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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
THE NEW ALBANY COUNTRY CLUB COMMUNITY

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DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR THE NEW ALBANY COUNTRY CLUB COMMUNITY

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS is made on the 3rd day of December, 1990, by THE NEW ALBANY COMPANY, an Ohio 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 "Phase I Properties," 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 "Country Club Community Area") and hereby makes this Declaration of Covenants, Conditions, Restrictions and Easements (the "Declaration") for the Country Club Community Area for the purposes hereinafter set forth.

Declarant hereby declares that the Phase I Properties 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 Phase I Properties 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 and Licking County, Ohio, now known as or to be known as The New Albany 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 New Albany 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 New Albany Communities, the Declarant has declared that the Phase I Properties and other properties located within the expansion area of The New Albany Communities and later Annexed to The New Albany Communities shall be held, sold and conveyed subject to the covenants, conditions, restrictions, easements, encumbrances, rights and other matters set forth in the Master Community Documents.

It is the intention of Declarant that The New Albany Communities shall consist of separately developed communities. The Country Club Community is one of the communities within The New Albany Communities. As is or may be the case with each community comprising The New Albany Communities, Owners within the Country

Club Community either have or will have certain interests in addition to those common to all other owners within The New Albany Communities. In order to establish and create a common scheme and plan for the improvement and maintenance of the Country Club Community and in order to promote the interests unique to the Owners and residents of the Country Club Community, Declarant has hereby declared that the Phase I Properties and any properties subsequently annexed hereto shall be held, sold, conveyed, encumbered, leased, occupied and improved subject not only to the Master Community Documents but also to the Country Club Community Documents.

Declarant desires to ensure the attractiveness of the individual lots and parcels and facilities developed within the Country Club Community Area, to prevent any future impairment thereof and to preserve, protect, and enhance the values and amenities of the Country Club Community Area. It is the intent of Declarant to guard against the erection within the Country Club Community Area of Improvements built of improper or unsuitable materials or with improper quality or methods of construction. Declarant intends to encourage the erection of attractive Improvements appropriately designed and located to preserve a harmonious appearance and function and to encourage the development of advanced technological, architectural, and engineering design for the harmonious development of the Country Club Community Area.

Declarant desires and intends to develop a quality project in the Country Club Community Area including residential facilities of all types, and 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 Country Club Community Properties are made subject to the Declaration pursuant to Article III hereof.

"Architectural Review Committee" or "Committee" shall mean the committee formed pursuant to Article XI hereof to maintain the quality and architectural harmony of Improvements in the Country Club Community.

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

"Assessed Valuation" of any property situated in the Country Club Community Area 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 a single family residence on a Privately Owned Site as of January 1 of that year and a building permit for a single family residence 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 single family residence stated on such building permit, or
- (c) if on November 1 after the third anniversary of the initial conveyance of a Privately Owned Site by Declarant, the real property records in the Franklin County, Ohio Auditor's office do not reflect the completed value of a single family residence on such Site, and no building permit has been issued by any governmental authority for such Site, then the average Assessed Valuation (as computed in subpart (a) above) for all Privately Owned Sites for which the value of a completed single family residence is reflected in the records of the Franklin County, Ohio Auditor's office on November 1 of that year, or

- (d) 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 amount determined by the Board, in its sole and absolute discretion, by such criteria as the Board may establish from time to time.

"Assessments" shall mean Base, Special, and Default Assessments, collectively, levied pursuant to Article VIII hereof to provide the funds to meet the estimated cash requirements of the Country Club Community 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 Country Club Community Association.

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

"Club Corporation" shall mean and refer to The New Albany Country Club Corporation, an Ohio corporation, its successors or assigns.

"Club Facilities" shall mean those certain facilities located in The New Albany Communities, including a golf course and any clubhouse and related facilities such as parking lots, swimming pool, tennis courts, and other health or recreational facilities now or hereafter owned or operated by Declarant or the Club Corporation or their respective successors in interest or assigns.

"Code of Regulations" shall mean the code of regulations of the Country Club Community Association.

"Common Area" shall mean all real property in which the Country Club Community 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.

"Country Club Community" shall mean the planned community created by this Declaration consisting of the Country Club Community Area and all of the Improvements located thereon.

"Country Club Community Area" shall mean the Phase I Properties together with any real property which hereafter becomes subject to this Declaration pursuant to the provisions of Article III hereof.

"Country Club Community Association" shall mean The New Albany Country Club Community Association, Inc., an Ohio nonprofit corporation, or any successor thereof by whatever name, charged with the duties and obligations hereinafter set forth and in the Articles of Incorporation and/or the Code of Regulations of the Country Club Community Association.

"Country Club Community 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 Country Club Community Association or with respect to which the Country Club Community Association holds an easement for the use, care or maintenance thereof or with respect to which it holds any right, title or interest.

"Country Club Community Documents" shall mean any and all documents, instruments and agreements established by Declarant creating and governing the Country Club Community, including, but not limited to, this Declaration, the Articles of Incorporation and Code of Regulations, the Design Guidelines, and any procedures, rules, regulations or policies adopted thereunder by the Country Club Community Association or the Architectural Review Committee.

"Country Club Community Representative" shall mean the individual selected by the Members pursuant to Section 4.3 to represent the Country Club Community Association in matters conducted by the Master Association.

"Country Club Community Rules" shall mean the rules adopted by the Country Club Community Association as provided in Section 5.14.

"Declarant" shall mean The New Albany Company, an Ohio partnership, 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" means this Declaration of Covenants, Conditions, Restrictions and Easements as amended or supplemented by Supplemental Declaration from time to time.

"Default Assessment" shall mean an Assessment levied in accordance with Section 8.7 of this Declaration.

"Design Guidelines" or "Country Club Community Design Guidelines" shall mean those guidelines and rules published from time to time by the Committee.

"Eligible Holder" is defined in Section 13.2 hereof.

"Expansion Country Club Community 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, changes in any exterior color or shape, 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 change exterior colors or exterior appearances. "Improvement" does include both original Improvements and all later changes and Improvements.

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

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

"Master Association" shall mean The New Albany Communities Master Association, Inc., an Ohio nonprofit corporation, or any successor thereof by whatever name, charged with the duties and obligations set forth in the Master Declaration and the articles of incorporation and/or code of regulations of the Master Association.

"Master Community Documents" shall mean any and all documents, instruments and agreements established by Declarant creating and governing The New Albany Communities, including, but not limited to, the Master Declaration, the articles of incorporation and code of regulations of the Master Association and any procedures, rules, regulations or policies adopted by the Master Association.

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"Master Declaration" shall mean the Declaration of Covenants, Conditions, Restrictions and Easements for The New Albany Communities dated as of December 3, 1990 and recorded in the office of the Franklin County, Ohio Recorder as the same may be amended from time to time.

"Member" shall mean any person or entity holding membership in the Country Club Community 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.

"Phase I Properties" shall mean all of the real property described in Exhibit A attached hereto.

"Plat" shall mean any plat maps 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 Country Club Community Area.

"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 including any Improvements thereon within the Country Club Community Area provided, however, "Privately Owned Site" or "Site" shall not include: (i) any property owned by a public body, (ii) the Country Club Community Association Properties or (iii) any property owned by the Master Association or with respect to which the Master Association has any right, title or interest.

"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.

"Special Assessment" shall mean the Assessments levied in accordance with Section 8.6 of this Declaration.

"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 Country Club Community Properties to this Declaration.

"The New Albany Communities" shall mean the Phase I Properties, together with any additional real property which is or hereafter may become subject to the Master Declaration pursuant to the terms thereof.

"Turnover Date" is defined in Section 4.6 hereof.

ARTICLE III

EXPANSION

Declarant reserves the right, but shall not be obligated, to expand the Country Club Community Area to include all or part of the Expansion Country Club Community 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 Franklin County, Ohio, 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. Any such Supplemental Declaration may add, delete, or modify provisions of this Declaration as it applies to the property being Annexed, provided, however, that this Declaration may not be modified with respect to property already subject to this Declaration except as provided herein for amendment.

ARTICLE IV

COUNTRY CLUB COMMUNITY ASSOCIATION OPERATIONS

Section 4.1. Country Club Community Association. The Country Club Community Association has been or will be formed as an Ohio nonprofit corporation. The Country Club Community 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 Country Club Community Association. Each Owner of a Privately Owned Site within the Country Club Community Area shall be a Member of the Country Club Community Association. There shall be one membership in the Country Club Community Association for each Privately Owned Site within the Country Club Community Area. 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 Country Club Community 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 Association, subject to the provisions of this Declaration and the Code of Regulations. Declarant shall hold a separate membership in the Country Club Community Association for each Privately Owned Site owned by Declarant. Membership in the Country Club Community 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 relieve such Owner of the responsibility for fulfillment of all of the obligations of an Owner under this Declaration.

Section 4.3. Country Club Community Representative. As provided in the Master Declaration, voting on Master Association matters will be conducted by Community Representatives (as that term is defined in the Master Declaration) elected by the members of each Community (as that term is defined in the Master Community Documents). The Country Club Community Representative shall be elected by a majority of the votes then being cast by the non-Declarant Members. The Declarant shall not be entitled to cast votes for the Country Club Community Representative. The Country Club Community Representative shall cast the votes which such representative represents in such manner as such representative may, in such representative's sole and reasonable discretion, deem appropriate, acting on behalf of all of the Members; provided, however, that in the event that at least 51% of the voting power in attendance at any duly constituted meeting of the Members shall instruct the Country Club Community Representative as to the manner in which such representative is to vote on any issue to be voted on by the community representatives, then such representative shall cast all of the voting power of the Country Club Community Association in the same proportion, as nearly as possible without counting fractional votes, as the Members shall have, in person or

by proxy, cast their voting power in favor of or in opposition to such issues. The Country Club Community Representative shall have the authority, in the Country Club Community Representative's sole discretion, to call a special meeting of the Members in the manner provided in the Code of Regulations for the purpose of obtaining instructions as to the manner in which such representative is to vote on any issue to be voted on by the community representatives. When the Country Club Community Representative is voting in such representative's own discretion, without instruction from the Members, then such representative may cast all of the votes of the Members as a unit or such representative may apportion some of the votes in favor of a given proposition and some of the votes in opposition to such proposition. It shall be conclusively presumed for all purposes of Master Association business that the Country Club Community Representative in casting votes for the Members has acted with the authority and consent of the Members. All agreements and determinations lawfully made by the Master Association in accordance with the procedures established in the Master Declaration and in the code of regulations of the Master Association shall be deemed binding on all Owners and their successors and assigns.

Section 4.4. Voting Rights of Members. Each Member shall have the right to cast votes for the election of the Board of Trustees of the Country Club Community Association, the election of the Country Club Community Representative and on any issue to be voted by the Members under the terms of this Declaration. There shall be only one membership per Privately Owned Site and one vote per membership. In the event the Owner of a Privately Owned Site is more than one person, the vote for such Privately Owned Site shall be exercised as they, among themselves, determine, and the Secretary of the Country Club Community Association shall be notified of such designation prior to any meeting. In the absence of such advice, the Privately Owned Site's vote shall be suspended in the event more than one person or entity seeks to exercise it. Any Owner of a Privately Owned Site which is leased may assign the voting right appurtenant to such Privately Owned Site to the tenant, provided that a copy of the instrument of assignment is furnished to the secretary of the Country Club Community Association prior to any meeting. The Code of Regulations shall provide for the manner, time, place, conduct and voting procedures for meetings of Members.

Section 4.5. Board of Trustees. The affairs of the Country Club Community Association shall be managed by a Board of Trustees. Subject to the provisions of Section 4.6 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 Country Club Community Association, or to the Master Association or to agents and employees of the Country Club Community Association or 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 Country Club Community Association. Action by or on behalf of the Country Club Community 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 4.6. 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 until such Turnover Date and the rest of the Members (excluding Declarant) shall have the right to elect three of such trustees until the Turnover Date. After the Turnover Date, the Board of Trustees shall be elected by the Members in accordance with the Code of Regulations. Notwithstanding the foregoing, until the closing of the sale of 100 Privately Owned Sites to non-Declarant Owners, the number of trustees shall be three and Declarant shall have the right to elect all three of such trustees. 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 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 Country Club Community Properties have become part of the Country Club Community Area and the last Privately Owned Site within the Country Club Community Area 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 four trustees and its right to appoint the members of the Architectural Review Committee in accordance with Section 11.1 hereof. The document by which Declarant voluntarily relinquishes its right to appoint trustees and its right to appoint the members of the Architectural Review Committee, 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 or imposes a Special 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 Country Club Community Area or the operation of the Club Facilities and other projects developed by Declarant or its assigns which are within The New Albany Communities.

ARTICLE V

DUTIES AND POWERS OF THE COUNTRY CLUB COMMUNITY ASSOCIATION

Section 5.1. General Duties and Powers of the Country Club Community Association. The Country Club Community Association has been formed to further the common interests of the Owners. The Country Club Community 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 Country Club Community Association Properties and to improve and enhance the attractiveness, desirability and safety of the Country Club Community Area.

Section 5.2. Duty to Accept Properties and Facilities Transferred by Declarant. The Declarant may hereafter convey certain areas of land to the Country Club Community Association as Common Area intended for common use by the Owners in the Country Club Community Area for purposes including the location of signs for identification of the Country Club Community 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 Country Club Community Association for the use and enjoyment of all or certain of the Owners for the purposes as may be permitted by this Declaration. The Country Club Community Association shall accept title to any interest to any real or personal property transferred to it by Declarant. After any such transfer, the Country Club Community 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 Country Club Community Association by Declarant may include fee simple title, easements, leasehold interests and licenses to use. Any property or interest in property transferred to the Country Club Community Association by Declarant shall be appurtenant to or associated with property located within the boundaries of the area comprised of the Phase I Properties and the Expansion Country Club Community Properties. Any fee simple interest in property transferred to the Country Club Community Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board of Trustees, be transferred to the Country Club Community Association by limited warranty deed, free and clear of all liens (other than the lien for real property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, the terms of the Master 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 Country Club Community Association by Declarant may impose special restrictions governing the uses of such property and special obligations on the Country Club Community Association with respect to the maintenance of such property.

THE COUNTRY CLUB COMMUNITY 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 COUNTRY CLUB COMMUNITY ASSOCIATION AND ALL OWNERS RELEASE DECLARANT FROM ANY CLAIMS AND WARRANT THAT NO CLAIM SHALL BE MADE BY THE 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 Country Club Community Association shall be paid for by the Country Club Community Association.

Section 5.3. Inspection of Common Area Improvements. Prior to accepting the conveyance of title to any Common Area from Declarant, the Board of Trustees of the Country Club Community 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. All Owners, by accepting a deed to a Site within the Country Club Community Area acknowledge and agree to the inspectors selected by the Board and agree to abide by said inspectors' determination. The Declarant will make all necessary repairs to such Improvements indicated by the inspection reports at its sole cost and expense. The Declarant will have no obligation to make any additional repairs to such Improvements other than the repairs indicated as necessary by the inspection reports. The Country Club Community Association and all Owners and Members, by the acceptance of title to any property or the deed to any Site release Declarant from any further obligations with respect to repairs to Common Area Improvements not contained in this Section 5.3.

Section 5.4. Duty to Manage, Control and Maintain Country Club Community Association Properties. The Country Club Community Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management and control of the Country Club Community Association Properties and shall maintain and keep the Country Club Community 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, unless such maintenance is the

responsibility of the Master Association. The Master Association may, in the sole discretion of the board of trustees of the Master Association, assume the maintenance responsibilities set forth in this Declaration, after giving the Board reasonable notice and an opportunity to correct its deficient maintenance. In such event, all costs of such maintenance shall be assessed only against the Owners. The assumption of this responsibility may take place either by contract or because, in the sole opinion of the board of trustees of the Master Association, the level and quality of service then being provided is not consistent with the standards set by the Country Club Community Association and the standards of the Master Association. The Master Association shall be the sole judge of the appropriateness of any assumption of maintenance responsibilities and quantity and quality of the maintenance performed or to be performed. The Country Club Community Association and 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 5.4.

Section 5.5. Duty to Maintain Hazard Insurance. The Country Club Community Association shall obtain insurance for all insurable Improvements owned by the Country Club Community 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:

5.5.1. 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

5.5.2. Such other risks as shall customarily be covered with respect to projects similar in construction, location, and use to the Country Club Community.

Section 5.6. Duty to Maintain Liability Insurance. The Country Club Community Association shall obtain a comprehensive policy of public liability insurance insuring the Country Club Community 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 Country Club Community Association Properties or streets and roads within the Country Club Community Area, and legal liability arising out of lawsuits related to employment contracts of the Country Club Community 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 Country Club Community 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, garagekeeper's liability, host liquor liability, contractual and all-written contract insurance, employers' liability insurance, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use to the Country Club Community.

Section 5.7. Duty to Maintain Fidelity Insurance. The Country Club Community Association shall obtain fidelity bonds to protect against dishonest acts on the part of its officers, trustees, employees and agents and on the part of all others who handle or are responsible for handling the funds of or funds administered by the Country Club Community 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 Country Club Community Association as an obligee and shall be written in an amount equal to at least 100% of the estimated annual operating expenses of the Country Club Community 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 5.8. Duty to Maintain Flood Insurance. If any of the Country Club Community 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 Country Club Community Association in the amount of 100% of the current replacement cost (as defined in Section 5.5 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 5.9. Insurance and Bonds Required by Government Mortgage Agencies. The Country Club Community Association shall obtain and keep in full force and effect such insurance and bonds as may be required from time to time by Government Mortgage Agencies to the extent that any such Government Mortgage Agency holds, or has agreed to insure or to guarantee, any Mortgage on any Privately Owned Site within the Country Club Community Area, except to the extent such insurance or bond is not reasonably obtainable or has been waived in writing by such Government Mortgage Agency.

Section 5.10. Provisions Common to Hazard Insurance, Liability Insurance, Fidelity Insurance and Flood Insurance. Any insurance coverage obtained by the Country Club Community Association under the provisions of Sections 5.5, 5.6, 5.7 and 5.8 hereof shall be subject to the following provisions and limitations:

5.10.1. The named insured under any such policies shall be the Country Club Community Association, as attorney-in-fact for the Owners, or its authorized representative, including any trustee with which the Country Club Community Association may enter into any insurance trust agreement, or any successor trustee (each of which is sometimes referred to in this Section 5.10 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 Country Club Community Association, or (b) failure of the Country Club Community Association to comply with any warranty or condition with regard to any portion of the Country Club Community over which the Country Club Community Association has no control;

5.10.4. The policies shall provide that coverage may not be cancelled 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 Country Club Community Association and the Master Association and their 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 Country Club Community Association (or any Insurance Trustee) or when in conflict with the provisions of any insurance trust agreement to which the Country Club Community 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 cancelled, invalidated, or suspended on account of the conduct of any member of the Board of Trustees, officer, agent or employee of the Country Club Community Association or its duly authorized Manager without prior demand in writing delivered to the Country Club Community Association and the Master Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Country Club Community Association, its Manager, the Master Association, 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 Country Club Community Association to protect the officers, trustees and the Architectural Review Committee members 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 Country Club Community Association.

Section 5.12. Duty to Maintain Workers' Compensation Insurance. The Country Club Community 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 Country Club Community Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Country Club Community Association's responsibilities and duties.

Section 5.14. Power to Adopt Rules and Regulations. The Country Club Community Association, from time to time and subject to the provisions of the Master Association Documents, may adopt, amend and repeal rules and regulations, to be known as the "Country Club Community Rules," governing, among other things and without limitation:

5.14.1. The use of the Country Club Community Association Properties;

5.14.2. Collection and disposal of garbage and trash;

- 5.14.3. The burning of open fires;
- 5.14.4. The maintenance of animals within the Country Club Community;
- 5.14.5. Parking restrictions and limitations;
- 5.14.6. The posting of maximum speeds for vehicular traffic and other traffic rules on private roads;
- 5.14.7. Establishment of times or other restrictions as to when commercial vehicles may be permitted to use any or all of the roads;
- 5.14.8. The type or types of vehicles (other than conventionally equipped passenger automobiles) and the times when any vehicle or motorized vehicle or device may be permitted to use the roads or any other area of the Country Club Community Association Properties;
- 5.14.9. Fines for the infraction of the Country Club Community Rules;
- 5.14.10. Additional Design Guidelines;
- 5.14.11. Additional use restrictions;
- 5.14.12. Maintenance performance standards; and
- 5.14.13. Any other rule or regulation deemed necessary, desirable or advisable by the Country Club Community Association to promote the health, safety or welfare of the Owners and residents of property within the Country Club Community.

Notice of the adoption, amendment or repeal of any Country Club Community Rules shall be given in writing to each Owner at the address for notices to the Owners as elsewhere provided in this Declaration or the Code of Regulations, and copies of the currently effective Country Club Community 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 Country Club Community Rules and shall see that the Related Users of such Owners shall comply with the Country Club Community Rules. In the event of any conflict between the Country Club Community Rules and the provisions of this Declaration, the provisions of this Declaration shall prevail.

Section 5.15. Assist Architectural Review Committee. The Country Club Community Association shall in all respects cooperate with and assist the Architectural Review Committee in the complete fulfillment of the Committee's functions, and shall in all respects assist the Committee in the enforcement of its Design Guidelines, rules, regulations and decisions.

Section 5.16. Cooperation with Master Association. The Board shall have the power to assist the Master Association in the performance of its duties and obligations under the Master Declaration and cooperate with the Master Association so that the Master Association and the Country Club Community Association can most efficiently and economically provide their respective services to the Owners. It is contemplated that from time to time either the Master Association or the Country Club Community 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. The payment for such contract services or a variance in services provided may be reflected in an increased Assessment by the Master Association for the Country Club Community or by an item in the Country Club Community Association's budget which shall be collected through Country Club Community Association Assessments and remitted to the Master Association. If the Country Club Community Association fails, neglects, or is unable to perform a duty or obligation required by the Country Club Community Documents, then the Master Association may, after reasonable notice and an opportunity to cure given to the Country Club Community Association, perform such duties or obligations until such time as the Country Club Community Association is able to resume such functions, and charge the Country Club Community Association a reasonable fee for the performance of such functions.

Section 5.17. Manager. The Country Club Community 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 Country Club Community 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. The Manager may be the Master Association.

Section 5.18. Ownership of Other Property. The Country Club Community 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 Country Club Community Association by Declarant.

Section 5.19. Roads and Streets. The Country Club Community Association shall be responsible for the maintenance of all private roads, if any, within the Country Club Community, including periodic maintenance of the surface and regular snow, ice and trash removal, except such private drives as are located on Privately Owned Sites or private roads which are the responsibility of the Master Association to maintain. The Board shall cooperate with the applicable traffic and fire control officials and the Master

Association, to post all public and private drives, roads and streets with traffic control, fire lane, and parking regulation signs. The Country Club Community Association shall mow the grass and properly maintain the landscaping within public rights-of-way along public roads within the Country Club Community Area.

Section 5.20. Books and Records. The Country Club Community 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 Country Club Community Documents, and the books, records, and financial statements of the Country Club Community Association prepared pursuant to the Code of Regulations. The Country Club Community 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 the Owner or a Mortgagee of that Privately Owned Site.

Section 5.21. Successor of Declarant. The Country Club Community Association shall succeed to all of the duties and responsibilities of Declarant hereunder after the Turnover Date. The Country Club Community 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 Country Club Community Association by recorded written instrument.

Section 5.22. Implied Rights and Obligations. The Country Club Community Association may exercise any other right or privilege given to it expressly by the Country Club 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 Country Club Community Association shall perform all of the duties and obligations imposed on it expressly by the Country Club Community Documents and every other duty or obligation reasonably to be implied from the express provisions of the Country Club Community Documents or reasonably necessary to perform the duties and obligations contained in the Country Club Community Documents.

Section 5.23. Cooperation with Club Facilities Owner. The Country Club Community Association shall have the power to enter into cooperative agreements with the person or entity owning or operating the Club Facilities regarding matters of mutual interest including, but not limited to, maintenance, security, and reciprocal easements for ingress and egress.

Section 5.24. 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

COUNTRY CLUB COMMUNITY 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 this 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 Country Club Community Rules adopted from time to time by the Board, delegate, in accordance with the Country Club 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 Country Club Community 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 or invitees, then the expenses, costs and fees incurred by the Country Club Community Association for such maintenance, repair, or replacement, in the amount for which the Owner or the Owner's family members, guests, or invitees are liable under Ohio law, shall be a personal obligation of such Owner; and, if not repaid to the Country Club Community Association within seven days after the Country Club Community Association gives notice to the Owner of the total amount, or of amounts due from time to time, then the sums due shall become a Default Assessment against the Owner's Privately Owned Site and may be enforced in accordance with Section 8.7.

Section 6.4. Title to Country Club Community Association Properties. The Country Club Community Association Properties shall be owned by the Country Club Community Association and no Owner shall bring any action for partition or division of the Country Club Community 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 Country Club Community 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 Country Club Community Association, and hereby agrees to reimburse the Country Club Community Association for its costs, expenses, and reasonable attorneys' fees in defending any such action. In the event of the dissolution of the Country Club Community Association, other than incident to a merger or consolidation, the Country Club Community Association Properties

shall, to the extent reasonably possible, be conveyed to the Master Association to be used, in any such event, for the common benefit of Owners for similar purposes for which the Country Club Community Association Properties were held by the Country Club Community Association. In the event such conveyance is refused, the Members shall immediately thereupon hold title to the Country Club Community 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. Country Club Community Association as Attorney-in-Fact. Each and every Owner hereby irrevocably constitutes and appoints the Country Club Community 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 Country Club Community 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 Country Club Community 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 Country Club Community 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 Country Club Community Association, the Country Club Community 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 Country Club Community 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 Country Club Community 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 Country Club Community 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 Country Club Community Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair, replacement and reconstruction, the Country Club Community Association may, pursuant to Section 8.6 hereof, levy, assess, and collect in advance from all Owners, without the necessity of a special vote of the Owners, except as provided herein, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair, replacement and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair, replacement and reconstruction.

Section 6.9. Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Country Club Community Association and the amounts received from the Special Assessments provided for in Section 8.6 hereof constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance may be held by the Country Club Community 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 Owners (other than Declarant) agree in writing not to repair and reconstruct and no alternative Improvements are authorized, then and in that event such damaged or destroyed Country Club Community Association Properties shall be restored to its natural state and maintained as an undeveloped portion of the Country Club Community Association Properties by the Country Club Community Association in a neat and attractive condition, and any remaining insurance proceeds may be held by the Country Club Community Association as surplus funds in accordance with Section 9.3.

Section 6.11. Rights of Owners. Whenever all or any part of the Country Club Community 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 Country Club Community 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 Country Club Community 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 percent of the Owners (other than Declarant) shall otherwise agree in writing, the Country Club Community 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 and the Architectural Review Committee. 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. In addition to those set forth in the Master Community Documents, Declarant shall have, and hereby retains and reserves, certain rights as described in this Declaration with respect to the Country Club Community Association, the Country Club Community Association Properties, and the Country Club Community Area. 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 Country Club Community Association and in each deed or other instrument by which any property within the Country Club Community Area 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 Franklin County, Ohio. Declarant further reserves the right to create reservations, exceptions, exclusions and easements convenient or necessary for the use and operation of other property of the Declarant whether located in the Country Club Community Area or otherwise.

Section 7.2. Declarant's Approval of Conveyances or Changes in Use of the Country Club Community Association Properties. The Country Club Community Association shall not, without first obtaining the prior written consent of Declarant, convey, change or alter the use of the Country Club Community Association Properties, use the Country Club Community Association Properties other than solely for the benefit of Owners, or mortgage the Country Club Community Association Properties.

Section 7.3. Maintenance Easement. An easement is hereby reserved to the Declarant, and granted to the Country Club Community Association, and any trustee or Manager, and their respective officers, agents, employees, and assigns upon, across, over, in, and under the Country Club Community Area and a right to make such use of the Country Club Community Area as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Country Club Community Association is obligated or permitted to perform pursuant to the Country Club Community Documents, including the right to enter upon any Privately Owned Site for the purpose of performing maintenance to the landscaping or the exterior of Improvements to such Privately Owned Site as required by the Country Club Community Documents. The Country Club Community Association shall not unreasonably interfere with the rights of the Owners in the use of this easement.

Section 7.4. Golf Easements. The Declarant hereby reserves for itself and for the benefit of the person or entity owning or operating the Club Facilities and the members and their guests of the Club Facilities, the following described easements (collectively or individually the "Golf Easements"):

7.4.1. The golf cart path easements designated as such on a Plat or Plats which shall be used for golf cart paths, pedestrian walkways, maintenance and vehicle access, and unhindered access between said paths and the Club Facilities. Nothing shall be placed or maintained in any golf cart path easement area which shall interfere with utilization thereof as a playable part of the Club Facilities.

7.4.2. The golf course easement designated as such on a Plat or Plats which shall be developed as part of the Club Facilities for purposes of landscaping or the placement of any Improvements. No Improvement shall be placed in a golf course easement area without the prior written consent of the holder of the golf course easement.

7.4.3. Each Privately Owned Site is hereby burdened with an easement permitting golf balls unintentionally to come upon the Site and for golfers at reasonable times and in a reasonable manner to come upon the exterior portions of the Site to retrieve errant golf balls. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. The Country Club Community Association, the Master Association, the

owner or operator of the Club Facilities and the Declarant shall not, under any circumstances, be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement. Neither the Declarant, the Country Club Community Association nor the Master Association shall be responsible or liable in any way for any disputes between an Owner and any person's use of the Club Facilities. All Owners, by acceptance of the conveyance of a Site, assume all risks associated with errant golf balls, and all Owners agree and covenant not to make any claim or institute any action arising or resulting from any errant golf balls, any damages that may be caused thereby, or for negligent design of the Club Facilities or the location of the Site.

Declarant reserves the right to grant or deed such easement rights to the person or entity developing the Club Facilities and to impose such additional restrictions on the Golf Easements at that time and from time to time as may be reasonably required to effectuate the purposes of such easements. The reservation of the Golf Easements is made for the benefit of Declarant, the owner or operator of the Club Facilities, the members and invited guests of any golf club associated with the Club Facilities, and for associated maintenance and service personnel, for golf course and related recreational purposes.

Section 7.5. Easement Regarding Golf, Tennis or Other Recreational Use. Declarant hereby reserves for itself and for the benefit of the person or entity owning or operating the Club Facilities and the members of any club associated with the Club Facilities and their guests, an easement to use the roadways and entrances of the Country Club Community Area and the Country Club Community Association Properties during any use of the Club Facilities' golf, tennis or other facilities as a spectator, worker or purveyor at or for any tournament or activity in connection therewith for the purpose of ingress, egress or access to such facilities. Declarant reserves the right, at any time prior to the Turnover Date, to impose upon the property located within the Country Club Community Area, such other easements as are required for the enjoyment of the Club Facilities.

Any disputes as to the extent of any of the easements described in Section 7.4 or this Section shall be determined by Declarant in its sole and absolute discretion. Neither Declarant, the members of any club associated with the Club Facilities (including non-resident members), nor their guests shall be charged or required to pay any use fees in connection with such easements other than those charged by the owner or operator of the Club Facilities for the use of the Club Facilities.

Section 7.6. Easements Deemed Created. All conveyances of property within the Country Club Community Area, 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

Assessments are insufficient to pay the costs of operating the Country Club Community Association and the Country Club Community Association Properties, the Board shall levy an additional Base Assessment to cover such deficiency which will be allocated among and charged to all Privately Owned Sites in the same proportion as the Base Assessment for that year.

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 Country Club Community Properties Annexed to the Country Club Community Area on the day of the recording of the Supplemental Declaration incorporating them into the Country Club Community Area, 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 Country Club Community Association may agree with the Master Association for the Master Association to collect Base or Special Assessments of the Country Club Community Association and remit them to the Country Club Community Association on a timely basis. Collection of the Assessments in this manner shall not prevent the creation of the Country Club Community Association's lien against any Privately Owned Site or affect the Country Club Community Association's ability to enforce or collect its Assessments as provided hereunder if they are not remitted to the Master Association in a timely manner.

Section 8.6. Special Assessments. In addition to the Base Assessments authorized by Section 8.1 hereof, the Board of Trustees may levy, in any Assessment year, a Special Assessment, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement, including the necessary fixtures and personal property related thereto. Any such Special Assessment that exceeds 25% of the gross annual budget of the Board for that year shall require the assent of at least 67% of the votes of the Owners who are voting in person or by proxy at a special meeting of the Owners duly called as provided in the Code of Regulations for that purpose attended by at least 60% of the Owners in person or by proxy, written notice of which shall be sent to all Owners at least 10 days in advance and which shall set forth the purpose of the meeting. Notice in writing of the amount of any Special Assessment and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than 30 days after such notice shall have been given. Special Assessments pursuant to this Section shall be payable by Owners in such manner and at such times as determined by the Board, and may be payable in installments extending beyond

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 Country Club Community 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 Owners 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 Country Club Community 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 Country Club Community 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.

See Supplement

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 and 9.1.3, the Board shall for each year, commencing with the year 1991, fix and assess the Base Assessment against each Privately Owned Site, which Base Assessment shall be equal to the product of (a) the then current Assessed Valuation for such Privately Owned Site multiplied by (b) a fraction, the numerator of which is an amount equal to the total Base Assessment then being levied by the Country Club Community Association and the denominator of which is the aggregate current Assessed Valuation of all Privately Owned Sites. Once established, except for correction of a clerical error, the Assessed Valuation for each year for each Privately Owned Site 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.

8.4.1. As soon as shall be practicable in each year, the Country Club Community 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 Country Club Community Association and the Country Club Community Association Properties. In the event the Declarant pays Base Assessments and the Base

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 Country Club Community Association: (a) Base Assessments for the items set forth in subsections 9.1.1, 9.1.2 and 9.1.3; (b) Special Assessments for capital Improvements and other purposes as stated herein; and (c) Default Assessments which may be assessed against an Owner's Privately Owned Site pursuant to the Country Club Community Documents for failure to perform an obligation under the Country Club Community Documents or because the Country Club Community Association has incurred an expense on behalf of the Owner under the Country Club Community Documents. The Base, Special, and Default 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 Country Club Community Association Properties 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 Country Club Community Association or Board of Trustees to take some action or perform some function required to be taken or performed by the Country Club Community Association or Board of Trustees under the Country Club Community Documents or for inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Country Club Community 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 Country Club Community Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of the Country Club Community and for the acquisition, improvement and maintenance of the Country Club Community 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,

the Assessment year in which the Special Assessment is approved, if the Board so determines. Special Assessments shall be segregated into a separate account and may only be used for the purpose collected.

Section 8.7. Default Assessments. All monetary fines assessed against an Owner pursuant to the Country Club Community Documents, or any expense of the Country Club Community Association which is the obligation of an Owner or which is incurred by the Country Club Community Association on behalf of the Owner pursuant to the Country Club Community Documents, shall be a Default Assessment and shall become a lien against such Owner's Privately Owned Site which may be foreclosed or otherwise collected as provided herein. Notice of the amount and due date of such Default Assessments shall be sent to the Owners subject to such Assessment at least 30 days prior to their due date.

Section 8.8. Effect of Non-payment of Assessment Lien; Remedies of the Country Club Community Association. Any Assessment installment, whether of a Base, Special, or Default Assessment, which is not paid within 30 days of its due date shall be delinquent. In the event that an Assessment installment becomes delinquent, the Country Club Community Association, in its sole discretion, may take any or all of the following actions:

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

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

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

8.8.4. 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;

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

8.8.6. 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

8.8.7. Suspend the rights of the Owner to use the Country Club Community Association Properties and the Common Area during any period of delinquency.

The Country Club Community Association may file a statement of lien by recording with the Recorder of Franklin County, Ohio, a written statement with respect to the Privately Owned Site, setting forth the name of the Owner, the legal description of the Privately Owned

Site, the name of the Country Club Community Association, and the amount of delinquent Assessments then owing, which statement shall be duly signed and acknowledged by the President or a Vice President of the Country Club Community Association or by the Manager, 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 Country Club Community Association may have in its records for the Owner of the Privately Owned Site. Thirty days following the mailing of such notice, the Country Club Community 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 Country Club Community Association and shall be for the benefit of all other Owners. In either a personal or foreclosure action, the Country Club Community 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 Country Club Community 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 Country Club Community 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 Country Club Community Association as a result of foreclosure. The remedies herein provided shall not be exclusive and the Country Club Community Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Section 8.9. 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 Country Club Community 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 successor'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 Country Club Community Association under Section 8.12 hereof.

Section 8.10. Subordination of the Lien. The lien of the Assessments provided for herein shall be subordinate to the lien of any purchase money loan evidenced by a recorded First Mortgage and to any refinancing loan to refinance any such purchase money 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 Country Club Community Area shall constitute a waiver of the homestead exemption by the grantee in the deed. 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 8.11. Exempt Properties. The following portions of the Country Club Community Area shall be exempt from the Assessments, charges, and liens created herein:

8.11.1. All properties dedicated to and accepted by the City of Columbus, Ohio, or the Village of New Albany, Ohio, or any other governmental entity, and devoted to public use;

8.11.2. All utility lines and easements;

8.11.3. The Country Club Community Association Properties;
and

8.11.4. Any property owned by the Master Association or with respect to which the Master Association has any right, title or interest.

The Club Facilities are located on properties not governed by this Declaration or the Country Club Community Documents and, therefore, an Assessment is not applicable to those properties.

Section 8.12. Statement of Status of Assessments. Upon 10 days written notice to the Treasurer of the Country Club Community Association or the Manager and payment of a processing fee set by the Country Club Community Association from time to time, not to exceed \$50, any Owner or Mortgagee of a Privately Owned Site shall be furnished a statement of the account for such Privately Owned Site setting forth:

8.12.1. The amount of any unpaid Assessments (whether Base, Special, or Default Assessments), interest, late charges, costs, expenses, and attorneys' fees then existing against a particular Privately Owned Site;

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

8.12.3. Any other information deemed proper by the Country Club Community Association.

The information contained in such statement, when signed by the Treasurer or Manager, shall be conclusive upon the Country Club Community Association as to the person or persons to whom such statement is issued and who rely on it in good faith.

Section 8.13. 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 Country Club Community Association.

ARTICLE IX

USE OF MAINTENANCE FUNDS

Section 9.1. Application of Assessments. The Country Club Community 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 all principal and interest, when due, on all sums borrowed by or loaned to the Country Club Community Association, to the extent required under any agreement with holders or owners of debt obligations referred to in Section 9.2 hereof;

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

9.1.3. The promotion of the recreation, health, safety, and welfare of the Owners and occupants of the Country Club Community and for the improvement and maintenance of the Country Club Community 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 Country Club Community 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 Country Club Community 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 Country Club 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 Country Club Community Association covenants:

(a) to assess the Base Assessments on a given day in each year and to assess the same at a particular rate or rates;

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

(c) to apply all funds received by the Country Club Community 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 Country Club 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 Country Club Community Association; and

9.2.3. Subject to the provisions of Sections 7.2 and 13.5, to grant and convey mortgages and security interests in the Country Club 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 Country Club Community 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 Country Club Community 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 Country Club Community Association and the effectiveness of its purposes as set forth in the Country Club Community Documents.

ARTICLE X

COUNTRY CLUB COMMUNITY AREA USE RESTRICTIONS

Section 10.1. General Restriction. All property located in the Country Club Community Area shall be used only for the purposes set forth herein, as permitted by the applicable ordinances of the Village of New Albany, Ohio, and the City of Columbus, Ohio, and the laws of the State of Ohio and the United States, and as set forth in the Country Club Community Documents and specific recorded covenants affecting all or any part of the Country Club Community Area in the Master Association Documents, and any amendments thereto.

Section 10.2. Maintenance of Privately Owned Sites. Except as provided otherwise in the Country Club Community Documents, the Master Association Documents, or by written agreement within the Country Club Community Association, all maintenance of the Privately Owned Sites and all structures, landscaping, parking areas, and other Improvements thereon shall be the sole responsibility of the Owner thereof who shall maintain said Privately Owned Site in accordance with the Country Club Community Documents and the communitywide standard of the Country Club Community. The Country Club Community Association may, in the discretion of the Board, assume the maintenance responsibilities of such Owner if, in the opinion of the Board, the level and quality of maintenance responsibility provided by such Owner does not satisfy such standard. The Master Association may, in the sole discretion of the board of trustees of the Master Association, assume the maintenance responsibilities of such Owner if, in the opinion of the board of trustees of the Master Association, the level and quality of maintenance being provided by such Owner does not satisfy such standard, and the Country Club Community Association has failed to adequately provide such maintenance. Before assuming the maintenance responsibilities, the Board shall notify the Owner in writing of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action, within three days in the case of maintenance to the exterior of a Building or landscape maintenance, or within 10 days in the case of other maintenance, after mailing of such written notice, then the Country Club Community Association may proceed with such remedial action. Before assuming the maintenance responsibilities, the board of trustees of the Master Association shall notify the Owner and the Board of the Country Club Community Association in writing of its intention to do so, and if such Owner or the Country Club Community Association has not commenced and diligently pursued remedial action, within three days in the case of maintenance to the exterior of a Building or landscape maintenance, or within 10 days in the

case of other maintenance, after the date of the mailing of such written notice, then the Master Association may proceed. The notice requirements set forth in this Section 10.2 will not be required if an emergency exists in the reasonable judgment of the Country Club Community Association or the Master Association, as the context requires. The expenses of such maintenance shall be reimbursed to the Master Association or the Country Club Community Association, as the context requires, by the Owner. Such charges shall be a Default Assessment and lien on the Privately Owned Site of the Owner as provided in Section 8.7 hereof. The rights of the Country Club Community Association and the Master Association set forth in this Section 10.2 shall be in addition to all other rights of the Country Club Community Association set forth in the Country Club Community Documents and all other rights of the Master Association set forth in the Master Association Documents and may be performed by the Country Club Community Association, the Master Association and their respective agents, employees, successors or assigns. By acceptance of a deed to a Site, each Owner releases the Country Club Community Association, the Master Association and their respective officers, trustees, agents and employees and agrees that no claim may be brought against any party authorized to act under this Section for damages caused in the performance of these rights. Each Owner shall indemnify and hold the Country Club Community Association, the Master Association and their respective officers, trustees, agents and employees harmless from and against any and all claims arising out of any action undertaken by them pursuant to this Section.

Section 10.3. Partition or Combination of Privately Owned Sites. No part of a Privately Owned Site may be partitioned or separated from any other part thereof except as provided herein. Whether partitioned, combined, or unchanged, each Privately Owned Site shall be conveyed, transferred, gifted, devised, bequeathed, encumbered, or otherwise disposed of, as the case may be, with all appurtenant rights, obligations and interests created by law or by this Declaration, including the Owner's membership in the Country Club Community Association and the right to use the Common Area, and liability for all Assessments as established for such Privately Owned Site by the Board. No Privately Owned Site may be subdivided into two or more Sites and no Privately Owned Site may be combined with one or more additional Sites to form one or more Privately Owned Sites without the written consent of Declarant (or of the Country Club Community Association after the Turnover Date) and after full compliance with all county and municipal zoning and subdivision regulations. Declarant's consent shall be conditioned upon payment by the Owner or Owners concerned of all expenses thereof, including legal and accounting fees. Any recorded instrument for partition or combination of Privately Owned Sites shall make adequate provision for the adjustment of voting rights and liability for payment of Assessments appurtenant to or imposed on such Privately Owned Sites.

Section 10.4. Compliance With Insurance Requirements. It shall be the responsibility of the individual Owners, and at their expense, to make arrangements in regard to title insurance on their Privately Owned Sites upon any resale, for hazard insurance on the Improvements, personal property and furnishings located on their Privately Owned Sites, and for public liability insurance covering their Privately Owned Sites; provided, however, that none of the above-described insurance coverages shall violate insurance requirements of the Country Club Community Association or the Master Association. In addition, each Owner may obtain such other and additional insurance coverage on and in relation to his Privately Owned Site as such Owner concludes to be desirable; provided, however, that none of such insurance coverages obtained by an Owner shall affect any insurance coverages obtained by the Master Association or the Country Club Community Association nor cause the diminution or termination thereof. Any such insurance obtained by an Owner shall waive the particular insurance company's right of subrogation against the Master Association, the Country Club Community Association and other Owners.

Section 10.5. Damage or Destruction on Privately Owned Sites. In the event of damage or destruction to the Improvements located on any of the Privately Owned Sites, the Owner thereof shall promptly repair and restore the damaged Improvements to their condition prior to such damage or destruction. If such repair or restoration is not commenced within 90 days from the date of such damage or destruction, then the Country Club Community Association may, after notice and hearing as provided in the Code of Regulations, impose a fine of not less than \$500 per day on the Owner of the Privately Owned Site until repair and reconstruction is commenced. Each Owner shall diligently proceed with all repair and reconstruction and if repair and reconstruction is commenced but then abandoned for a period of more than 30 days, then unless the Owner can prove to the satisfaction of the Country Club Community Association that such failure is due to circumstances beyond the Owner's control, the Country Club Community Association may, after notice and hearing as provided in the Code of Regulations, impose a fine of not less than \$500 per day on the Owner of such Site until repair and reconstruction is recommenced. Such fine shall be a Default Assessment and a lien against the Privately Owned Site as provided in Section 8.7 hereof.

Section 10.6. Motorized Vehicles. No trucks, commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, utility or pickup trucks, motorcycles, trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, trailers, boats or boat trailers, or any other motorized vehicles other than passenger automobiles shall be parked, stored, or in any manner kept or placed on any portion of the Country Club Community Area or the roads therein, except in an enclosed garage. However, passenger automobiles only may be parked in areas designated by the Board and on the paved portion of a Privately Owned Site. This restriction,

however, shall not be deemed to prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or otherwise providing service to the Country Club Community Area or for the initial construction by Declarant or other Owners. No work on automobiles or other vehicle repair shall be performed in any portion of the Country Club Community Association Properties or in the Common Areas except in emergencies.

Section 10.7. Abandoned, Inoperable, or Oversized Vehicles. Abandoned or inoperable automobiles or vehicles of any kind, except as hereinafter provided, shall not be stored or parked on any portion of the Country Club Community Area. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three weeks or longer; provided, however, this shall not include vehicles parked by Owners while on vacation. A written notice describing the "abandoned or inoperable vehicle" and requesting removal thereof may be personally served upon the Owner or posted on the unused vehicle; and if such vehicle has not been removed within 72 hours thereafter, the Country Club Community Association shall have the right to remove the same without liability to it, and the expense thereof shall be charged against the Owner. "Oversized" vehicles, for purposes of this Section, shall be vehicles which are too high to clear the entrance to a residential garage. All unsightly or oversized vehicles, snow removal equipment, garden maintenance equipment, and all other unsightly equipment and machinery may be required by Declarant, the Committee or the Board to be stored at a location or locations designated.

Section 10.8. Excavation and Tree Removal. No excavation shall be made except in connection with Improvements approved as herein provided. For purposes of this Section, "excavation" shall mean any disturbance of the surface of the land (except to the extent reasonably necessary for approved landscape planting) which results in a removal of earth, rock, or other substance a depth of more than 18 inches below the natural surface of the land. No trees shall be removed except in accordance with the Design Guidelines.

Section 10.9. Electrical and Telephone Service. All electrical and telephone service will be placed underground.

Section 10.10. Water and Sanitation. Each Building designed for occupancy or use by humans shall connect with water and sanitation facilities as shall be made available from time to time by the City of Columbus, Ohio, the Village of New Albany, Ohio, or any other approved person or entity.

Section 10.11. Signs. No signs of any kind shall be displayed to the public view on or from any portion of the Country Club Community Area except those signs approved by the Committee, or signs of Declarant or its affiliates or assigns, or except as may be required by law.

Section 10.12. Animals and Pets. No animals, livestock, or poultry of any kind shall be kept, raised, or bred on any portion of the Country Club Community Area, except dogs, cats, or other household pets, but then only to the extent and in conformity with the kind and number regulated, permitted or prohibited from time to time by the Country Club Community Rules, and except horses owned and used in connection with the equestrian operation, if any, established by Declarant or the Master Association.

10.12.1. Household pets, such as dogs and cats, must be contained upon Owner's Privately Owned Site and such pets may not be permitted to run at large at any time.

10.12.2. Pedestrians within the Country Club Community Area who are accompanied by dogs must have the dogs under the pedestrians' direct control by use of a leash not to exceed 10 feet in length. All animal waste shall be promptly cleaned up by the pedestrian.

Section 10.13. Drainage. No Owner shall do or permit any work, construct any Improvements, place any landscaping, or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Country Club Community Area or any Common Area therein, except to the extent such alteration and drainage pattern is approved in writing by the Committee and except for rights reserved to Declarant to alter or change drainage patterns.

Section 10.14. Trash. No trash, ashes, garbage or other refuse shall be thrown or dumped on any land or area within the Country Club Community Area. Each Owner shall provide suitable receptacles for the temporary storage and collection of such refuse and all such receptacles shall be screened from the public view and from the wind and protected from animal and other disturbance.

Section 10.15. Construction Regulations of the Design Guidelines. All Owners and their contractors shall comply with the construction regulations of the Design Guidelines, if any, and with any construction regulations adopted, from time to time, by Declarant, the Committee or the Board. Such regulations may affect, without limitation, the following: trash and debris removal; sanitary facilities; parking areas; permissible times of access and construction; outside storage; restoration of damaged property; conduct and behavior of builders, subcontractors, Owners and their representatives in the Country Club Community Area at any time; the conservation of landscape materials; and fire protection. In order to ensure compliance with such construction regulations, the Declarant, the Committee or the Board may collect security deposits from any Owner or person or entity involved in construction or remodeling and use such security deposits to correct violations of the construction regulations. Such security deposits and charges against them shall be in addition to any other remedy provided by this Declaration.

Section 10.16. Landscaping. All Privately Owned Sites must be landscaped according to a landscaping plan approved by the Committee. The Declarant or the Committee may require a Site to be landscaped according to an approved plan prior to the start of construction on any other Improvements. All landscaping, including pre-construction landscaping, must be maintained according to the standards set forth in the Design Guidelines and the rules and regulations of the Country Club Community Association.

Section 10.17. Temporary Structures. No temporary structures shall be permitted except as may be determined to be necessary during construction and as specifically authorized by the Committee.

Section 10.18. Compliance With Laws. Subject to the rights of reasonable contest, each Owner shall promptly comply with the provisions of all applicable laws, regulations, ordinances, and other governmental or quasi-governmental regulations with respect to all or any portion of the Country Club Community Area.

Section 10.19. No Outside Clotheslines. No laundry or wash shall be dried or hung outside any Building.

Section 10.20. Antennas. No exterior radio, television, microwave or other antenna or antenna dish or signal capture and distribution device shall be permitted without appropriate screening and without the prior written consent of the Committee.

Section 10.21. Outside Burning. No exterior fires, except barbecues, outside fireplaces, braziers, and incinerator fires which are contained within facilities or receptacles and which are located in areas designated and approved by the Committee, shall be permitted. No Owner shall permit any condition upon its portion of the Country Club Community Area which creates a fire hazard or is in violation of fire prevention regulations.

Section 10.22. Annoying Lights, Sounds, or Odors. No light, sound or odor shall be emitted from any property within the Country Club Community Area which is obnoxious or unreasonably offensive to others. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices or lights, other than devices used exclusively for security, fire prevention or fire control purposes, shall be located or used on any property except with the prior written approval of the Architectural Review Committee.

Section 10.23. Obstructions. There shall be no obstruction of any pedestrian walkways nor interference with the free use thereof except as may be reasonably required in connection with repairs of such walkways. The Owners, their families, tenants, guests, and invitees are granted non-exclusive easements to use the pedestrian walkways within the Country Club Community Area. The use thereof shall be subject to the Country Club Community Rules which may be adopted by the Board from time to time. The Country Club Community

Association shall promptly take such action as may be necessary to abate or enjoin any interference with or obstruction of pedestrian walkways, and the Country Club Community Association shall have a right of entry on any part of the Country Club Community Area for the purposes of enforcing this Section, and any costs incurred by the Country Club Community Association in connection therewith shall be specially assessed to the Owners or other persons responsible therefor.

Section 10.24. Camping and Picnicking. No camping or picnicking shall be allowed within the Country Club Community Area except in those areas designated for such purpose. The Board, in its discretion, may ban or permit public assemblages and rallies within the Country Club Community Area.

Section 10.25. House Numbers. Each dwelling shall have a house number conforming to a design and location established by the Committee.

Section 10.26. Continuity of Construction. It is Declarant's intention that all construction be completed promptly. All Improvements commenced in the Country Club Community Area shall be prosecuted diligently to completion and the exterior of any Building shall be completed within 12 months of commencement, unless an exception is granted in writing by the Committee. If an Improvement is commenced and construction is then abandoned for more than 30 days or construction of the exterior of any Building is not completed within the required 12-month period, and after notice and hearing as provided in the Code of Regulations, then the Country Club Community Association may impose a fine of not less than \$500 per day on the Owner of the Privately Owned Site until construction is resumed, or the Improvement is completed, whichever is earlier, unless the Owner can prove to the satisfaction of the Board that such abandonment or delayed construction is for circumstances beyond the Owner's control. Such charges shall be a Default Assessment and a lien as provided in Section 8.7 hereof.

Section 10.27. Pools. No above-ground pools shall be erected, constructed or installed on any Site. Spas and in-ground pools will be permitted subject to prior written approval from the Architectural Review Committee.

Section 10.28. Air Conditioning Units. Except as may be permitted by the Committee, no window air conditioning units may be installed in any Improvement.

Section 10.29. Fences. No dog runs, animal pen or fences of any kind will be permitted on any Site except as approved by the Committee.

Section 10.30. Playground and Basketball Equipment. No jungle gyms, swing sets, or other playground equipment including, but not

limited to, basketball hoops and backboards shall be permitted on any Site except as approved by the Committee.

Section 10.31. Window Coverings. All windows in any Building shall have window coverings which have a white or off white backing or blend with the exterior color of the dwelling, as determined in the sole discretion of the Committee. Reflective window coverings are prohibited.

Section 10.32. Nuisance. No obnoxious or offensive activity or nuisance shall be carried on or be permitted to exist within the Country Club Community Area, nor shall anything be done or permitted which is or may become offensive or detrimental or cause a disturbance or annoyance to any other part of the Country Club Community Area or its occupants.

Section 10.33. General Practices Prohibited. The following practices are prohibited within the Country Club Community Area:

10.33.1. Changing oil in any vehicle or equipment other than at a location designated for that purpose by the Committee;

10.33.2. Allowing concrete suppliers and contractors to clean their equipment other than at a location designated for that purpose by the Committee;

10.33.3. Removing any rock, plant material, top soil or other similar items from any property of others;

10.33.4. Carrying firearms on the Country Club Community Association Properties;

10.33.5. Use of surface water for construction; or

10.33.6. Careless disposal of cigarettes and other flammable materials.

Section 10.34. Leasing. The Owner of a Privately Owned Site shall have the right to lease such Privately Owned Site subject to the following conditions:

10.34.1. All leases shall be in writing and for not less than one year;

10.34.2. The lease shall be specifically subject to the Country Club Community Documents and any failure of a tenant to comply with the Country Club Community Documents shall be a default under the lease; and

10.34.3. The Owner shall be liable for any violation of the Country Club Community Documents committed by such Owner's tenant, without prejudice to such Owner's right to collect any sums paid from the tenant.

Section 10.35. Hazardous Materials. Each Owner shall comply with all federal, state and local statutes, regulations, ordinances, or other rules intended to protect the public health and welfare as related to land, water, groundwater, air or other aspects of the natural environment (the "Environmental Laws"). Environmental Laws shall include, but are not limited to, those laws regulating the use, generation, storage or disposal of hazardous substances, wastes and materials (collectively, the "Hazardous Materials"). No Owner or his tenants, guests, invitees, or permittees shall knowingly use, generate, manufacture, store, release, dispose of or knowingly permit to exist in, on, under or about his or her Privately Owned Site, the Common Area or any portion of the Country Club Community Area, or transport to or from any portion of the Country Club Community Area any Hazardous Materials except in compliance with the Environmental Laws.

Section 10.36. Drainage and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No person or entity other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself a perpetual easement across all property located in the Country Club Community Area for the purpose of altering drainage and water flow. Septic tanks and drain fields, other than those installed by or with the written consent of the Committee, are prohibited within the Country Club Community Area. No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances, in any drainage ditch, stream, pond or lake within the Country Club Community Area.

Section 10.37. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed in the Country Club Community Area unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Committee. No windmills, wind generators or other apparatus for generating power from the wind shall be erected or installed on any Site.

Section 10.38. On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted in the Country Club Community Area except that up to five gallons of fuel may be stored on each Site for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Country Club Community Association shall be permitted to store fuel for the operation of maintenance vehicles, generators and similar equipment.

Section 10.39. Water and Mineral Operations. No oil, gas or water drilling, oil, gas or water development operations, oil refining, quarrying or mining operations of any kind shall be permitted in the Country Club Community Area and no derrick or other structure designed for use in boring for water, oil, natural gas, or

other minerals shall be erected, maintained or permitted in the Country Club Community Area; provided, however, the foregoing shall not prevent the drilling of or installation of water development operations by Declarant or its assigns.

ARTICLE XI

ARCHITECTURAL REVIEW COMMITTEE

Section 11.1. Membership. There is hereby established an Architectural Review Committee which shall be responsible for the establishment and administration of Design Guidelines to carry out the purposes and intent of this Declaration. The Committee shall be composed of a minimum of three persons, who need not be Members. All of the members of the Committee shall be appointed, removed, and replaced by the Declarant in its sole discretion, until the Turnover Date, at which time the Board shall succeed to the Declarant's right to appoint, remove or replace the members of the Committee.

Section 11.2. Purpose. The Committee shall review, study and either approve or reject proposed Improvements and proposed alterations to Improvements in the Country Club Community Area, all in compliance with this Declaration and as further set forth in the rules and regulations of the Committee and the Design Guidelines as shall be adopted and established and may be amended from time to time by the Committee. Notwithstanding any provision herein, the Club Facilities are located on property not governed by the Country Club Community Documents, and therefore, shall not be subject to these covenants, conditions and restrictions. The Committee shall exercise its best judgment to see that all Improvements conform and harmonize with any existing Buildings as to external design, quality and type of construction, materials, color, location on the Site, height, grade and finished ground elevation, and all aesthetic considerations herein set forth. The actions of the Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

Section 11.3. Organization and Operation of Committee.

11.3.1. The term of office of each member of the Committee, subject to Section 11.1, shall be one year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a Committee member die, retire, become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in Section 11.1.

11.3.2. So long as the Declarant appoints the Committee, the Declarant shall appoint the chairman. At such time as the Committee is appointed by the Board, the chairman shall be elected annually from among the members of the Committee by majority vote of said members.

11.3.3. The chairman shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the Committee prior to any meeting. Such notice shall set forth the time and place of said meeting, which notice may be waived by any member. In the absence of a chairman, the parties appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, a temporary successor.

11.3.4. The affirmative vote of a majority of the members of the Committee present at a meeting at which a quorum is present shall govern its actions and be the act of the Committee. A quorum shall consist of a majority of the members.

11.3.5. The Committee may avail itself of technical and professional advice and consultants as it deems appropriate.

Section 11.4. Expenses. Except as hereinafter provided, all expenses of the Committee shall be paid by the Country Club Community Association. The Committee shall have the right to charge a filing fee for each application submitted to it for review, in an amount which may be established by the Committee from time to time, and such filing fees shall be collected by the Committee and remitted to the Country Club Community Association to help defray the expenses of the Committee's operation.

Section 11.5. Design Guidelines and Rules. The Committee shall adopt, establish and publish, from time to time, Design Guidelines, which shall be a Country Club Community Document. The Design Guidelines shall not be inconsistent with the Declaration but shall more specifically define and describe the design standards for the Country Club Community and the various uses within the Country Club Community. Subject to the foregoing, the Design Guidelines may be modified or amended from time to time by the Committee in its sole and absolute discretion. All prospective Owners and builders are advised to contact the Committee to obtain the most current copy of the Design Guidelines.

Section 11.6. Variances. The Committee may authorize variances from compliance with any of the Design Guidelines and their procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) stop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the denial of any permit, or disapproval of the terms of any financing shall not necessarily be considered a hardship warranting a variance.

Section 11.7. Limitation of Liability. The Committee shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither the Committee, nor any

individual member thereof, shall be liable to any person for any official act of the Committee in connection with submitted plans and specifications, except to the extent the Committee or any individual member thereof acted with malice or wrongful intent. Approval by the Committee does not necessarily assure approval by the appropriate governmental board or commission. Notwithstanding that the Committee has approved plans and specifications, neither the Committee nor any of its members shall be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim, or expense which may arise by reason of such approval or failure to approve. Neither the Board, the Architectural Review Committee or any agent thereof, nor Declarant or any of its partners, employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Country Club Community Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Committee shall be defended and indemnified by the Country Club Community Association in any such suit or proceeding.

Section 11.8. Certificate of Compliance. Upon payment of a reasonable fee established from time to time by the Architectural Review Committee, and upon written request of any Owner or his agent, an existing or prospective Mortgagee or a prospective grantee, the Committee shall issue an acknowledged certificate, in recordable form, setting forth generally whether or not, to the best of the Committee's knowledge, the Improvements constructed on the Site are in compliance with the Design Guidelines. Unless such request shall be complied with within 30 days after receipt thereof, it shall be conclusively presumed that the Owner and the affected Privately Owned Site is in conformance with all the terms and conditions under the control of the Committee.

Section 11.9. General. The right of an Owner, developer, person or other entity to construct, reconstruct, refinish, alter or maintain any Improvement upon, under or above any of the Country Club Community Area or to make or create any excavation or fill thereon, or to make any change in the natural or existing surface contour or drainage thereof, or install any utility line or conduit thereon or thereover, shall be subject to the Design Guidelines and to the general restrictions set forth herein.

Section 11.10. Approval Required. No Building or other structure shall be placed, erected or installed in the Country Club Community Area, no construction (which term shall include within its definition staking, clearing, excavation, grading and other site work), no exterior alteration or modification of existing Improvements, and no plantings or removal of plants, trees or shrubs shall be permitted without, until and unless the Owner first obtains the written approval thereof from the Committee and otherwise complies with the provisions hereof. Any excavation, construction, reconstruction, or the refinishing or alteration of any part of the

exterior of any Building or other Improvement in the Country Club Community Area is absolutely prohibited until and unless the Owner or developer first obtains approval thereof from the Architectural Review Committee and otherwise complies with the provisions hereof. All Improvements shall be constructed only in accordance with approved plans. In order to verify the Assessed Valuation for a Site, the Committee may require certification of the construction costs listed on any building permit as part of the plan approval process or after plans have been approved, as the Committee deems necessary.

Section 11.11. Removal of Non-Conforming Improvements. The Master Association or the Country Club Community Association, upon request of the Committee and after reasonable notice to the offender and to the Owner, may remove any Improvements constructed, reconstructed, refinished, altered, or maintained in violation of these covenants, and the Owner thereof shall forthwith reimburse the Master Association or the Country Club Community Association, as the context requires, for all expenses incurred in connection therewith.

Section 11.12. Compliance. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Design Guidelines and their procedures promulgated by the Committee may be excluded by the Board from the Country Club Community Area without liability to any person, subject to the notice and hearing procedures contained in the Code of Regulations.

Section 11.13. Development by Declarant. Notwithstanding any other provisions of this Article XI or of this Declaration which may be to the contrary, the provisions of this Article XI shall not apply to any Improvement to property proposed or made by Declarant or its successors and assigns in connection with its development, construction, promotion, marketing, sale or leasing of properties within the boundaries of the area comprised of the Country Club Community Area and the Expansion Country Club Community Properties.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1. Term. The covenants and restrictions of this Declaration shall run with the land and bind the Country Club Community Area 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 12.2. Amendment. Subject to the provisions of Article XIII of this Declaration, until the Turnover Date, Declarant may, in its sole and absolute discretion, unilaterally amend this Declaration at any time and from time to time. Thereafter, Declarant may unilaterally amend this Declaration 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 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 affirmative vote or written consent, or any combination thereof, of at least 67% of the Members; provided, however, that the percentage of votes necessary to amend a specific clause of this Declaration shall not be less than the prescribed percentage of affirmative votes 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 12.3. Effective on Recording. Any amendment, to be effective, must be recorded in the office of the Recorder of Franklin County, Ohio 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 Country Club Community Association, shall be recorded in the office of the Recorder of Franklin County, Ohio. Any amendment shall be effective immediately upon such recordation.

Section 12.4. Revocation. This Declaration shall not be revoked without the consent of all of the Owners in a written instrument duly recorded.

Section 12.5. Compliance with Documents. Each Owner shall abide by and benefit from the provisions, covenants, conditions, and restrictions contained in the Master Community Documents and Country Club Community Documents.

Section 12.6. Violations Deemed a Nuisance. Every violation hereof or of any other of the Country Club 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 12.7. Compliance. Each Member, Owner, or other occupant of any part of the Country Club Community Area shall comply

with the provisions of the Country Club Community Documents as the same may be amended from time to time.

Section 12.8. Failure to Comply. Failure to comply herewith shall be grounds for an action to recover damages or for injunctive 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 12.9. Enforcement. The Country Club Community Association, the Master Association or any Owner shall have the right to enforce against any Owner, and the Master Association or any Owner shall have the right to enforce against the Country Club Community 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 Country Club Community Association, 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 12.10. Remedies. In addition to the remedies set forth above in this Article XII, any violation of the Country Club Community Documents shall give to the Board, the Manager, the Master Association or the Declarant, on behalf of the Owners, the right to enter upon the offending Site or take appropriate peaceful action to abate, remove, modify or replace, at the expense of the offending Owner any Building, thing or condition that may exist thereon contrary to the interest and meaning of the Country Club 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, the Master Association 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 12.11. Non-Exclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

Section 12.12. No Liability. No member of the Board, the Declarant, the Architectural Review Committee, the Manager nor any Owner shall be liable to any other Owner for the failure to enforce any of the Country Club Community Documents at any time.

Section 12.13. 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 Country Club 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 12.14. Resolution of Disputes. If any dispute or question arises between Owners or between Owners and the Country Club Community Association or the Architectural Review Committee relating to the interpretation, performance or non-performance, violation, or enforcement of the Country Club 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 12.15. 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 unenforceability without invalidating any other part hereof.

Section 12.16. 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 12.17. Headings. The headings are included only for purposes of convenient reference, and they shall not affect the meaning or interpretation of this Declaration.

Section 12.18. Registration of Mailing Address. Each Owner and Member shall register his mailing address with the Secretary of the Country Club Community 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.

Section 12.19. Notice. All notices or requests required hereunder shall be in writing. Notice to any Owner or Member 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 on file in the records of the Country Club Community Association at the time of such mailing. Notice to the Board, the Country Club Community Association or to the Architectural Review Committee shall be considered delivered and effective upon personal delivery, or three days after posting, when sent by first class mail, to the Country Club Community Association, the Board, the Committee or the Manager, at such address as shall be established by the Country Club Community Association from time to time by notice to the Owners and Members.

Section 12.20. Waiver. No failure on the part of the Country Club Community Association, the Board, or the Committee 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 or Committee 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 Country Club Community Association or by the chairman of the Committee if on behalf of the Committee.

Section 12.21. 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. Any conflict between the terms of this Declaration and the terms of the Design Guidelines shall be resolved by Declarant in its sole and absolute discretion. In case of conflict between the Country Club Community Documents and the Master Community Documents, the Master Community Documents shall control.

Section 12.22. Assignment. Declarant may assign all or any part of its rights and reservations hereunder to any successor who takes title to all or part of the Country Club Community Association Properties. Such successor shall be identified, the particular rights being assigned shall be specified, and, to the extent required, concomitant obligations shall be expressly assumed by such successor, all in a written instrument duly recorded in the records of the office of the Recorder of Franklin County, Ohio.

Section 12.23. Use of Club Facilities. Neither membership in the Master Association, the Country Club Community Association nor ownership or occupancy of a Privately Owned Site shall confer any membership or ownership interest in or right of any kind to use the Club Facilities. The Club Facilities shall not be subject to this Declaration or the Country Club Community Documents and are not part of the Common Area. Rights to use the Club Facilities will be granted only to such persons, and on such terms and conditions as may be determined from time to time by the owner of the Club Facilities. The owner of the Club Facilities shall have the right, from time to time, in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Club Facilities, including, without limitation, eligibility for and limitation of use rights, categories of use and extent of use privileges and number of users, and shall also have the right to reserve use rights, to terminate use rights altogether, and, to sell, transfer or convey the Club Facilities to any party (including a member-owned club) on any terms, and to require the payment of a membership contribution, initiation deposit, initiation fee, dues and other charges for use privileges.

Section 12.24: Independent Builders. The Country Club Community is a master planned community being developed by the Declarant. The individual residential units constructed within the Country Club Community Area may be constructed by the Declarant or by an independent contractor who purchases the Privately Owned Site from the Declarant. If the unit 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 12.25. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Country Club Community Association unless approved by a vote of 75% of the Members. This Section shall not apply, however, to (a) actions brought by the Country Club Community 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 Country Club Community 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 vote, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 12.26. Non-Condominium/Non-Cooperative. The Country Club Community Association does not and is not intended to constitute a condominium association or a cooperative association. The Country Club Community Area is not intended to be condominium property, or cooperative property under applicable law. This Declaration is not part of the common elements of any condominium or cooperative unless subject to a declaration of condominium or cooperative encumbering any such property.

Section 12.27. Limitation of Liability and Indemnification. The Country Club Community 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 Country Club Community Association (except to the extent that such officers or trustees may also be Owners), and the Country Club Community 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 Country Club Community Association shall, at its expense, maintain

adequate general liability and officers' and trustees' liability insurance as required in Article V to fund this obligation, if such insurance is reasonably available.

Section 12.28. 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 12.29. Security. The Country Club Community Association may, but shall not be obligated to, maintain or support certain activities within the Country Club Community Area designed to make the Country Club Community Area safer than it otherwise might be including, but not limited to, providing or entering into agreements with others to provide security services to the Country Club Community Area. The Country Club Community Association shall have the right to charge a fee to Owners utilizing such services. Neither the Country Club Community Association, Declarant, nor any successor of Declarant shall in any way be considered insurers or guarantors of security within the Country Club Community Area, however, and neither the Country Club Community Association, Declarant, nor any successor of Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and occupants of any Privately Owned Site, tenants, guests and invitees of any Owner, as applicable, acknowledge that the Country Club Community Association and its Board of Trustees, Declarant, or any successor of Declarant do not represent or warrant that any fire protection system, burglar alarm system or other security system installed in any Privately Owned Site may not be compromised or circumvented, or that any fire protection or burglar alarm systems or other security systems will prevent loss, injury or death by fire or otherwise. Each Owner, by acceptance of a deed to a Site, releases and indemnifies Declarant and the Country Club Community Association from all claims arising out of any security measures undertaken or provided by or through Declarant or the Country Club Community Association.

Section 12.30. Waiver of Club Facilities Liability. Each Owner, each occupant of a Privately Owned Site, the Country Club Community Association, and each person using any facility within the Country Club Community Area, including, but not limited to any golf cart path or bike path, acknowledges that the Club Facilities are located adjacent to the Country Club Community Area and assumes the risk of golf balls being hit into such Owner's Privately Owned Site or the Country Club Community Association Properties and the risk of

potential bodily injury or damage to property which may result. Each Owner by taking title to a Site and the Country Club Community Association by its joinder in this Declaration and each person using any such facility agrees that neither Declarant nor any entity designing, constructing, owning, operating or managing the Club Facilities shall be liable to the Owner or the Country Club Community Association or any invitee of the Owner or the Country Club Community Association for any loss or damage for personal injury, damage to property, trespass or any other alleged wrong attributable to the Club Facilities. This release of liability shall apply, without limitation, to any such claim arising in whole or in part from the negligence of Declarant or any other entity or person designing, constructing, managing, operating or owning the Club Facilities. Each Owner and the Country Club Community Association agree to indemnify and hold harmless Declarant and any other entity designing, constructing, managing, operating or owning the Club Facilities against all claims by their respective guests, invitees or licensees with respect to any claims above described. The provisions of this Section shall apply to the Club Facilities as originally designed and constructed and as it may be altered in design, layout and construction from time to time.

Section 12.31. 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 XIII

MORTGAGEE RIGHTS

Section 13.1. General. The following provisions are for the benefit of holders, insurers, or guarantors of First Mortgages on Privately Owned Sites in the Country Club Community. To the extent applicable, necessary, or proper, the provisions of this Article XIII apply to this Declaration, the Articles and the Code of Regulations.

Section 13.2. Notices of Action. A holder, insurer, or guarantor of a First Mortgage, who provides written request to the Country Club Community 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:

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

13.2.2. Any default in performance of any obligation under the Country Club 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;

13.2.3. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Country Club Community Association; or

13.2.4. Any proposed action which would require the approval of a specified percentage of Eligible Holders, as required in Sections 13.3 and 13.4.

Section 13.3. Other Provisions for the Benefit of Eligible Holders. To the extent permitted under Ohio law, the approval of 51% of the Eligible Holders of Mortgages on Privately Owned Sites subject to Eligible Holder Mortgages shall be obtained before taking the following actions:

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

13.3.2. Any election to terminate the legal status of the Country Club Community Association after substantial destruction or a substantial taking in condemnation of the Country Club Community Association Properties.

Section 13.4. 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 Country Club Community Association Properties, the following approvals shall be required:

13.4.1. The approval of 67% of the Eligible Holders of Mortgages on Privately Owned Sites subject to Eligible Holder Mortgages shall be required to terminate the legal status of the Country Club Community Association; and

13.4.2. The approval of at least 51% of the Eligible Holders of Mortgages on Privately Owned Sites subject to Eligible Holder Mortgages shall be required to add to or amend any material provisions of the Country Club 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;

- such liens;
- (b) Assessments, Assessment liens, subordination of
 - (c) Insurance or fidelity bonds;
 - (d) Rights to use of the Common Area;
 - (e) Responsibility for maintenance and repair of the Country Club Community 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;
 - (i) Boundaries of any Privately Owned Site; or
 - (j) Leasing of Privately Owned Sites.

Section 13.5. Other Approval Requirements. Unless at least 67% of the First Mortgagees (based on one vote for each First Mortgage owned) have given their prior written approval, the Country Club Community Association shall not be entitled to:

13.5.1. 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);

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

13.5.3. By act or omission, change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Improvements on Privately Owned Sites, and the maintenance of the Common Area; provided, however, the issuance and amendment of the Design Guidelines by the Committee or the issuance and amendment of architectural standards, procedures, rules and regulations or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.

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

13.5.5. 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 13.6. First Mortgagees May Pay Country Club Community 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 Country Club Community 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 Country Club Community Association Properties, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Country Club Community Association.

Section 13.7. Approval Deemed Given. If approval of an Eligible Holder or First Mortgagee is requested in writing pursuant to this Article XIII and a negative response is not received by the Country Club Community Association within 30 days after such Eligible Holder's or First Mortgagee's 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, an Ohio partnership

Signed in the presence of:

By: BLACKLICK INVESTMENTS, INC.

[Signature]
JANIS A. COLEMAN

By: [Signature]
John W. Kessler, President

[Signature]
JANIS A. COLEMAN

And By: ROCKY FORK DEVELOPMENT CORPORATION
By: [Signature]
William R. Westbrook, Vice President

STATE OF OHIO)
) SS.
COUNTY OF FRANKLIN)

This agreement was acknowledged and signed before me this 29th day of November, 1990, by John W. Kessler, as President of Blacklick Investments, Inc., a partner of The New Albany Company, an Ohio partnership.

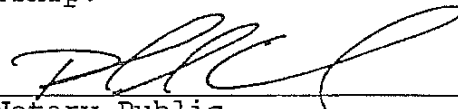


Notary Public

PAUL S. COPPEL, Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Section 147.03 O.R.C.

STATE OF OHIO)
) SS.
COUNTY OF FRANKLIN)

This agreement was acknowledged and signed before me this 30th day of November, 1990, by William R. Westbrook, as Vice President of Rocky Fork Development Corporation, a partner of The New Albany Company, an Ohio partnership.



Notary Public

PAUL S. COPPEL, Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Section 147.03 O.R.C.