility for fulfillment of all of the obligations of an Owner under this Declaration.

Section 4.3. Voting. Voting on Master Association matters requiring a vote will be conducted by Voting Members which shall be the Community Representatives elected by the members of each Community Association in accordance with the Community Documents pertaining to such Community Association. Each Community Representative will be entitled to one vote for each Site in the Community which is one acre or less in size. (If a Site is greater in size than one acre, the Community Representative will be entitled to three votes times the number of acres or portions thereof within such Site.) Community Representatives shall not be entitled to cast any votes on behalf of Sites owned by the Declarant.

Section 4.4. Board of Trustees. The affairs of the Master Association shall be managed by a Board of Trustees. Subject to the provisions of Section 4.5 hereof, the number, term, election and qualifications of the Board of Trustees shall be fixed in the Articles of Incorporation and/or Code of Regulations. The Board of Trustees may, by resolution, delegate portions of its authority to an executive committee or to other committees, to tribunals, to Managers, to officers of the Master Association, or to agents and employees of the Master Association, but such delegation of authority shall not relieve the Board of Trustees of the ultimate responsibility for management of the affairs of the Master Association. Action by or on behalf of the Master Association may be taken by the Board of Trustees or any duly authorized executive committee, officer, Manager, agent or employee without a vote of Members, except as otherwise specifically provided in this Declaration.

Section 4.5. Membership of Board of Trustees. Until the Turnover Date, the Board of Trustees shall consist of seven trustees, and Declarant shall have and hereby reserves the continuing right to appoint four of such trustees and the Voting Members shall have the right to elect three of such trustees in accordance with the Code of Regulations. After the Turnover Date, the Board of Trustees shall be elected by the Voting Members in accordance with the Code of Regulations. The trustees appointed by the Declarant shall have a fiduciary duty solely to the Declarant and will act solely on behalf of the Declarant. The trustees elected by the Voting Members shall have a fiduciary duty to all Members. The "Turnover Date" shall mean the earliest of the following dates: (a) the date that all the Expansion Properties have become part of The Preserve Communities and the last Privately Owned Site within The Preserve Communities has been sold and conveyed by Declarant to a non-Declarant Owner; or (b) the date that Declarant has voluntarily relinquished its right to appoint such four trustees. The document by which Declarant voluntarily relinquishes its right to appoint trustees as described in subsection (b) in the immediately preceding sentence may allow Declarant to reserve the right to require Declarant's prior written approval of certain actions by the Board of Trustees including, by way of illustration but not limitation, the following: (i) any action that increases the Base Assessment only on Declarant's property, and (ii) any action that, in Declarant's opinion, impairs or restricts Declarant's ability to develop and market its property within The Preserve Communities or the operation of other projects developed by Declarant or its assigns which are within The Preserve Communities.

ARTICLE V

DUTIES AND POWERS OF THE MASTER ASSOCIATION

Section 5.1. General Duties and Powers of the Master Association. The Master Association has been formed to further the common interests of the Owners. The Master Association, acting through the Board or through persons to whom the Board has delegated such powers, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Owners, to maintain, improve and enhance the Master Association Properties and to improve and enhance the attractiveness, desirability and safety of The Preserve Communities.

Section 5.2. Duty to Accept Properties and Facilities Transferred by Declarant. The Declarant may hereafter convey certain areas of land to the Master Association as Common Area intended for common use by the Owners in The Preserve Communities for purposes including the location of signs for identification of the Master Association Properties and recreational facilities and other purposes. The areas so designated by Declarant are dedicated hereby to the common use and enjoyment of the Owners, and their families, tenants, employees, guests and invitees, and not to the use of the general public. The Declarant may hereafter convey other real or personal property, or interests therein to the Master Association for the use and enjoyment of all or certain of the Owners for the purposes as may be permitted by this Declaration. The Master Association shall accept title to any interest to any real or personal property transferred to it by Declarant. After any such transfer, the Master Association shall have the sole responsibility to perform any and all duties associated therewith, provided that such property and duties are not inconsistent with the provisions contained in this Declaration. Property interests transferred to the Master Association by Declarant may include fee simple title, easements, leasehold interests and licenses to use. Any property or interest in property transferred to the Master Association by

Declarant shall be appurtenant to or associated with property located within the boundaries of the area comprised of the Initial Property and the Expansion Properties. Any fee simple interest in property transferred to the Master Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board of Trustees, be transferred to the Master Association by limited warranty deed, free and clear of all liens (other than the lien for property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, and any and all easements, rights-of-way, reservations, covenants, conditions, restrictions, equitable servitudes and other encumbrances granted or reserved by Declarant. The property or interest in property transferred to the Master Association by Declarant may impose special restrictions governing the uses of such property and special obligations on the Master Association with respect to the maintenance of such property.

THE MASTER ASSOCIATION SHALL ACCEPT "AS IS" THE CONVEYANCE OF SUCH PROPERTY WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WITH RESPECT THERETO, OR WITH RESPECT TO THE IMPROVEMENTS AND REPAIRS TO BE COMPLETED AFTER THE CONVEYANCE, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES REGARDING FUTURE REPAIRS OR REGARDING THE CONDITION, CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF THE SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS OR FURNITURE WHICH HAS BEEN OR WILL BE USED IN SUCH PROPERTY OR REPAIRS, EXCEPT AS SET FORTH HEREIN. BY ACCEPTANCE OF TITLE TO ANY PROPERTY OR THE DEED TO ANY SITE, THE MASTER ASSOCIATION AND ALL OWNERS RELEASE DECLARANT FROM ANY CLAIMS AND WARRANT THAT NO CLAIM SHALL BE MADE BY THE MASTER ASSOCIATION OR ANY MEMBER OR OWNER RELATING TO THE CONDITION, CONSTRUCTION, DESIGN, CAPACITY, OPERATION, USE, ACCURACY, ADEQUACY OR COMPLETENESS OF SUCH PROPERTY OR REPAIRS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREFROM. All costs and expenses of any conveyance of any property by Declarant to the Master Association shall be paid for by the Master Association.

Section 5.3. Scenic Corridors. Declarant may now own or hereafter acquire certain areas of real property located along major roadways in the vicinity of The Preserve Communities. Declarant either has or may hereafter construct fencing upon such real property or portions thereof, potentially along a line running roughly parallel to such roadways. In some areas, the distance between the roadway and the fencing may exceed 300 feet. As provided in Section 5.2, Declarant may, but shall not be obligated to, convey an interest in all or any portion of the above described real property, including, but not limited to, the fencing and all property located between the fencing and the roadways and property located beyond the fencing to the Master Association. In addition, Declarant shall have the right, but not the obligation, to designate any property so conveyed to the Master Association as "scenic corridor" by specifically designating such property as "scenic corridor" in the instrument of conveyance. (Any property conveyed by Declarant to the Master Association pursuant to the provisions of this Declaration and designated by the Declarant as "scenic corridor" in accordance with the immediately preceding sentence is hereinafter referred to as "Scenic Corridor.") Any conveyance of any Scenic Corridor shall be

made by Declarant and accepted by the Master Association in accordance with Section 5.2 and shall be subject to any and all matters described in Section 5.2.

In addition to all other obligations of the Master Association set forth in this Declaration with respect to Master Association Properties, the Master Association shall have the following obligations with regard to all Scenic Corridors. The Master Association shall maintain the Scenic Corridors in a first class manner. Such maintenance shall include, but not be limited to, the painting of any fencing a minimum of one time within five years of construction and thereafter a minimum of one time every three years, the replacement of broken fencing within three business days, the neat and attractive maintenance of all landscaping including periodic fertilization and application of appropriate pesticides and herbicides and the regular removal of all trash and debris. In the event the Master Association does not maintain any Scenic Corridor in accordance with the standards set forth in this Section 5.3, the Declarant, in its sole and absolute discretion, may, but shall not be obligated to, maintain such Scenic Corridor and the Master Association shall, upon demand, immediately reimburse Declarant for all costs incurred for such maintenance. The Master Association shall not transfer or convey, mortgage or encumber, alter the character or appearance or change the manner of use of any portion of any Scenic Corridor without the written approval of Declarant.

Section 5.4. Inspection of Common Area Improvements. Prior to accepting the conveyance of title to any Common Area from Declarant, the Board of Trustees of the Master Association, in its sole discretion, will select qualified experts to inspect all Improvements then located on such Common Area to determine whether the Improvements have been constructed in substantial compliance with the plans and specifications, as modified by any change orders, and to inspect for construction defects and for governmental code violations and operating condition. The Declarant will make all necessary repairs to such Improvements indicated by the inspection reports at its sole cost and expense.

Section 5.5. Duty to Manage, Control and Maintain Master Association Properties. The Master Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management and control of the Master Association Properties and shall maintain and keep the Master Association Properties in good repair, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and Improvements situated upon the Common Area. All Members and Owners, by the acceptance of title to any property or the deed to any Privately Owned Site, release and indemnify the Master Association from all claims arising from its actions pursuant to this Section 5.5.

Section 5.6. Duty to Maintain Hazard Insurance. The Master Association shall obtain insurance for all insurable Improvements owned by the Master Association in an amount equal to the full replacement value thereof (i.e., 100% of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage) which shall include all building service equipment and the like, common personal property and supplies, and any fixtures or equipment. Such policy shall include, if applicable, a standard form of mortgagee clause, a "Demolition Cost Endorsement" or its equivalent, and an "Increased Cost of Construction Endorsement" or the equivalent. In addition, such policy shall afford protection against at least the following:

5.6.1. Loss or damage by fire and other hazards covered by the standard "all-risk" endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage; and

5.6.2. Such other risks as shall customarily be covered with respect to projects similar in construction, location, and use to The Preserve Communities.

Section 5.7. Duty to Maintain Liability Insurance. The Master Association shall obtain a comprehensive policy of public liability insurance insuring the Master Association and its Members, trustees, officers, employees and agents for all liability for property damage, bodily injury, or death in connection with the operation, maintenance, or use of the Master Association Properties or streets and roads within The Preserve Communities, and legal liability arising out of lawsuits related to employment contracts of the Master Association. Such comprehensive policy of public liability insurance shall include a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurance company from denying the claim of any Owner because of the negligent acts of the Master Association or any other Owner, with a limit of not less than $1,000,000 covering all claims for personal injury, including death, or property damage arising out of a single occurrence. Such comprehensive policy of public liability insurance shall also include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and, if applicable, elevator collision, garage keeper's liability, host liquor liability, contractual and all-written contract insurance, employer's liability insurance, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use to The Preserve Communities.

Section 5.8. Duty to Maintain Fidelity Insurance. The Master Association shall obtain fidelity bonds to protect against dishonest acts on the part of its officers, trustees, agents, and employees and on the part of all others who handle or are responsible for handling the funds of or funds administered by the Master Association. In addition, if responsibility for handling funds is delegated to a Manager, such bonds shall be required for the Manager and its officers, employees, and agents. Such fidelity coverage shall name the Master Association as an obligee and shall be written in an amount equal to at least 100% of the estimated annual operating expenses of the Master Association, including reserves. Such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

Section 5.9. Duty to Maintain Flood Insurance. If any of the Master Association Properties is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and for which flood insurance has been made available by the National Flood Insurance Program, a "blanket" policy of flood insurance must be maintained by the Master Association in the amount of 100% of the current replacement cost (as defined in Section 5.6 hereof) of all Buildings and other insurable property located in such area or the maximum limit of coverage available for such property under the National Flood Insurance Act of 1968, as amended, whichever is less.

Section 5.10. Provisions Common to Hazard Insurance, Liability Insurance, Fidelity Insurance and Flood Insurance. Any insurance coverage obtained by the Master Association under the provisions of Sections 5.6, 5.7, 5.8 and 5.9 hereof shall be subject to the following

provisions and limitations:

5.10.1. The named insured under any such policies shall be the Master Association, as attorney-in-fact for the Owners, or its authorized representative, including any trustee with which the Master Association may enter into any insurance trust agreement, or any successor trustee (each of which is sometimes referred to in this Section 5.11 as the "Insurance Trustee") who shall have exclusive authority to negotiate losses under such policies;

5.10.2. In no event shall the insurance coverage obtained and maintained pursuant to such Sections be brought into contribution with insurance purchased by the Owners, occupants, or Mortgagees;

5.10.3. The policies shall provide that coverage shall not be prejudiced by (a) any act or neglect of the Owners when such act or neglect is not within the control of the Master Association, or (b) failure of the Master Association to comply with any warranty or condition with regard to any portion of The Preserve Communities over which the Master Association has no control;

5.10.4. The policies shall provide that coverage may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least 30 days prior written notice to any and all First Mortgagees and insureds named therein;

5.10.5. The policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Master Association and its trustees, officers, agents and employees and any Owner and their respective guests, agents, employees, or tenants, and of any defenses based upon coinsurance or upon invalidity arising from the acts of the insured;

5.10.6. All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Master Association (or any Insurance Trustee) or when in conflict with the provisions of any insurance trust agreement to which the Master Association may be a party or any requirement of law;

5.10.7. All policies shall be written with a company licensed to do business in Ohio and holding a rating of A or better in the financial category as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating;

5.10.8. All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Franklin County, Ohio area; and

5.10.9. No policy may be canceled, invalidated, or suspended on account of the conduct of any member of the Board of Trustees, officer, agent or employee of the Master Association or its duly authorized Manager without prior demand in writing delivered to the Master Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Master Association, its Manager, any Owner, or Mortgagee.

Section 5.11. Duty to Maintain Officers' and Trustees' Personal Liability Insurance. To the extent obtainable at reasonable cost, in the sole and absolute discretion of the Board, appropriate officers' and trustees personal liability insurance shall be obtained by the Master Association to protect the officers, trustees and all other committee members from personal liability in relation to their duties and responsibilities in acting as such officers, trustees and committee members on behalf of the Master Association.

Section 5.12. Duty to Maintain Workers' Compensation Insurance. The Master Association shall obtain workers compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

Section 5.13. Other Insurance. The Master Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Master Association's responsibilities and duties.

Section 5.14. Power to Adopt Rules and Regulations. The Master Association, from time to time, may adopt, amend and repeal rules and regulations, to be known as the "Master Association Rules" governing the Common Areas and the Master Association Properties.

Notice of the adoption, amendment or repeal of any Master Association Rules shall be given in writing to the Community Representatives and each Owner at the address for notices to the Community Representatives and Owners as elsewhere provided in this Declaration or the Code of Regulations, and copies of the currently effective Master Association Rules shall be made available to each Owner upon request and payment of the reasonable expense of copying the same. Each Owner shall comply with the Master Association Rules and shall see that the Related Users of such Owners shall comply with the same. In the event of any conflict between the Master Association Rules and the provisions of this Declaration, the provisions of this Declaration shall prevail.

Section 5.15. Cooperation with Community Associations. The Board shall have the power to assist the Community Associations in the performance of their duties and obligations under the Community Documents and cooperate with the Community Associations so that the Community Associations and the Master Association can most efficiently and economically provide their respective services to the Owners. It is contemplated that from time to time either the Community Associations or the Master Association may use the services of the other in the furtherance of its obligations and they may contract with each other to better provide for such cooperation.

Section 5.16. Manager. The Master Association may employ or contract for the services of a Manager, provided that such employment shall be by a contract having a term of no more than three years, and each such contract shall be subject to cancellation by the Master Association on 90 days or less prior notice without cause and without payment of a termination fee. The Manager shall not have the authority to make expenditures for additions or Improvements chargeable against the Maintenance Fund except upon specific prior approval and direction by the Board. The Board shall not be liable for any omission or improper exercise by a Manager of any duty, power, or function.

Section 5.17. Ownership of Other Property. The Master Association, through action of its Board of Trustees, may acquire, hold, and dispose of tangible and intangible personal property and real property in addition to any such property which may be conveyed to the Master Association by Declarant.

Section 5.18. Books and Records. The Master Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and Mortgagees, current copies of the Master Community Documents, and the books, records, and financial statements of the Master Association prepared pursuant to the Code of Regulations. The Master Association may charge a reasonable fee for copying such materials. Notwithstanding the foregoing, records concerning the status of the accounts payable with respect to a Privately Owned Site shall only be made available to a member of the Board or the Owner or a Mortgagee of that Privately Owned Site.

Section 5.19. Successor of Declarant. The Master Association shall succeed to all of the duties and responsibilities of Declarant hereunder after the Turnover Date. The Master Association shall not, after the Turnover Date, succeed to the rights and easements reserved to Declarant hereunder unless such rights and easements are expressly conveyed to the Master Association by recorded written instrument.

Section 5.20. Implied Rights and Obligations. The Master Association may exercise any other right or privilege given to it expressly by the Master Community Documents, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. The Master Association shall perform all of the duties and obligations imposed on it expressly by the Master Community Documents and every other duty or obligation reasonably to be implied from the express provisions of the Master Community Documents or reasonably necessary to perform the duties and obligations contained in the Master Community Documents.

Section 5.21. Rights Deemed Created. All conveyances of Privately Owned Sites hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the rights and powers contained under this Article V. even though no specific reference to such rights and powers appears in the instrument for such conveyance.

ARTICLE VI

MASTER ASSOCIATION PROPERTIES

Section 6.1. Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive easement for the use and enjoyment of the Common Area, if any, which shall be appurtenant to and shall pass with the title to every Privately Owned Site, subject to the provisions of the Declaration, including, but not limited to, the easements set forth in this Article and all conditions, restrictions, easements, rights-of-way, covenants, equitable servitudes and other encumbrances granted or reserved by Declarant.

Section 6.2. Delegation of Use. Any Owner may, subject to the Master Association Rules, delegate, in accordance with the Master Community Documents, his right of enjoyment in the Common Area and facilities to his tenants, employees, family, guests or invitees.

Section 6.3. Owner's Negligence. In the event that the need for maintenance, repair, or replacement of the Master Association Properties, or any Improvements on or portion thereof, is caused through or by the negligent or willful act or omission of any Owner, or by any member of an Owner's family, or by an Owner's guests, tenants, employees or invitees, then the expenses, costs and fees incurred by the Master Association for such maintenance, repair, or replacement, in the amount for which the Owner or the Owner's family members, guests, tenants, employees or invitees are liable under Ohio law, shall be a personal obligation of such Owner.

Section 6.4. Title to Master Association Properties. The Master Association Properties shall be owned by the Master Association and no Owner shall bring any action for partition or division of the Master Association Properties. By acceptance of a deed or other instrument of conveyance or assignment, each Owner shall be deemed to have specifically waived such Owner's rights to institute or maintain a partition action or any other action designed to cause a division of the Master Association Properties, and this Section may be pleaded as a bar to any such action. Any Owner who shall institute or maintain any such action shall be liable to the Master Association, and hereby agrees to reimburse the Master Association for its costs, expenses, and reasonable attorneys' fees in defending any such action. In the event of the dissolution of the Master Association, other than incident to a merger or consolidation, the Master Association Properties shall, to the extent reasonably possible, be conveyed to the one or more Community Associations to be used, in any such event, for the common benefit of the Owners within those Communities for similar purposes for which the Master Association Properties were held by the Master Association. In the event such conveyance is refused, the Members shall immediately thereupon hold title to the Master Association Properties as tenants in common and shall collectively provide for the continued maintenance and upkeep in accordance with the terms of this Declaration.

Section 6.5. Master Association as Attorney-in-Fact. Each and every Owner hereby irrevocably constitutes and appoints the Master Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Master Association Properties, or any part thereof, upon their damage or destruction as provided in this Article or a complete or partial taking as provided in this Article. Acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner shall constitute appointment of the attorney-in-fact as herein provided. As attorney-in-fact, the Master Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Master Association as attorney-in-fact.

Section 6.6. Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any Improvement owned by the Master Association, the Master Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of such Improvement so damaged or destroyed. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

Section 6.7. Repair and Reconstruction. As soon as practical after obtaining estimates, the

Master Association shall, subject to the provisions of Section 6.10, diligently pursue to completion the repair and reconstruction of the damaged or destroyed Improvements. As attorney-in-fact for the Owners, the Master Association may take any and all necessary or appropriate action to effect repair and reconstruction and no consent or other action by any Owner shall be necessary in connection therewith. Assessments of the Master Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 6.8. Funds for Repair and Reconstruction. The proceeds received by the Master Association from any hazard insurance shall be used for the purpose of repair, reconstruction and replacement.

Section 6.9. Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Master Association constitute a fund for the payment of the costs of repair and reconstruction after casualty. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance may be held by the Master Association as surplus funds in accordance with Section 9.3.

Section 6.10. Decision Not to Rebuild. If Declarant and at least 67% of the (a) Owners (other than Declarant) of Privately Owned Sites having current or proposed single family residential uses, and (b) 67% of the Owners (other than Declarant) of Privately Owned Sites having uses other than single family residential uses; agree in writing not to repair and reconstruct and no alternative Improvements are authorized, then and in that event such damaged or destroyed Master Association Properties shall be restored to its natural state and maintained as an undeveloped portion of Master Association Properties by the Master Association in a neat and attractive condition, and any remaining insurance proceeds may be held by the Master Association as surplus funds in accordance with Section 9.3.

Section 6.11. Rights of Owners. Whenever all or any part of the Master Association Properties shall be taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof but the Master Association shall act as attorney-in-fact for all Owners in the proceedings incident thereto, unless otherwise prohibited by law.

Section 6.12. Partial Condemnation; Distribution of Award; Reconstruction. The award or payment made for any taking or conveyance described in Section 6.11 shall be payable to the Master Association as Trustee for all Owners to be distributed as follows:

If the taking involves a portion of the Common Area on which Improvements have been constructed, then, unless within 60 days after such taking the Declarant and at least 67% of the (a) Owners (other than Declarant) of Privately Owned Sites having current or proposed single family residential uses, and (b) 67% of the Owners (other than Declarant) of Privately Owned Sites having uses other than single family residential uses; shall otherwise agree in writing, the Master Association shall restore or replace such Improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Trustees. If such Improvements are to be repaired or restored, the above provisions in this Article regarding the disbursement of funds in respect to casualty, damage or destruction which is to be repaired shall apply. If the taking does not involve any Improvements on the Common Area, or if there is a decision made not to repair or restore, or if

there are net funds remaining after any such restoration or replacement is completed, then such award or net funds may be held as surplus in accordance with Section 9.3.

ARTICLE VII

DECLARANT'S RIGHTS AND RESERVATIONS

Section 7.1. General. Declarant shall have, and hereby retains and reserves, certain rights as set forth in this Declaration with respect to the Master Association and The Preserve Communities including, but not limited to, the Master Association Properties and any Community Association Properties. The rights and reservations of Declarant set forth in this Declaration shall be deemed excepted and reserved in each recorded Supplemental Declaration, in each conveyance of property by Declarant to the Master Association and in each deed or other instrument by which any property within The Preserve Communities is conveyed by Declarant, or otherwise, whether or not specifically stated therein. The rights, reservations and easements of Declarant set forth in this Declaration shall survive the Turnover Date and shall be prior and superior to any other provisions of this Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration, including any amendment of this Section. Declarant's consent to any one such amendment shall not be construed as consent to any other or subsequent amendment. Any or all of the special rights of Declarant hereunder may be transferred to other persons or entities, provided that the transfer shall not enlarge a right beyond that described herein and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the office of the Recorder of all counties in which The Preserve Communities is located. Declarant further reserves the right to create reservations, exceptions, exclusions and easements convenient or necessary for the use and operation of other property whether located in The Preserve Communities or otherwise.

Section 7.2. Declarant's Rights to Use the Master Association and Community Association Properties in Promotion and Marketing. Declarant shall have and hereby reserves for itself and its assignees the right to the reasonable use of the Master Association Properties, any Community Association Properties and of services offered by the Master Association and any Community Association in connection with the development, construction, promotion, marketing, sales, resales and leasing of properties within The Preserve Communities. Without limiting the generality of the foregoing, Declarant and its assignee may: (a) erect and maintain on any part of the Master Association Properties or any Community Association Properties such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the development, construction, promotion, marketing, sale and leasing of real properties within such boundaries; (b) use and park and permit visitors and guests to use and park vehicles and equipment on the Master Association Properties and any Community Association Properties for developmental, construction and promotional purposes; (c) permit prospective purchasers of properties within The Preserve Communities, who are not Owners, to use or enter the Master Association Properties and any Community Association Properties at reasonable times and in reasonable numbers; and (d) refer to the Master Association or any Community Association and the services offered by the Master Association and any Community Association in connection with the development, construction, promotion, marketing, sale, resale and leasing of properties within The Preserve Communities.

Section 7.3. Declarant's Rights to Complete Development. No provision of this Declaration shall be construed to prevent or limit Declarant's rights to and Declarant shall have the right to: (a) complete the development, construction, promotion, marketing, sale, resale and leasing of properties within The Preserve Communities; (b) construct or alter Improvements on any property owned by Declarant; (c) maintain model homes, offices for construction, sales or leasing purposes, storage areas, construction yards or similar facilities on any property owned by Declarant, the Master Association or any Community Association; or (d) post signs on Community Association Properties incidental to the development. construction, promotion, marketing, sale and leasing of property within The Preserve Communities. Further, Declarant shall have the right of ingress and egress through the streets, paths and walkways located on the Community Association Properties for any purpose whatsoever, including, but not limited to, purposes related to the construction, maintenance and operation of improvements located outside of The Preserve Communities including, but not limited to, offices and shopping centers and for the purpose of installation and maintenance of utilities to serve such improvements. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approval to: (i) excavate, cut, fill or grade any property owned by Declarant or to construct, alter, remodel, demolish or replace any Improvements on any Master Association Properties, any Community Association Properties or any property owned by Declarant; (ii) use any structure on any Master Association Properties and any Community Association Properties or any property owned by Declarant as a construction office, model home or real estate sales or leasing office in connection with the sale of any property within such boundaries; or (iii) require Declarant to seek or obtain the approval of the Master Association or any Community Association for any such activity or Improvement to property by Declarant on any Master Association Properties, any Community Association Properties or any property owned by Declarant. Nothing in this Section shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

Section 7.4. Declarant's Approval of Conveyances or Changes in Use of the Master Association Properties. The Master Association shall not, without first obtaining the prior written consent of Declarant, convey, change or alter the use of the Master Association Properties, use the Master Association Properties other than solely for the benefit of Owners, or mortgage the Master Association Properties.

Section 7.5. Recorded Easements and Building Lines. The Preserve Communities, and all portions thereof, shall be subject to all easements, building set back lines and build-to lines shown on any recorded Plat affecting The Preserve Communities, or any portion thereof, and to any other easements of record.

Section 7.6. Easements for Encroachments. The Preserve Communities, and all portions thereof, shall be subject to an easement of up to three feet from the Privately Owned Site lines or Master Association Properties' boundaries or any boundary of any Community Association Properties as the context requires, for the actual extent of encroachments created by construction as designed or constructed by the Declarant, the Master Association, any Community Association or any Owner and for settling, shifting, and movement of any portion of The Preserve Communities, except that no such easement is created for an encroachment which is the result of willful misconduct on the part of Declarant, an Owner, a tenant, the Master Association, any Community Association or any other person or entity. A valid easement for said encroachments and for the maintenance thereof shall exist. Such encroachments shall not be

considered to be encumbrances upon any part of The Preserve Communities. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of Improvements constructed on any portion of The Preserve Communities, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any Improvements in The Preserve Communities.

Section 7.7. Emergency and Service Easement. A general easement is hereby granted to all police, sheriff, security, fire protection, ambulance, and all other similar emergency agencies or persons and to all trash collection and school transportation personnel to enter upon all streets and property in The Preserve Communities in the proper performance of their duties.

Section 7.8. Easements for Utilities. There is hereby reserved unto Declarant, the Master Association, and the designees of each, blanket easements upon, across, over, and under all of the Master Association Properties for the purpose of constructing, replacing, repairing, and maintaining public parks, roads, walkways, bicycle pathways. lakes, ponds, wetlands, storm drainage systems, sanitary sewage systems, street lights, signage and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity. Except as otherwise provided in the Declaration, this easement shall not entitle the holders to construct or install any of the foregoing systems, facilities or utilities over, under or through any existing building on any Master Association Properties.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, and natural gas supplier easements across all Master Association Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Trustees shall have the right to grant such easement over the Master Association Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on The Preserve Communities.

Section 7.9. Maintenance Easement. An easement is hereby reserved to the Declarant, and granted to the Master Association, and any trustee or Manager, and their respective officers, agents, employees, and assigns upon, across, over, in, and under the Master Association Properties and a right to make such use of the Master Association Properties as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Master Association is obligated or permitted to perform pursuant to the Master Community Documents, including the right to enter upon any Master Association Properties for the purpose of performing maintenance to the landscaping or the exterior of Improvements to such Master Association Properties as required by the Master Community Documents.

Section 7.10. Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under, and across the Master Association Properties and any Community Association Properties and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements to The Preserve Communities, or other real property owned by Declarant; provided, however, that no such rights shall be exercised

by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access to its Privately Owned Site by any Owner or such Owner's family, tenants, employees, guests, or invitees.

Section 7.11. Easements Deemed Created. All conveyances of property within The Preserve Communities, including Privately Owned Sites, hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the rights, powers and easements contained in this Article VII, even though no specific reference to such rights, powers and easements or to this Article VII appears in the instrument for such conveyance.

ARTICLE VIII

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 8.1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Privately Owned Site owned by it, hereby covenants, and each Owner for each Privately Owned Site owned by such Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed, covenants and agrees and shall be deemed to have covenanted and agreed to pay to the Master Association Base Assessments for the items set forth in subsections 9.1.1, 9.1.2, 9.1.3 and 9.1.4. The Base Assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Privately Owned Site against which each such Assessment is made until paid. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Privately Owned Site at the time when the Assessment fell due. No Owner may waive or otherwise exempt himself from liability for Assessments for any reason including, by way of illustration and not limitation, non-use of the Master Association Properties or any services provided by the Master Association or abandonment of a Privately Owned Site. No diminution or abatement of Assessment or set-off shall be claimed or allowed for any reason whatsoever, including, by way of illustration and not limitation, any alleged failure of the Master Association or Board of Trustees to take some action, perform some function required to be taken or performed by the Master Association or Board of Trustees under the Master Community Documents, or to provide some service required or permitted to be provided under the terms of this Declaration or for inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Master Association, or from any action taken to comply with any law, ordinance or any order or directive of any municipal or other governmental authority.

Section 8.2. Purpose of Assessments. The Assessments levied by the Master Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of The Preserve Communities, to pay for services provided to the Owners pursuant to the terms of this Declaration and for the acquisition, improvement and maintenance of the Master Association Properties, including, but not limited to, the payment of taxes and insurance thereon, and repair, replacement and additions thereto, reserve accounts, the cost of labor, equipment, materials, management, and supervision, the salary or fee of the Manager, administrative costs and the payment of interest and principal on funds borrowed by the Master Association.

Section 8.3. Annual Budget. The Board shall prepare a budget prior to the beginning of

each fiscal year estimating its net cash flow requirements for the next year and an estimate of the total Assessments to be charged and distribute them to the Owners at least 30 days prior to the annual meeting of the Board. (The Community Representatives shall have the opportunity to discuss them at the annual meeting prior to their final approval.) On or before December 15 of each year, the Board shall approve the budget in final form, and shall determine, levy, and assess the Master Association's Base Assessments for the following year. Each budget shall include funds for establishing and maintaining reserves for periodic repairs, replacement, and maintenance of those Improvements on the Master Association Properties which must be replaced on a periodic basis, and for taxes, capital improvements, deficiencies from the prior year's Maintenance Fund, and other purposes and shall include any expected income and surplus from the prior year's Maintenance Fund.

Section 8.4. Calculation and Apportionment of Base Assessments. For the purpose of providing funds for the items specified in subsections 9.1.1, 9.1.2, 9.1.3 and 9.1.4, the Board shall for each year, commencing with the year 1999, fix and assess the Base Assessment against each Privately Owned Site in the following manner: (a) with respect to each Privately Owned Site having a current or proposed single family residential use (including residential condominiums, cooperatives and similar owner occupied residential uses) the Base Assessment shall be equal to the product of Assessed Valuation of such Privately Owned Site times .001, (b) with respect to each Privately Owned Site having a current or proposed multi-family or other residential use not included in clause (a) above, the Base Assessment shall be equal to the product of $500 per gross acre within such Privately Owned Site times a fraction, the numerator of which is the C.P.I. as of the end of the calendar year immediately preceding the date of the assessment and the denominator of which is the C.P.I. as of the end of the 1998 calendar year, and (c) with respect to each Privately Owned Site having a current or proposed commercial, industrial, or other non-residential use, the Base Assessment shall be equal to a dollar assessment per gross acre within such Privately Owned Site which shall be determined by the Board upon the annexation of such Privately Owned Site into The Preserve Communities pursuant to Article III of this Declaration times a fraction, the numerator of which is the C.P.I. as of the end of the calendar year immediately preceding the date of the assessment and the denominator of which is the C.P.I. as of the end of the calendar year immediately preceding the annexation of such Privately Owned Site into The Preserve Communities. Once established, except for a correction of a clerical error, the Assessed Valuation for each year for each Privately Owned Site having a single family residential use shall be final and there shall be no adjustment for that year for any increase or decrease in the real estate tax valuation of such Privately Owned Site by reason of any complaint filed pursuant to Ohio Revised Code Section 5715.01 or otherwise. Notwithstanding the above, in the event that the Board determines, in its sole discretion, that the aggregate Base Assessments to be levied by the Master Association on all Private Owned Sites for any calendar year exceeds the budgeted cash (including reserve) requirements of the Master Association for such calendar year, the Board may reduce the Base Assessment on each Privately Owned Site for such calendar year by a percentage which shall be applied uniformly to the Base Assessments for such calendar year on all Private Owned Sites within The Preserve Communities.

8.4.1. As soon as shall be practicable in each year, the Master Association shall cause to be sent to each Owner a written statement providing the amount of the Base Assessment with respect to such Privately Owned Site for the year in question.

8.4.2. Prior to the Turnover Date, the Declarant may elect to pay the Base Assessments on Privately Owned Sites owned by Declarant or in lieu thereof, not pay such Base Assessments and pay any deficit incurred in operating the Master Association and the Master Association Properties.

Section 8.5. Date of Commencement of Base Assessments; Due Dates. The Base Assessments provided herein shall commence as to a Privately Owned Site on the day of the closing of the conveyance of the Privately Owned Site to an Owner. The first Base Assessment shall be prorated according to the number of days remaining in the calendar year. The Base Assessments shall commence for Privately Owned Sites contained in each phase of the Expansion Properties Annexed to The Preserve Communities on the day of the recording of the Supplemental Declaration incorporating them into The Preserve Communities, and shall be prorated according to the number of days remaining in the calendar year. Assessments shall be collected on a periodic basis as the Board may determine from time to time, but until the Board directs otherwise, Assessments shall be payable quarterly in advance on the first day of each calendar quarter. The Master Association may agree with the Community Associations for the Master Association to collect Assessments of the Community Associations and remit them to the Community Associations on a timely basis. Collection of the Assessments in this manner shall not prevent the creation of the Community Association's lien against any Privately Owned Site or affect the Community Association's ability to enforce or collect its Assessments as provided in the Community Documents if they are not remitted to the Master Association in a timely manner.

Section 8.6. Effect of Non-Payment of Assessment Lien; Remedies of the Master Association. Any Base Assessment installment which is not paid within 30 days of its due date shall be delinquent. In the event that an Assessment installment becomes delinquent, the Master Association, in its sole discretion, may take any or all of the following actions:

8.6.1. Assess a late charge of not less than 5% of the delinquent amount;

8.6.2. Assess an interest charge from the date of delinquency at 1 1/2% per month or the maximum rate allowed by law;

8.6.3. Suspend the voting rights of the Owner during any period of delinquency;

8.6.4. Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

8.6.5. Bring an action at law against any Owner personally obligated to pay the delinquent installments;

8.6.6. File a statement of lien with respect to the Privately Owned Site, and foreclose on the Privately Owned Site as set forth in more detail below; and

8.6.7. Suspend the rights of the Owner to use the Master Association Properties and the Community Association Properties during any period of delinquency; provided, however, the Master Association shall not have the right to suspend the use by an Owner of any streets or utilities within The Preserve Communities.

The Master Association may file a statement of lien by recording with the Recorder of the county in which the Site is located, a written statement with respect to such Site, setting forth the name of the Owner, the legal description of the Site, the name of the Master Association, and the amount of delinquent Assessments then owing, which statement shall be duly signed and acknowledged by an Officer of the Master Association or by the Manager, if any, and which shall be served upon the Owner of the Privately Owned Site by mail to the address of the Privately Owned Site or at such other address as the Master Association may have in its records for the Owner of the Privately Owned Site. Thirty (30) days following the mailing of such notice, the Master Association may proceed to foreclose the lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Ohio. Such lien shall be in favor of the Master Association and shall be for the benefit of all other Owners. In either a personal or foreclosure action, the Master Association shall be entitled to recover as a part of the action, the interest, costs, and reasonable attorneys fees with respect to the action. The Master Association shall have the power to bid for the Site at the foreclosure sale and to purchase, hold, lease, mortgage and sell the same. During the period in which a Site is owned by the Master Association following foreclosure, no Assessments shall be levied against it and each other Site shall be charged, in addition to its usual Assessments, its prorata share of the Assessment that would have been levied against such Site had it not been acquired by the Master Association as a result of foreclosure. The remedies herein provided shall not be exclusive and the Master Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Section 8.7. Successor's Liability for Assessments. In addition to the personal obligation of each Owner of a Privately Owned Site to pay all Assessments thereon and the Master Association's perpetual lien on a Privately Owned Site for such Assessments, all successors to the fee simple title of a Privately Owned Site, except as provided in this Section, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees against such Privately Owned Site, without prejudice to any such successors s right to recover from any prior Owner any amounts paid thereon by such successor. This liability of a successor for such amounts due before the successor's acquiring title to the Site shall not be personal and shall terminate upon termination of such successor's fee simple interest in the Privately Owned Site. In addition, such successor shall be entitled to rely on the statement of liens shown on any certificate issued by or on behalf of the Master Association under Section 8.10 hereof.

Section 8.8. Subordination of the Lien. The lien of the Assessments provided for herein shall be subordinate to the lien of any loan evidenced by a recorded First Mortgage and to any refinancing loan to refinance any such loan, provided that any such refinancing is evidenced by a First Mortgage of record. However, the lien of the Assessments shall be superior to and prior to any homestead exemption now or hereafter provided by the laws of the State of Ohio, and acceptance of a deed to any part of The Preserve Communities shall constitute a waiver of the homestead exemption by the grantee in the deed. Except as set forth above, no sale or transfer shall relieve a Privately Owned Site from liability for any Assessments or from the lien thereof. However, sale or transfer of any Privately Owned Site pursuant to a decree of foreclosure or by a public trustee's foreclosure, or any other proceeding or deed in lieu of foreclosure, for the purpose of enforcing a First Mortgage, shall extinguish the lien of such Assessments as to installments which became due prior to such sale or transfer, and the amount of such

extinguished lien may be reallocated and assessed to all Privately Owned Sites as a common expense at the direction of the Board. No sale or transfer shall relieve the purchaser or transferee of a Privately Owned Site from liability for, nor the Privately Owned Site from the lien of, any Assessments made thereafter.

Section 8.9. Exempt Properties. The following portions of The Preserve Communities shall be exempt from the Assessments, charges, and liens created herein:

8.9.1. All properties dedicated to and accepted by the City of Columbus, Ohio, or the City of Gahanna, Ohio, or any other governmental entity, and devoted to public use;

8.9.2. All utility lines and easements; and

8.9.3. The Master Association Properties and any Community Association Properties.

Section 8.10. Statement of Status of Assessments. Upon 10 days written notice to the Treasurer of the Master Association or the Manager and payment of a processing fee set by the Master Association from time to time, not to exceed $50, any Owner or Mortgagee, prospective Owner or Mortgagee, or any partner or other equity interest holder (actual or prospective) in an Owner or prospective Owner of a Privately Owned Site shall be furnished a statement of the account for such Privately Owned Site setting forth:

8.10.1. The amount of any unpaid Base Assessments, interest, late charges, costs, expenses, and attorneys' fees then existing against a particular Privately Owned Site;

8.10.2. The amount of the current periodic installments of the Base Assessment and the date through which they are paid; and

8.10.3. Any other information deemed proper by the Master Association. The information contained in such statement, when signed by the Treasurer or Manager, shall be conclusive upon the Master Association as to the person or persons to whom such statement is issued and who rely on it in good faith.

Section 8.11. Failure to Assess. The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is made at which time any shortfalls in collections may be assessed retroactively by the Master Association.

ARTICLE IX

USE OF MAINTENANCE FUNDS

Section 9.1. Application of Assessments. The Master Association shall apply all funds received by it pursuant to this Declaration, and all other funds and property received by it from any source, including, without limitation, the proceeds of loans referred to in Section 9.2 and the surplus of funds referred to in Section 9.3, to the following, in the order stated:

9.1.1. The payment of the costs incurred by the Master Association in connection with the provision of services which may be provided pursuant to the provisions of this Declaration;

9.1.2. The payment of all principal and interest, when due, on all sums borrowed by or loaned to the Master Association, to the extent required under any agreement with holders or owners of debt obligations referred to in Section 9.2 hereof;

9.1.3. Administrative costs and expenses incurred by the Master Association in the exercise of its powers, authority, and duties described in the Master Community Documents; and

9.1.4. The promotion of the recreation, health, safety, and welfare of the Owners and occupants of The Preserve Communities and for the improvement and maintenance of the Master Association Properties, including, but not limited to, the payment of taxes and insurance thereon, and repair, replacement and additions thereto, reserve accounts, the cost of labor, equipment, materials, management and supervision and the salary of the Manager, if any.

Section 9.2. Authority to Borrow Funds. For the purpose of providing funds for uses specified in Section 8.2, the Master Association is hereby granted the right to borrow funds from time to time upon such terms and conditions deemed appropriate by the Board. In order to secure the repayment of any and all sums borrowed by or loaned to it from time to time, the Master Association is hereby granted the right and power:

9.2.1. To assign and pledge all revenues received and to be received by it under any provision of the Master Community Documents, including, but not limited to, the proceeds of the Base Assessments payable hereunder;

9.2.2. To enter into agreements with holders and owners of any debt obligations with respect to the collection and disbursement of funds, including, but not limited to, agreements wherein the Master Association covenants:

(a) to assess the Base Assessments on a given day in each year and to assess the same subject to the rate limitations set forth herein;

(b) to establish sinking funds or other security deposits;

(c) to apply all funds received by the Master Association first to the payment of all principal and interest, when due, on such debts, or to apply the same to such purpose after providing for costs of collection;

(d) to establish such collection, payment and lien enforcement procedures not inconsistent with the provisions of the Master Community Documents, as may be required by holders or owners of any such debt obligation;

(e) to provide for the custody and safeguarding of all funds received by the Master Association; and

9.2.3. Subject to the provisions of Sections 7.4 and 11.5 hereof, to grant and convey mortgages and security interests in the Master Association Properties.

The amounts, terms and rates of borrowing and the provisions of all agreements with holders or owners of any such debt obligation shall be subject solely to the decision of the Board acting in its absolute discretion.

Section 9.3. Authority to Maintain Surplus. The Master Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or in any other time period and may carry forward, as surplus, any balances remaining; nor shall the Master Association be obligated to apply any such surplus to the reduction of the amount of the Base Assessment in any year, but may carry forward from year to year and time to time such surplus as the Board in its absolute discretion may determine to be desirable for the greater financial security of the Master Association and the effectiveness of its purposes as set forth in the Master Community Documents.

ARTICLE X

GENERAL PROVISIONS

Section 10.1. Term. The covenants and restrictions of this Declaration shall run with and bind The Preserve Communities for a term of 50 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of time of 10 years each, unless otherwise terminated or modified as hereinafter provided.

Section 10.2. Amendment. Subject to the provisions of Article XI of this Declaration, until the Turnover Date, Declarant may unilaterally amend this Declaration, but only if such amendment is: (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial order, (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Privately Owned Sites, (c) required to conform to the requirements of FNMA or FHLMC, or (d) necessary to correct errors; provided, however, any such amendment shall not materially adversely affect the title to any Privately Owned Site or increase the Base Assessments on any Privately Owned Site unless the Owner thereof has consented to such amendment in writing. Any amendment not initiated by Declarant may be made only with the consent of Declarant and the written consent of at least 67% of the (a) Owners (other than Declarant) of Privately Owned Sites having current or proposed single family residential uses, and (b) 67% of the Owners (other than Declarant) of Privately Owned Sites having uses other than single family residential uses; provided, however, that the percentage of written consents necessary to amend a specific clause of this Declaration shall not be less than the prescribed percentage of affirmative consent required for action to be taken under that clause. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 10.3. Effective on Recording. Any amendment, to be effective, must be recorded in the office of the Recorder of all counties in which The Preserve Communities are situated as hereinafter provided. A copy of such amendment or modification, executed and acknowledged by the necessary number of Owners (and by Declarant as required herein) accompanied by a certificate of a licensed abstract or title company as to ownership, or a copy of the amendment or

modification together with a duly authenticated certificate of the Secretary of the Board stating that the required number of consents of Owners and a certificate of a licensed title or abstract company were obtained and are on file in the office of the Master Association, shall be recorded in the office of the Recorder of all counties in which The Preserve Communities are situated. Any amendment shall be effective immediately upon such recordation.

Section 10.4. Revocation. This Declaration shall not be revoked without the consent of all of the Owners in a written instrument duly recorded.

Section 10.5. Compliance with Documents. Each Owner shall abide by and benefit from the provisions, covenants, conditions, and restrictions contained in the Master Community Documents.

Section 10.6. Violations Deemed a Nuisance. Every violation hereof or of any other of the Master Community Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof. In addition, all public and private remedies allowed at law or equity against anyone in violation of these covenants shall be available.

Section 10.7. Compliance. Each Member, Owner, or other occupant of any part of The Preserve Communities shall comply with the provisions of the Master Community Documents as the same may be amended from time to time.

Section 10.8. Failure to Comply. Failure to comply herewith shall be grounds relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Code of Regulations shall be given to the non-complying Owner prior to commencing any legal proceedings.

Section 10.9. Enforcement. The Master Association or any Owner shall have the right to enforce against any Owner, and any Owner shall have the right to enforce against the Master Association, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Master Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 10.10. Remedies. In addition to the remedies set forth above in this Article X, any violation of the Master Community Documents shall give to the Board, the Manager or the Declarant, on behalf of the Owners, the right to take appropriate peaceful action to abate, remove, modify or replace, at the expense of the offending Owner any Building, thing or condition contrary to the interest and meaning of the Master Community Documents. If the offense occurs on any easement, walkway, Common Area or the like, the cure shall be at the expense of the Owner or other person responsible for the offending condition. The Board, the Manager and their respective trustees, officers, agents and employees shall have no liability to any Owner or its occupants, guests or tenants for any actions taken pursuant to this Declaration.

Section 10.11. Non-Exclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

Section 10.12. No Liability. No member of the Board, the Declarant, the Manager nor

any Owner shall be liable to any other Owner for the failure to enforce any of the Master Community Documents at any time.

Section 10.13. Recovery of Costs. If legal assistance is obtained to enforce any of the provisions hereof, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of or to restrain the violation of the Master Community Documents, the prevailing party shall be entitled to recover all costs incurred by it in such, including reasonable attorneys fees as may be incurred, or if suit is brought, as may be determined by the court.

Section 10.14. Resolution of Disputes. If any dispute or question arises between Owners or between Owners and the Master Association relating to the interpretation, performance or non-performance, violation, or enforcement of the Master Community Documents, such matter may be subject to a hearing and determination by the Board in accordance with the procedures which may be set forth in the Code of Regulations.

Section 10.15. Severability. This Declaration, to the extent possible, shall be construed or reformed so as to give validity to all of the provisions hereof. Any provision of this Declaration found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforcability without invalidating any other part hereof.

Section 10.16. Construction. In interpreting words herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

Section 10.17. Headings. The headings are included only for purposes of convenient reference, and they shall not affect the meaning or interpretation of this Declaration.

Section 10.18. Registration of Mailing Address. Each Owner and Member and each Community Representative shall register his mailing address with the Secretary of the Master Association from time to time. If an Owner or Member fails to register his mailing address, such address shall be deemed to be the address of the owner's Privately Owned Site. If a Community Representative fails to register his mailing address, such address shall be deemed to be the mailing address of that particular Community Association.

Section 10.19. Notice. All notices or requests required hereunder shall be in writing. Notice to any Owner or Member or Community Representative shall be considered delivered and effective upon personal delivery, or three days after posting, when sent by first class mail, to the address of such Owner or Member or Community Representatives on file in the records of the Master Association at the time of such mailing. Notice to the Board or the Master Association shall be considered delivered and effective upon personal delivery, or three days after posting, when sent by first class mail, to the Master Association, the Board, or the Manager, at such address as shall be established by the Master Association from time to time by notice to the Owners and Members and Community Representatives.

Section 10.20. Waiver. No failure on the part of the Master Association or the Board to give notice of default or to exercise or to delay in exercising any right or remedy hereunder shall operate as a waiver, except as herein specifically provided, should the Board fail to respond to certain requests. No waiver shall be effective unless it is in writing, signed by the president or

vice president of the Board on behalf of the Master Association.

Section 10.21. Conflicts Between Documents. In case of conflict between the Declaration and the Articles of Incorporation or the Code of Regulations. the Declaration shall control. In case of conflict between the Articles of Incorporation and the Code of Regulations, the Articles of Incorporation shall control. In case of conflict between the Master Community Documents and the Community Documents, the Master Community Documents shall control.

Section 10.22. Assignment. Declarant may assign all or any part of its rights and reservations hereunder to any successor. Such successor shall be identified, the particular rights being assigned shall be specified in a written instrument duly recorded in the records of the office of the Recorder of all counties in which The Preserve Communities is situated.

Section 10.23. Independent Builders. The Preserve Communities is a master planned community being developed by the Declarant. The Building(s) constructed within The Preserve Communities may be constructed by the Declarant or by an independent contractor who purchases the Privately Owned Site from the Declarant. If the Building(s) is constructed by a person or entity other than the Declarant, the Declarant shall have no liability whatsoever for the builder's activities, whether direct or indirect, including, without limitation, marketing or construction of the unit or actions of any principal, officer, trustee, partner, agent or subcontractor.

Section 10.24. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Master Association unless approved by the written consent of at least 75% of the Owners. This Section shall not apply, however, to (a) actions brought by the Master Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article VIII hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Master Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage consent, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 10.25. Limitations of Liability and Indemnification. The Master Association shall indemnify every officer, trustee, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, trustee, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Trustees) to which he or she may be a party by reason of being or having been an officer, trustee, or committee member. The officers, trustees, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and trustees shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Master Association (except to the extent that such officers or trustees may also be Owners), and the Master Association shall indemnify and forever hold each such officer and trustee free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, trustee, or committee member, or former officer, trustee, or committee member may be entitled. The Master Association shall, at its expense, maintain adequate general liability and officers and trustees'

liability insurance as required in Article VIII to fund this obligation, if such insurance is reasonably available.

Section 10.26. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Site, such Owner shall give the Board of Trustees at least seven days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Trustees may reasonably require. Until such written notice is received by the Board of Trustees, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Site hereunder, including payment of Assessments, notwithstanding the transfer of title to the Site.

Section 10.27. Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

ARTICLE XI

MORTGAGEE RIGHTS

Section 11.1. General. The following provisions are for the benefit of holders, insurers, or guarantors of First Mortgages on Privately Owned Sites in The Preserve Communities. To the extent applicable, necessary, or proper, the provisions of this Article XI apply to this Declaration, the Articles and the Code of Regulations.

Section 11.2. Notices of Action. A holder, insurer, or guarantor of a First Mortgage, who provides written request to the Master Association (such request to state the name and address of such holder, insurer, or guarantor and identification of the Privately Owned Site), shall be an "eligible holder" (hereinafter "Eligible Holder") and shall be entitled to timely written notice of:

11.2.1. Any condemnation loss or casualty loss which affects a material portion of the Master Association Properties or which affects any privately Owned Site on which there is a First Mortgage held, insured, or guaranteed by such Eligible Holder;

11.2.2. Any default in performance of any obligation under the Master Community Documents, including any delinquency in the payment of Assessments or charges owed by an Owner of a Privately Owned Site subject to a First Mortgage held, insured, or guaranteed by such Eligible Holder (or any First Mortgagee) which continues for a period of 60 days;

11.2.3. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Master Association; or

11.2.4. Any proposed action which would require the approval of a specified percentage of Eligible Holders, as required in Sections 11.3 and 11.4.

Section 11.3. Other Provisions for the Benefit of Eligible Holders. To the extent permitted under Ohio law, the approval of (a) 51% of the Eligible Holders of Mortgages on Privately Owned Sites subject to Eligible Holder Mortgages having current or proposed single

family residential uses, and (b) 51% of the Eligible Holders of Mortgages on Privately Owned Sites subject to Eligible Holder Mortgages having current or proposed uses other than single family residential uses shall be obtained before taking the following actions:

11.3.1. Restoration or repair of the Master Association Properties, after a partial condemnation or damage due to an insurable hazard, which will not be performed substantially in accordance with the Master Community Documents and the original plans and specifications; or

11.3.2. Any election to terminate the legal status of the Master Association after substantial destruction or a substantial taking in condemnation of the Master Association Properties.

Section 11.4. Eligible Holders' Approval of Amendments to Documents. To the extent permitted by Ohio law, and except for amendments or terminations made after substantial destruction or a substantial taking in condemnation of the Master Association Properties, the following approvals shall be required:

11.4.1. The approval of (a) 67% of the Eligible Holders of Mortgages on Privately Owned Sites subject to Eligible Holder Mortgages having current or proposed single family residential uses, and (b) 67% of the Eligible Holders of Mortgages on Privately Owned Sites subject to Eligible Holder Mortgages having current or proposed uses other than single family residential uses shall be required to terminate the legal status of the Master Association; and

11.4.2. The approval of at least (a) 51% of the Eligible Holders of Mortgages on Privately Owned Sites subject to Eligible Holder Mortgages having current or proposed single family residential uses, and (b) 51% of the Eligible Holders of Mortgages on Privately Owned Sites subject to Eligible Holder Mortgages having current or proposed uses other than single family residential uses shall be required to add to or amend any material provisions of the Master Community Documents which establish, provide for, govern, or regulate any of the following (an addition or amendment shall not be deemed material if it is for the purpose of correcting technical errors or for clarification):

(a) Voting;

(b) Assessments, Assessment liens, subordination of such liens;

(c) Insurance or fidelity bonds;

(d) Rights to use of the Common Area;

(e) Responsibility for maintenance and repair of the Master Association Properties;

(f) Convertibility of Privately Owned Sites into Common Areas or Common Areas into Privately Owned Sites;

(g) Any provisions which are for the express benefit of Mortgagees;

(h) Reserves for maintenance, and replacement of the Common Area; or

(i) Boundaries of any Privately Owned Site.

Section 11.5. Other Approval Requirements. Unless at least (a) 67% of the First Mortgagees (based on one vote for each First Mortgage owned) having current or proposed single family residential uses, and (b) 67% of the First Mortgagees (based on one vote for each First Mortgage owned) having current or proposed uses other than single family residential uses has given their prior written approval, the Master Association shall not be entitled to:

11.5.1. By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or part of the Common Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this clause);

11.5.2. Change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner;

11.5.3. Fail to maintain fire and extended coverage on insurable Improvements to the Common Area in an amount equal to 100% of current replacement cost; or

11.5.4. Use hazard insurance proceeds for losses to the Improvements to the Common Area for other than the repair, replacement, or reconstruction of such Improvements.

Section 11.6. First Mortgagees May Pay Master Association Properties Charges. Any First Mortgagee may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any of the Master Association Properties and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Master Association Properties, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Master Association.

Section 11.7. Approval Deemed Given. If approval of an Eligible Holder or First Mortgagee is requested in writing pursuant to this Article XI and a negative response is not received by the Master Association within 30 days after such Eligible Holders or First Mortgagees receipt thereof, then such Eligible Holder or First Mortgagee shall be deemed to have given its approval.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day first above written.

THE NEW ALBANY COMPANY LLC,
A Delaware limited liability company

Signed in the presence of:

Print Name: Lisa J. Dingle

By: _____
Name: Steven A. Mason
Title: CFO

Tamara Drakulich

Print Name: Tamara Drakulich

STATE OF OHIO)
)SS.
COUNTY OF FRANKLIN)

This agreement was acknowledged and signed before me this 17th day of May, 1999, by Steven A. Minick, as CFO of The New Albany Company LLC, a Delaware limited liability company, on behalf of the company.

Lisa J. Dinger

Notary Public

NOTARIAL SEAL
STATE OF OHIO

LISA J. DINGER
Notary Public, State of Ohio
My Commission Expires
9-26-2001

JOINDER BY THE PRESERVE COMMUNITIES MASTER ASSOCIATION, INC.

The Preserve Communities Master Association, Inc., hereby joins in this Declaration and hereby agrees to enforce its rights and be bound by its obligations as provided here.

Signed in the presence of:

Print Name: Lisa J. Dinger

Print Name: Tamara Drakulich

THE PRESERVE COMMUNITIES MASTER ASSOCIATION, INC.

By: Brent Bradbury
Name: Brent Bradbury
Title: Treasurer

STATE OF OHIO)
)SS.
COUNTY OF FRANKLIN)

This agreement was acknowledged and signed before me this 17th day of May, 1999, by Brent Bradbury, as Treasurer of The Preserve Communities Master Association, Inc., on behalf of the association.

Notary Public

NOTARIAL SEAL
STATE OF OHIO

LISA J. DINGER
Notary Public, State of Ohio
My Commission Expires
9-26-2001

JOINDER BY THE NORTH VILLAGE ASSOCIATION, INC.

The North Village Association, Inc., hereby joins in this Declaration and hereby agrees to enforce its rights and be bound by its obligations as provided here.

Signed in the presence of:

Print Name: Janis A. Eckstein

Print Name: Vicki H. Lahmee

THE NORTH VILLAGE ASSOCIATION, INC.

By:

Name: Paul S. Coppel

Title: President

STATE OF OHIO)
)SS.
COUNTY OF FRANKLIN)

This agreement was acknowledged and signed before me this 13th day of May, 1999, by Paul S. Coppel, as President of The North Village Association, Inc., on behalf of the association.

LISA J. DINGER
Notary Public, State of Ohio
My Commission Expires
9-26-2001

Notary Public

LISA J. DINGER
Notary Public, State of Ohio
My Commission Expires
9-26-2001

EXHIBIT A

Situated in the State of Ohio, County of Franklin, City of Columbus and being further described as follows:

Being Lots One (1) to Sixty-four (64), both inclusive, Reserve "A", Reserve "B", and Reserve "C" of THE PRESERVE SECTION 1, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 90, pages 29 –32, Recorder's Office, Franklin County, Ohio.

EXHIBIT "B"

Expansion Properties

All property located in the State of Ohio, County of Franklin, in the area, bounded on the east by Hamilton Road, on the west by Rocky Fork Creek, on the south by Morse Road and on the north by East Dublin-Granville Road.