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Hamilton County, Ohio

CONFIRMATION 1351902

**HARVEY POINTCEDAR
MEADOWS II HOMEOWNERS
ASSOCIATIO
VS.
RACHELLE D SHELLS**

A 2303258

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**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

HARVEY POINT - CEDAR MEADOWS II
HOMEOWNERS ASSOCIATION, INC.
c/o Robbins, Kelly, Patterson & Tucker, LPA
312 Elm Street, Suite 2200
Cincinnati, Ohio 45202

Plaintiff,

vs.

RACHELLE D. SHELLS
3591 Harvey Avenue
Cincinnati, Ohio 45229

And

JOHN DOE, UNKNOWN SPOUSE OF
RACHELLE D. SHELLS
3591 Harvey Avenue
Cincinnati, Ohio 45229

And

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
as nominee for KeyBank, National
Association
P.O. Box 2026
Flint, Michigan 48501

And

MORTGAGE ELECTRONIC
REGISTRATIONS SYSTEMS, INC., as
nominee for Talmer Bank and Trust
P.O. Box 2026
Flint, Michigan 48501

And

STATE OF OHIO, DEPARTMENT OF
TAXATION
4485 Northland Ridge Boulevard
Columbus, Ohio 43229

Case No. _____

Judge _____

COMPLAINT IN FORECLOSURE

**(With Notice Under the Fair Debt
Collection Practices Act)**

Parcel No. 113-0002-0098-00

Also Serve:

State of Ohio, Department of Taxation
c/o Dave Yost, Attorney General
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215

And

HAMILTON COUNTY CHILD SUPPORT
ENFORCEMENT AGENCY
c/o Melissa Powers, Hamilton County
Prosecutor
230 E. Ninth Street, Suite 4000
Cincinnati, Ohio 45202

Defendants.

Now comes the Plaintiff, Harvey Point - Cedar Meadows II Homeowners Association, Inc., by and through counsel, and hereby states as follows for its Complaint:

1. Plaintiff, Harvey Point - Cedar Meadows II Homeowners Association, Inc., is a not-for-profit corporation organized and existing under the laws of the State of Ohio which is organized to administer and maintain the property commonly known as Harvey Point-Cedar Meadows in Hamilton County, Ohio.

2. Defendant, Rachelle D. Shells, is a member of Plaintiff and by virtue of her ownership of real property commonly known as 3591 Harvey Avenue, Cincinnati, Ohio 45229, Parcel No. 113-0002-0098-00 ("Property"), and being more particularly described as follows:

SITUATED IN SECTION 9, TOWNSHIP 3, FRACTIONAL RANGE 2, MILLCREEK TOWNSHIP, MIAMI PURCHASE, CITY OF CINCINNATI, HAMILTON COUNTY, STATE OF OHIO, BEING PART OF LOT 2 OF JOHN MEARS ESTATE, RECORDED IN PLAT BOOK 1, PAGE 291, HAMILTON COUNTY RECORDER'S OFFICE AND BEING ALL OF LOT 9, HARVEY POINT , RECORDED IN PLAT BOOK 330, PAGE 5, HAMILTON COUNTY RECORDER'S OFFICE.

SUBJECT TO THE DECLARATIONS OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR HARVEY POINT- CEDAR MEADOWS II SUBDIVISION AS RECORDED IN O.R. VOL.7277, PAGE 1689, OF THE HAMILTON COUNTY, OHIO RECORDS.

TOGETHER WITH AND SUBJECT TO A MUTUAL EASEMENT AND RIGHT, AS DESCRIBED IN THE ABOVE RECORDED DECLARATION, IN A PARTY WALL WHICH SEPARATES THE IMPROVEMENTS ON THE LOT GRANTED HEREIN FROM IMPROVEMENTS ON ADJACENT LOT 10.

SUBJECT TO ANY CONDITIONS, EASEMENTS AND/OR RESTRICTIONS OF RECORD, IF ANY.

3. Pursuant to the Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Harvey Point - Cedar Meadows II Developments filed for record with the Hamilton County, Ohio Recorder at Official Record Book 7277, Page 1689 and the First Amendment to Declaration of Covenants, Conditions Restrictions and Reservation of Easements for Harvey Point - Cedar Meadows II Development filed for record with the Hamilton County, Ohio Recorder at Official Record Book 12973, Page 790 (“Declaration”), a copy of which is attached as EXHIBIT A and is incorporated by reference, and is binding upon Defendant, Rachelle D. Shells, said Defendant is indebted to Plaintiff in the amount of \$3,400.85 as of July 12, 2023 for assessments, interest, late fees, and for continuing assessments, interest, late fees, attorney’s fees, recording fees, and the costs of this action for which Plaintiff has filed a Certificate of Lien with the Hamilton County, Ohio

Recorder at Official Record Book, 14613, Page 1226, a true and accurate copy of which is attached as EXHIBIT B and is incorporated by reference.

4. Defendant, Rachelle D. Shells, has failed and refused to pay amounts due and owing under the Declaration.

5. Defendant, Rachelle D. Shells, is further obligated to pay Plaintiff's reasonable attorney fees and costs incurred to collect assessments pursuant to the Declaration and R.C. Section 5312.12.

6. In accordance with the Declaration and R.C. Section 5312.12, Plaintiff has a continuing lien for assessments and related fees and costs upon the Property.

7. The Certificate of Lien, including all fees and costs, is a valid and subsisting lien upon the Property.

8. Defendant, John Doe, Unknown Spouse of Rachelle D. Shells, is named as a party herein as such person has, or may claim, an interest in or lien upon the Property including, without limitation, by virtue of a dower interest. The name of such party is not presently ascertainable by Plaintiff.

9. Defendant, Mortgage Electronic Registration Systems, Inc., as nominee for KeyBank, National Association, has or may claim an interest in or lien upon the Property including, without limitation, by virtue of a Mortgage recorded October 9, 2018 in Official Record Book 13770, Page 775 of the Hamilton County, Ohio Records.

10. Defendant, Mortgage Electronic Registration Systems, Inc., as nominee for Talmer Bank and Trust, has or may claim an interest in or lien upon the Property including, without limitation, by virtue of a Mortgage recorded April 29, 2016 in Official Record Book 13156, Page 254 of the Hamilton County, Ohio Records.

11. Defendants, Jane Doe, Unknown Spouse of Curtis Cooper and John Doe, Unknown Spouse of Jasmine Taylor, are named as parties herein as they have or may claim an interest in or lien upon the Property including, without limitation, by virtue of a dower interest. The names of said parties are not presently ascertainable by Plaintiff.

12. Defendant, State of Ohio, Department of Taxation, is named as a party herein as it has or may claim an interest in or lien upon the Property including, without limitation, by virtue of Certified Judgment Liens filed in the Records of Hamilton County, Ohio.

13. Defendant, Hamilton County Child Support Enforcement Agency, is named as a party herein as it has, or may claim, an interest in or lien upon the Property including, without limitation, by virtue of liens filed in the Records of Hamilton County, Ohio.

14. Pursuant to R.C. § 5312.12(C)(1), Plaintiff is entitled to receive reasonable rental from Defendant, Rachelle D. Shells, during the pendency of this action and for the appointment of a Receiver to collect said rental.

15. A Preliminary Judicial Report for the Property is attached as EXHIBIT C and is incorporated by reference.

WHEREFORE, Plaintiff demands judgment as follows:

A. For judgment against Defendant, Rachelle D. Shells, in the amount of \$3,400.85 as of July 12, 2023, together with amounts accruing thereafter for unpaid assessments, related interest, enforcement assessments, collection costs, late fees, recording fees, attorney's fees, paralegal fees, court costs, and reasonable rental value until the Property is sold;

B. That Plaintiff be found to have a valid and subsisting lien upon the Property for the amount owing to it from Defendant Rachelle D. Shells and that said lien be found prior to any lien or encumbrance subsequently arising or created, except liens for real estate

taxes and assessments of political subdivisions and liens of first mortgages that have been filed for record prior to the recording of the lien;

C. That all Defendants be required to answer and set forth any interest or claim in and to the Property or be forever barred;

D. That the liens upon the Property be marshaled and the Property be appraised, advertised, and sold according to law;

E. That Plaintiff be paid from the proceeds of said sale in the order of its priority;

F. That Defendant Rachelle D. Shells be required to pay a reasonable rent to Plaintiff during the pendency of this action and for the appointment of a Receiver to collect the rent and to disburse it pursuant to R.C. Section 5312.12;

G. For Plaintiff's reasonable attorney fees and costs incurred herein;

H. For the costs of this action; and

I. For such other relief, both legal and equitable, as may be appropriate.

Respectfully submitted,



Michael A. Galasso (0072470)
Charles E. Rust (0097224)
Robbins, Kelly, Patterson & Tucker, LPA
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Cincinnati, Ohio 45202
T: (513) 721-3330 | F: (513) 721-5001
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cerust@rkpt.com
Attorneys for Plaintiff

NOTICE UNDER THE FAIR DEBT COLLECTION PRACTICES ACT

If your name appears in the complaint or letter to which this is attached, the following notice applies to you:

1. The amount of the debt is stated in the complaint or letter.
2. The Client/Plaintiff as named in the complaint or letter is the creditor to whom the debt is owed.
3. Unless you dispute the validity of the debt, or any portion of it, within thirty (30) days after you receive this notice, Robbins, Kelly, Patterson & Tucker, LPA will assume that the debt described in the complaint or letter is valid.
4. If you notify Robbins, Kelly, Patterson & Tucker within thirty (30) days after you receive this notice that the debt or any portion of it is disputed, Robbins, Kelly, Patterson & Tucker, LPA will obtain verification of the debt or a copy of the judgment against you and will mail you a copy of the verification or judgment.
- s. If the Client/Plaintiff named as plaintiff in the complaint or letter is not the original creditor, and if you send a request to Robbins, Kelly, Patterson & Tucker, LPA within thirty (30) days after you receive this notice, Robbins, Kelly, Patterson & Tucker, LPA will mail the name and address of the original creditor to you.
6. Notices and requests should be addressed to:

Michael A. Galasso, Esq.
Robbins, Kelly, Patterson & Tucker
312 Elm Street, Suite 2200
Cincinnati, Ohio 45202-2748
(513) 721-3330

7. **Any communication with you will be an attempt to collect a debt. Any and all information gathered will be used for that purpose.**
8. The commencement of a lawsuit to collect this debt does not affect the rights set forth in this notice.

EXHIBIT A

58-101-R #1
58-101-D #5

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MAR 24 1997

DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
AND
RESERVATION OF EASEMENTS
FOR
HARVEY POINT - CEDAR MEADOWS II DEVELOPMENTS

HAMILTON COUNTY RECORDER'S OFFICE
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DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS AND RESERVATIONS OF EASEMENTS FOR
HARVEY POINT - CEDAR MEADOWS II DEVELOPMENTS

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR HARVEY POINT - CEDAR MEADOWS II DEVELOPMENTS ("Declaration") is made this _____ day of _____, 199____ by AVONDALE REDEVELOPMENT CORPORATION, an Ohio non-profit corporation, ("Developer") under the following conditions:

A. Developer is the owner of certain real property located in the City of Cincinnati, Hamilton County, Ohio, designated Harvey Point Subdivision and more particularly described in Exhibit A attached hereto and made a part hereof ("Harvey Point"); and

B. Developer is the owner of certain real property located in the City of Cincinnati, Hamilton County, Ohio, designated Cedar Meadows II Subdivision and more particularly described in Exhibit B attached hereto and made a part hereof ("Cedar Meadows II"), Harvey Point and Cedar Meadows II being referred to collectively as (the "Property"); and

C. Developer desires to declare that the Property shall be held, sold, and conveyed subject to the covenants, conditions, and restrictions and reservation of easements contained herein; and

D. Developer may acquire other real property in the vicinity of the Property which other real property may be subjected and annexed to this Declaration by Developer, subject to the provisions of Article X of this Declaration, and thereafter considered part of the Property.

NOW, THEREFORE, in consideration of the premises and for the purposes of establishing and assuring a uniform plan for the development of the Property, and enhancing and protecting the value, desirability, and attractiveness of the Property, Developer hereby declares that the Property shall be held, sold, and conveyed subject to this Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements, and the liens provided for herein.

This Declaration and all amendments hereto: (a) shall be, and shall be construed as, covenants running with the land; (b) shall be binding upon Developer, all mortgagees, the Association (as defined below), its members, and each Owner (as defined below), their heirs, successors, and assigns, and all claiming under any of them; and (c) shall (regardless of whether or not any such beneficiary owns an interest in any Parcel (as defined below)) inure to the benefit of and be enforceable by (I) Developer, (ii) the Association, and (iii) each Owner and all claiming under each Owner.

ARTICLE I

DEFINITIONS

The words in this Declaration which begin with capital letters, other than words which normally would be capitalized, unless the context otherwise requires, shall have the same meanings as the definitions of those words in this Article I.

1.1 Annual Meeting. "Annual Meeting" means the annual meeting of the Association held in December of each year upon such date on or before December

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15 as may be selected by the Board. In the year in which this Declaration shall become effective, the Annual Meeting shall be held on such date as the initial Board shall determine.

1.2 Assessment. "Assessment" means the charge established by Article II of this Declaration.

1.3 Association. "Association" means Harvey Point - Cedar Meadows II Homeowner Association, Inc., an Ohio non-profit corporation, and its successors and assigns, which owns, operates, and maintains the Community Facilities, and any successor organization which owns, operates, and/or maintains the Community Facilities. Except as the context otherwise requires, "Association" shall mean the Board acting on behalf of the Association.

1.4 Board. "Board" means the Board of Trustees of the Association.

1.5 Chargeable Parcel. "Chargeable Parcel" means any Parcel of the Property which has been improved by, and upon which has been constructed, a Dwelling Unit which is substantially complete.

1.6 Class A Members. "Class A Members" means those members of the Association consisting of all Owners except, during the Development Period, Developer, but including Developer after termination of the Class B Member so long as Developer remains an Owner.

1.7 Class B Member. "Class B Member" means, during the Development Period, Developer, as a member of the Association, until terminated as described in Section 4.1.

1.8 Common Expenses. "Common Expenses" means those costs and expenses incurred by the Association as described and defined in Section 2.2 of this Declaration.

1.9 Community Facilities. "Community Facilities" means all real and personal property, including easements and licenses benefiting the real and personal property or any part thereof, if any, and any common areas, from time to time owned by, maintained by (at the Association's expense), or leased to the Association, including Structures, improvements, landscaping and architectural features, other facilities and related fixtures, equipment, and furnishings. Such real and personal property may, but need not, include any clubhouse community building, recreational facilities including but not limited to a swimming pool, tennis courts, play areas or equipment, parks and other open space, land, community streets, sidewalks, pathways, design amenities, or other community facilities.

1.10 Constituent Documents. "Constituent Documents" means the Declaration, the recorded Subdivision plats for Harvey Point and Cedar Meadows II, the Association's Articles of Incorporation, the Association's Code of Regulations, By-Laws, amendments, and any other basic documents used to create and govern the Property.

1.11 Consumer Price Index. "Consumer Price Index" means the Consumer Price Index, Urban Wage Earners and Clerical Workers (CPI-W), Cincinnati Metropolitan area, All Items, 1982-84 = 100, as defined semi-annually by the U.S. Department of Labor, Bureau of Labor Statistics, or, if the publication of such index is discontinued, such other index or indices selected by the Board which reflect the then broad range of economic factors represented in the Consumer Price Index.

1.12 Declaration. "Declaration" means this Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Harvey Point -

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- 2 -

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Cedar Meadows II Developments as the same may from time to time be amended in the manner prescribed herein.

1.13 Default. "Default" means any violation or breach of, or any failure to comply with, the Restrictions.

1.14 Developer. "Developer" means Avondale Redevelopment Corporation, an Ohio non-profit corporation, and its successors and assigns, if such successors or assigns should acquire more than one undeveloped Parcel from Developer for the purpose of development.

1.15 Development Period. "Development Period" means the period commencing on the date on which this Declaration is recorded and terminating on December 31, 2002, or as sooner terminated by Developer by notice to the Association.

1.16 Dwelling Unit. "Dwelling Unit" means any building or portion of a building situated upon a Chargeable Parcel designed and intended for use and occupancy as a residence.

1.17 Maintenance Standards. "Maintenance Standards" means those standards adopted by the Board pursuant to Article VIII of this Declaration as the same may from time to time be amended.

1.18 Members. "Members" means all Class A Members and the Class B Member.

1.19 Owner. "Owner" means, with respect to any Parcel, the owner of record from time to time, whether one or more persons or entities, of an interest in fee simple, reversion, remainder, or leasehold estate of 99 years or more, but shall not include the Association. Such term shall include sellers by land installment contract, as defined in Ohio Revised Code Chapter 5313, but shall exclude those having an interest merely as security for the performance of an obligation.

1.20 Parcel. "Parcel" means any separately identifiable lot, tract, part, or other taxable unit of the Property, which may be conveyed or otherwise transferred pursuant to Ohio law and the regulations of the Hamilton County, Ohio, Regional Planning Commission, its successors or any similar or other governmental agency, entity, or authority having jurisdiction or which may have jurisdiction from time to time to approve or review the transfer and subdividing ("cut-up") of real property.

1.21 Property. "Property" means that certain real property located in the City of Cincinnati, Hamilton County, Ohio, more particularly described in Exhibits A and B to the Declaration, and any other lands which shall be subjected to this Declaration. Developer owns or may acquire other real property in the vicinity of the land described in Exhibits A and B which it may, in accordance with Article X, make subject to this Declaration during the Development Period.

1.22 Recorded. "Recorded" means filed for record in the office of the Recorder of Hamilton County, Ohio, or in such other office as may be provided by law for the recordation of instruments conveying interests in lands in Hamilton County, Ohio.

1.23 Resident. "Resident" means any person who has a place on the Property in which that person's habitation is fixed, and to which, whenever that person is absent, that person has the intention of returning. A person shall not lose Resident status by leaving such place of habitation temporarily with the intention of returning.

1.24 Restrictions. "Restrictions" means all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration or established by the Board.

1.25 Review Board. "Review Board" means the Architectural Review Board established pursuant to Article V of this Declaration.

1.26 Structure. "Structure" means:

(a) any Community Facility;

(b) any thing or object (including trees, shrubbery, landscaping, hedges, and other plantings, any of which plants may grow more than two feet high) which may be placed upon any Parcel or affixed to any improvement on such Parcel, including but not limited to any building, garage, porch, shed, awning, greenhouse, animal shelter, run, pen, coop, or cage, covered or uncovered patio, hot tub, spa, pool, fence, screen door, storm door or window, curbing, paving, wall, signboard, backboard or other sports equipment, swing set, slide, playhouse, or other children's play equipment, or any other temporary or permanent improvement or item on such Parcel;

(c) any excavation, fill, ditch, dam or other thing or device which may affect or alter the natural flow of surface waters from, upon or across any Parcel, or which may affect or alter the flow of any waters in any natural or artificial stream, wash, or drainage channel from, upon, or across any Parcel;

(d) any change in the grade of any Parcel of more than six (6) inches.

1.27 Tenant. "Tenant" means any person occupying any Parcel pursuant to a written or oral lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

1.28 Trustee. "Trustee" means any person elected to the Board of Trustees pursuant to Article IV of this Declaration.

ARTICLE II

THE ASSESSMENT

2.1 Establishment of Assessment. There is hereby established for the benefit of the Association, as a charge and lien on each Chargeable Parcel, an annual Assessment for each calendar year. The Assessment shall commence as to a Chargeable Parcel on the first day of the month following the month during which the Chargeable Parcel is subjected to this Declaration, and no Assessment (other than any contribution to the working capital fund) shall be due as to such Chargeable Parcel prior to such date of commencement. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The obligation to pay the Assessment shall not in any manner be dependent upon, discharged, or otherwise affected by, the use or nonuse of the Community Facilities. Subject to the specific provisions of this Declaration relating to the subordination of the Assessment created hereunder (including without limitation, the subordination of such lien to the lien of a first mortgagee) and notwithstanding the date on which the Assessment is implemented, such lien shall have priority over all liens and encumbrances on the Property or any part thereof or interest therein arising after this Declaration is recorded.

2.2 Purpose of Assessment. The Assessment is established for the benefit and use of the Association and shall be used in paying:

(I) all of the cost of the operation, maintenance, management, and repair of Community Facilities;

(ii) the cost of such exterior maintenance and repair of Dwelling Units, Structures, and Parcels as shall be determined to be necessary from time to time by the Board;

(iii) insurance premiums for the insurance of the Property required by Article XII of this Declaration;

(iv) the purchase cost of any Community Facilities conveyed to the Association pursuant to Section 9.4.1 of this Declaration;

(v) the funding of reasonable reserves for contingencies, replacements, and working capital; and

(vi) paying all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration, including any costs and legal fees incurred by the Association as it may deem necessary for the enforcement of this Declaration.

These enumerated expenses shall be referred to as the "Common Expenses".

The Assessment also may be used in paying the cost of any capital addition or capital improvement to the Community Facilities to the extent that the cost of same does not exceed a "maximum capital expenditure" amount, as specified in Section 9.4.2, or may be used to pay the cost of any other capital addition or capital improvement exceeding that amount that is authorized by the Board and approved by the Class A Members and the Class B Member, if any, according to Section 9.4.2. The Assessment shall not be used for any other purpose.

2.3 Amount of Assessment. Unless waived, reduced, increased, or terminated according to Section 3.3 of this Declaration, or increased by special assessment according to Section 2.6, the annual Assessment for each Chargeable Parcel initially shall be Six Hundred Dollars (\$600.00). Written notice of any change in the Assessment shall be mailed to each Owner.

2.4 Payment. The Assessment shall be payable in monthly installments. The Board shall have the power at any time to adopt such billing, collection, and payment procedures and other payment time schedules as it shall deem appropriate as to the Assessment. Additionally, if an Owner shall be in default in payment of an installment of the Assessment, the Board may accelerate the remaining installments of the Assessment for the year during which the default occurs by giving notice to the Owner, and the unpaid balance of the Assessment shall become due upon the date designated in the notice, but not less than ten (10) days after delivery of the notice to the Owner, or not less than twenty (20) days after the mailing of the notice to the Owner by certified mail, whichever shall occur first.

2.5 Operating Deficit. Until the end of the calendar year during which the Association acquires a total of both eight (8) Class A Members in Harvey Point and fifteen (15) Class A Members in Cedar Meadows II, or unless extended as provided herein, Developer shall pay to the Association sufficient funds to avoid an operating deficit being incurred by the Association and to permit the Association to pay all obligations of the Association in full when due. The term "operating deficit" shall not include any deficit created or caused by the non-payment of the Assessment by any Owner, or any contributions to reserve accounts. However, Developer shall provide sufficient funds to permit the Association to pay all obligations in full in the event of non-payment of an Assessment by any Owner. Such Developer payment shall be repaid to Developer upon collection of the Owner's Assessment.

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2.6 Special Assessment. After Developer's obligation to fund operating deficits and current obligations of the Association has ended, the amount of any operating deficit incurred in any calendar year shall be paid by means of a "special assessment" sufficient in amount so as to allow the Association to satisfy such deficit in full. The special assessment shall be announced by the Board as soon as possible after the completion of a final accounting audit for the year during which the deficit occurred and shall be paid within 30 days after the announcement and notification to all Members of such special assessment. Any such special assessment for a calendar year shall, for all purposes of this Declaration, be considered to be part of the Assessment for such year, and no consent of Members shall be required with regard to such special assessment. If determined necessary by the Board, special assessments may be levied more frequently than annually, and the final accounting to determine the annual deficit, if any, shall occur as provided in this Article II.

2.7 Working Capital Fund. A working capital fund shall be established by the Association for the initial months of operation to insure that the Board will have the cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. This initial working capital fund shall consist of a contribution collected by the Developer and transferred to the Association at the time of closing of the sale of each Parcel to a Class A Member. The amount of this contribution shall be equal to two monthly installments of the initial annual Assessment for the Parcel being sold as determined pursuant to Section 2.3 above. The Association shall maintain this working capital fund, together with sums allocated pursuant to the budget from the annual assessment to the working capital fund, in a segregated account for the Association's benefit and use. Contributions to the working capital fund shall not be deemed an advance payment of any Assessment.

2.8 Covenant of Payment. Owner and each succeeding Owner of any Chargeable Parcel, by acceptance of a deed or other instrument of conveyance therefor, shall be deemed to covenant to pay or secure the payment of the Assessment to the Association as provided in this Article II. Developer, so long as it continues to be the Owner of any Chargeable Parcel, hereby covenants to pay or secure the payment of the Assessment for any such Parcel as provided in this Article II, provided, however, that notwithstanding this Section and Section 2.1, Developer (and any person or entity purchasing or leasing a Parcel or Parcels from Developer for purposes of development and sale to others) shall pay a reduced Assessment as to any unoccupied Chargeable Parcel, which reduced Assessment shall be 50% of the Assessment otherwise provided for under Section 2.3.

2.9 Creation of Lien and Personal Obligation of Assessment. The Assessment shall be a charge and lien on each Chargeable Parcel to the extent and for the period provided in Section 2.11, and also shall be the personal obligation of the Owner of each Chargeable Parcel to the extent and for the period provided in Section 2.10. This personal obligation shall not pass to an Owner's successor in title unless expressly assumed by such successor in title.

2.10 Personal Obligation. The Assessment payable by each Owner, together with any penalty and interest thereon, shall, for each year, constitute the personal obligation of the Owner of the Chargeable Parcel as of the first of such year and shall remain the personal obligation of such Owner until paid.

2.11 Liens. If an installment of the Assessment on any Chargeable Parcel is not paid within the period established by the Board pursuant to Section 2.4, the amount thereof together with any interest, costs, and reasonable attorney's fees thereon shall constitute a lien on such Chargeable Parcel in favor of the Association prior to all other liens and encumbrances thereon whatsoever, excepting real estate taxes and assessments and liens of record in favor of the Untied States of America, the State of Ohio, and all other political subdivisions or governmental instrumentalities of the State of Ohio to the extent made

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superior by applicable law, and all bona fide prior recorded first mortgages, and the lien of any first mortgagee who comes into possession of a Chargeable Parcel pursuant to mortgage foreclosure or by deed in lieu thereof. The Association may record a notice of lien with the Recorder of Hamilton County, Ohio in any legally recordable form, including by affidavit as provided in Section 5301.252 of the Ohio Revised Code or any similar section hereafter enacted. Nonpayment of an installment of the Assessment on any Chargeable Parcel shall be deemed and is hereby declared to be a condition or event that creates an interest in real estate.

2.12 Enforcement of Lien. If any installment of the Assessment shall remain unpaid for a period in excess of thirty (30) days after (a) the due date or (b) in the event that bills therefor are mailed, the date on which bills are mailed, whichever is later, the Association may give written notification of such nonpayment to the Owner and any first mortgagee of the Chargeable Parcel in question. Following the giving of such notice, any lien established under this Declaration may be enforced by the Association in the same manner and to the same extent (including appointment of a receiver, foreclosure sale, and deficiency judgment) and subject to the same procedures as in the case of foreclosure of a real property mortgage under the laws of Ohio. In any such enforcement proceeding, the amount which may be recovered by the Association shall include all costs of such proceeding, including reasonable attorney's fees. In any such foreclosure sale, the Association may become the purchaser.

2.13 Purchaser at Foreclosure Sale Subject to Declaration, By-Laws, Rules and Regulations of the Association.

Any purchaser of a Parcel at a foreclosure sale shall automatically become a member of the Association subject to its Articles, Code of Regulations, By-laws, and Rules and shall be subject to all of the provisions of this Declaration.

2.14 Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. Where the mortgagee of a first mortgage of record or other purchaser of a Chargeable Parcel acquires title to the Chargeable Parcel as a result of foreclosure of the first mortgage or acceptance of a deed in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be solely liable for the share of the Common Expenses of the Association chargeable to such Chargeable Parcel which became due prior to the acquisition of title to such Chargeable Parcel by such acquirer. Such unpaid share of the Assessment shall be deemed to be part of the Common Expenses collectible from all of the Chargeable Parcels, including that of such acquirer, its successors or assigns.

2.15 Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Chargeable Parcel, other than a deed in lieu of foreclosure, but including the sale of a Chargeable Parcel on an installment basis or the leasing of a Chargeable Parcel for a period of three years or more, the grantee (which term is defined for purposes of this Section 2.15 to include a lessee as described in this sentence) of the Chargeable Parcel shall be jointly and severally liable with the grantor for all unpaid Assessments of the Association against the grantor and grantor's Chargeable Parcel for grantor's share of the Common Expenses up to the time of the grant, conveyance, or lease without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Upon request, any such grantee or its first mortgagee shall be entitled to a statement from the Association setting forth the amount of all unpaid Assessments (including current Assessments) against the grantor due the Association. Neither such grantee nor such first mortgagee shall be liable for, nor shall the Chargeable Parcel be conveyed subject to a lien for, any unpaid Assessments made by the Association against the Chargeable Parcel in excess of the amount set forth in such statement for the period reflected in such statement. The Board may impose a reasonable charge for furnishing such written evidence.

ARTICLE III

ASSESSMENT PROCEDURES

3.1 Preparation of Estimated Budget. At each Annual Meeting, the Board shall estimate the total amount necessary to pay the Common Expenses, including but not limited to the cost of wages, materials, equipment, insurance, services, supplies, and management fees which will be required during the ensuing calendar year for all services to be rendered by the Association together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements. All amounts placed in the reserve for contingencies and replacements shall be contributions to the capital of the Association, and the portion of each monthly Assessment payment made by each Owner which is allocable to the reserve for contingencies and replacements shall be separately designated for that purpose on the records of the Association. All amounts deposited in such reserve shall be kept in a separate account and shall be used only for the purposes specified by the Board.

3.2 Reserve for Contingencies and Replacements. The Association shall build up and maintain a reasonable reserve for contingencies and for the periodic maintenance, repair, and replacement of the Community Facilities. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year shall be charged first against such reserve. If said reserve proves inadequate for any reason other than nonpayment of any Owner's Assessment, said extraordinary expenditures shall be assessed to each Owner. The Board shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the next regular Assessment payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment unless the Board elects to pro-rate the additional assessment over a period of more than one month. All Owners shall be obligated to pay the adjusted amount.

3.3 Waiver, Increase, Reduction or Termination.

3.3.1 Every action taken by the Board pursuant to this Article in waiving, increasing, or reducing the Assessment shall be governed by, and taken with reference to, the fiscal requirements of the Association for the following calendar year as reflected in the estimated budget for that year adopted by the Board as provided in Section 3.1. On or before each December 15th, the Board shall notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof and the amount of the Assessment calculated in accordance with the formula set forth in this Section 3.3.1.

At any Annual Meeting, the Board may, for the following calendar year, waive, increase, or reduce the Assessment amount as specified in Section 2.3. However, any increase in the Assessment to an amount in excess of the "maximum Assessment," as determined below, shall be subject to the approval by (I) 66-2/3% of the votes cast by the Class A Members who are voting in person or by proxy at a meeting duly called for such purpose at which a quorum is present, and (ii) if during the Development Period, Developer voting in person or by proxy at such meeting.

The "maximum Assessment" shall be determined by multiplying the initial Assessment specified in Section 2.3 by a fraction, the numerator of which is the Consumer Price Index for the most recent semi-annual period available as of the date of the Annual Meeting, and the denominator of which shall be 145.9, (which is the Consumer Price Index for the first half of 1996, and which is most recent figure available as of the date on which this Declaration is recorded), or as such figure may later be revised appropriately due to changes in the base index year.

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3.3.2 At any Annual Meeting, the Board may terminate any previously approved Assessment; provided, however, that any action by the Board relating to the termination of the Assessment shall be taken only after the Board has determined that the Assessment is not needed for any of the purposes for which the Assessment has been established as set forth in Section 2.2.

3.4 Failure to Prepare Annual Budget. The failure or delay of the Board to prepare or serve the annual estimated budget and/or the amount of the Assessment on an Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the Assessment as herein provided, whenever the same shall be determined. In the absence of any notice to the contrary, the Owner shall continue to pay the monthly installments of the Assessment at the existing rate established for the previous year until notice of the Assessment for the next year shall have been mailed or delivered to the Owner.

3.5 Books and Records of Association. The Association shall keep full and correct books of account. The Association shall make available to Members, Owners, and lenders, and to holders, insurers, or guarantors of any first mortgage, current copies of the books, records, and financial statements of the Association. "Available" means available for inspection, upon request, during the normal business hours or under other reasonable circumstances, and the Association may assess a reasonable charge for costs incurred by the Association to make such copies available.

3.6 Status of Funds Collected by Association. All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all of the Owners, and except for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the use, benefit, and account of the Association and all of the Members thereof. The Board may, in its discretion, take any action which it deems necessary as to the collection, holding, disbursements, or categorization of such reserve funds in order to comply with the provisions of the Internal Revenue Code, and U.S. Treasury Regulations issued thereunder, and/or any ruling by the Internal Revenue Service as to the non-inclusion of such funds in the taxable income of the Association.

3.7 Annual Audit. The books of the Association shall be audited once a year by a Certified Public Accountant at the Association's expense, and such audit shall be completed prior to April 15 of the following calendar year, and copies thereof shall be made available to each Owner upon request at reasonable cost.

Any holder, insurer, or guarantor of a first mortgage shall be entitled, upon written request, to an audited financial statement for the immediately preceding fiscal year, at reasonable cost to the party so requesting. Any audited financial statement so requested shall be furnished within a reasonable time following such request.

3.8 Fidelity Bonds. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees, and employees of the Association or any other party (including volunteers) handling or responsible for funds of or administered by the Association. If the Association delegates some or all of the responsibility for the handling of funds to a professional management company under the provisions of Section 9.5, such professional management company shall obtain at its cost such fidelity bond coverage for those of its officers, employees, or agents who handle or are responsible for funds of or administered on behalf of the Association. The total amount of fidelity bond coverage shall be based upon the Board's best business judgment and (I) shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the professional management company at any given time during the term of the bond, (ii) shall not be less than a sum equal to three month'

aggregate Assessments on all Chargeable Parcels plus reserve funds, and (iii) shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the Association's estimated operating expenses and reserves. All such fidelity bonds shall name the Association as an obligee and as the named insured; shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; shall contain an appropriate endorsement to cover persons who serve without compensation if the policy would not otherwise cover volunteers, and shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days prior written notice to the Association and to any financial institution which is servicing any mortgage on behalf of any quasi-governmental institution, including, but not limited to, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation ("Servicer").

The premiums on such bonds (except for premiums on fidelity bonds maintained by a professional management company for its officers, employees, and agents) shall be paid by the Association and shall be a Common Expense.

ARTICLE IV

ASSOCIATION MEMBERSHIP, ANNUAL MEETING AND BOARD

4.1 Members. Initially during the Development Period, the Association shall have Class A Members (being all Owners except Developer) and a Class B Member (Developer). After the Class A Members are entitled to elect all of the Board as described in Section 4.5.3, the Class B membership shall terminate, and Developer, if it is then an Owner, shall become a Class A Member and continue as such so long as it remains an Owner.

4.2 Voting Rights. The Board may make such rules, consistent with the terms of this Declaration and the Association's Articles, Code of Regulations, and By-Laws, as it deems advisable with respect to any meeting of Members, proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Members for voting purposes, voting by proxy, and other matters concerning the conduct of meetings and voting.

4.2.1 Each Class A Member shall be entitled to one vote for each Dwelling Unit located on a Parcel and owned by such Class A Member; provided that any Class A Member with respect to whom, or with respect to anyone claiming under or through such Member, either (I) a Certificate of Default has been issued by the Architectural Review Board under Section 5.11 of this Declaration, or (ii) a notification of Default pursuant to Section 14.1 of this Declaration has been issued, or (iii) the right or privilege of use and enjoyment of the Community Facilities has been suspended pursuant to Section 9.1.4 of this Declaration, shall not be entitled to vote during any period in which any such Default or suspension continues; and further provided, that if a Parcel shall be owned by more than one Owner, such Owners shall be deemed to constitute a single Class A Member as to such Parcel for purposes of this Article.

4.2.2 The Class B Member shall have one vote.

4.3 Annual Meeting. In the year in which this Declaration is recorded, the Annual Meeting shall be held on such date as the Board shall determine. Thereafter, the Annual Meeting shall be held in December of each year, on or before December 15. Each Annual Meeting shall be open to all Owners. Except as otherwise provided in this Article, each Member of the Association, regardless of class, shall be entitled to vote on each matter properly submitted to the Members. If the Board shall so determine, voting in elections and voting on other matters at the Annual Meeting may be conducted by mail or proxy.

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4.4 Notice of Annual Meeting. Notice of the Annual Meeting shall be given by the Board to each Member entitled to vote thereat either personally or by mail addressed to such Member at the address appearing upon the membership book of the Association, at least fifteen (15) days (but not more than sixty (60) days) in advance of the date of the Annual Meeting. Such notice shall specify the place, date, and hour of the Annual Meeting. Notwithstanding the foregoing, nothing shall prevent the Members from establishing any other procedure for the notification of Members of the Annual Meeting.

4.5 Board of Trustees. Except as otherwise hereinafter provided and except for the initial Board of three, Trustees shall be elected for two-year terms of office, except the "at-large" Trustee shall be elected for a one-year term. Each Trustee shall serve until its respective successor is elected and qualified. Any vacancy which occurs in the initial or any subsequent Board, by reason of death, resignation, removal, or otherwise, except a vacancy created by failure of the Members to elect a qualified Trustee, may be filled at any meeting of the Board by the affirmative vote of a majority of the remaining Trustees representing the same class of Members who elected or appointed the Trustee whose position has become vacant. Any Trustee elected to fill a vacancy shall serve until the expiration of the vacant term to which elected. Such vacancy may be filled without regard to whether the Trustee so elected is an Owner or Resident of either Harvey Point or Cedar Meadows II.

4.5.1 Until the first Annual Meeting, the initial Board shall consist of three Trustees appointed by the Class B Member who shall serve until their respective successors are appointed or elected. The initial Trustees shall be appointed by Developer promptly after this Declaration is recorded, and the Developer may appoint successors to fill vacancies. Developer-appointed Trustees need not be Members of the Association.

4.5.2 At the first Annual Meeting, the Board of Trustees shall expand from three to five. The Class A Members shall elect two Trustees, each for a two-year term. One Trustee shall be an Owner or Resident of Harvey Point, and the other Trustee shall be an Owner or Resident of Cedar Meadows II. If either or both the Harvey Point Trustee or the Cedar Meadows II Trustee is not elected at such meeting, such term(s) shall remain vacant until the next Annual Meeting or until a special meeting is called to fill the remaining term of such vacancy by vote of the Class A Members. At the expiration of the term of each such Trustee and at the expiration of the term of each successor of such Trustee, the Class A Members shall elect successor Trustees for two-year terms. An Owner or Resident of Harvey Point shall be elected to the term of the Harvey Point Trustee, and an Owner or Resident of Cedar Meadows II shall be elected to the term of the Cedar Meadows II Trustee. If no Owner or Resident is elected to either or both terms, the term of such Trustee shall remain vacant until the remainder of the term is filled by vote of the Class A Members.

4.5.3 The Developer shall transfer control of the Board to the Class A Members at a meeting of Members held no later than the earlier of the following events: (I) 120 days after both eight (8) of the ten (10) Dwelling Units in Harvey Point and fifteen (15) of the twenty (20) Dwelling Units in Cedar Meadows II have been sold, or a total of twenty three (23) Dwelling Units have been sold; or (ii) four (4) years following conveyance of the first Dwelling Unit.

At this meeting, all Developer-appointed Trustees shall be deemed removed from office, and the Class A Members, including the Developer if it is then an Owner, shall elect a Trustee to fill each vacancy. One Trustee shall be an Owner or Resident of Harvey Point, one Trustee shall be an Owner or Resident of Cedar Meadows II, and the remaining "at-large" Trustee may be an Owner or Resident of either. The initial term of the "at-large" Trustee shall expire at the next Annual Meeting, and thereafter shall be a term of one year, such that the "at-large" Trustee is elected at each Annual Meeting. The initial terms of the Harvey Point Trustee and the Cedar Meadows II Trustee so elected shall expire at

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the next Annual Meeting, unless the term(s) of the incumbent Harvey Point Trustee and/or Cedar Meadows II Trustee expire at that same Annual Meeting, in which case such initial term(s) shall expire at the following Annual Meeting.

Thereafter, the terms of each of the two Harvey Point Trustees and each of the two Cedar Meadows II Trustees shall be two years, staggered such that an election for one Trustee from Harvey Point, one Trustee from Cedar Meadows II, and the "at-large" Trustee is held at the expiration of their respective terms at each Annual Meeting. An Owner or Resident of Harvey Point shall be elected to succeed each Harvey Point Trustee, and an Owner or Resident of Cedar Meadows II shall be elected to succeed each Cedar Meadows II Trustee. An Owner or Resident of either may succeed the "at-large" Trustee.

In elections of Trustees, each Class A member shall be entitled to one vote for each Trustee to be elected. Each Class A Member shall be eligible to vote for the election of all Trustees from among the qualified nominees, regardless of the development in which such Class A Member is an Owner or Resident. Votes for Trustees shall not be cumulative. All elected Trustees and their successors shall be Owners or Residents, and if any Trustee ceases to be an Owner or Resident, then that Trustee shall be deemed removed from office and the vacancy shall be filled as specified herein.

4.5.4 Notwithstanding anything above to the contrary, the Class B Member may, by written notice to the Board, at or before any Annual Meeting, relinquish to the Class A Members the Class B Member's right to elect one or more Trustees at such Annual Meeting pursuant to this Section 4.5.

4.6 Right of Action. The Association and any Owner shall have a right of action against any other Owner(s), and any Owner shall have a right of action against the Association, for any failure to comply with the provisions of any Constituent Document, and for any failure to comply with Association decisions made pursuant thereto.

ARTICLE V

ARCHITECTURAL REVIEW BOARD

5.1 Composition and Appointment. An Architectural Review Board ("Review Board") is hereby established which shall consist of at least three members who shall be members of the Board of Trustees. The initial members shall be the Trustees appointed by the Developer, who shall serve until the first Annual Meeting. Upon the expiration of the term of each initial Review Board member, and upon the expiration of each succeeding term thereafter, the Board of Trustees shall elect successors from among the members of the Board of Trustees immediately after each Annual Meeting, who shall serve a term of one year or until their successors are elected. Any member of the Review Board may be re-elected to a succeeding term. The Board of Trustees may change from time to time the number of members of the Review Board to the total number of Trustees or a lesser number of at least three. The Review Board may appoint such committees for such purposes, and may delegate to them such powers and duties, as it may deem appropriate. All costs of the Review Board shall be paid by the Association.

5.2 Vacancies. If a vacancy shall occur in the membership of the Review Board by reason of death, resignation, removal, or otherwise, the remaining members shall continue to act. The Board of Trustees shall elect a member to fill the vacancy for the remainder of the vacant term within thirty (30) days after such vacancy occurs.

5.3 Officers. The members shall appoint a chairman from among their number and may appoint from among their number such other officers as they shall

from time to time determine. The Review Board may delegate such powers and duties to such officers as it shall deem appropriate.

5.4 Conflicts of Interest. No member of the Review Board may participate in any decision of the Review Board on a matter in which that member has a financial interest or on a matter submitted by that member or a Resident of that member's Dwelling Unit, or with respect to which that member or that member's firm has provided professional services; provided, however, that during the Development Period, this Section 5.4 shall not apply to any financial interest of, or any professional service provided by, Developer or any employee of Developer or any affiliate or associate of Developer.

5.5 Meetings. The Review Board shall, in its discretion, hold meetings when necessary. Special meetings of the Review Board may be called by the chairman of the Review Board and shall be held at such time and place as the chairman shall specify. Notice of each meeting shall be given each member in such manner as the chairman shall determine. Such notices need not specify the purpose or purposes for which the meeting is called, but a majority of the members shall be necessary to constitute a quorum for the transaction of business. Except as otherwise provided in this Article, any action taken by a majority of the members present at any meeting at which a quorum is present shall constitute the action of the Review Board. In the absence of a quorum, a majority of the members present may adjourn the meeting from time to time until a quorum shall be present. The Review Board shall maintain minutes of its meetings and a record of the votes taken, and shall make such minutes and records available at reasonable places and times for inspection by Owners and Residents, and the Review Board may assess a reasonable charge for costs incurred by the Review Board to make such records available. The Review Board may act informally by polling its members without holding a meeting.

5.6 Submission of Plans and Specifications. No Structure shall be commenced, constructed, erected, placed, moved onto, or permitted to remain on any parcel, nor shall any Structure on any Parcel be remodeled or altered in any way which materially changes the exterior appearance thereof, unless detailed Plans and Specifications therefor shall have been submitted to and approved in writing by the Review Board. Such Plans and Specifications shall be in such form and shall contain such information as the Review Board may reasonably require, but shall in all cases, unless waived by the Review Board include:

5.6.1 A site plan showing the location of all proposed and existing Structures on the Parcel.

5.6.2 Contours reflecting existing topography and grading plan showing finished contours; existing environmental features, including ravines, creeks, and significant tree stands, shall also be shown.

5.6.3 Any proposed retaining walls.

5.6.4 Driveway location with dimensions and type of surface material.

5.6.5 Proposed landscaping.

5.6.6 Patio and walkway locations with dimensions and type of surface materials.

5.6.7 Location and description of exterior lighting.

5.6.8 Proposed fencing.

5.6.9 Architectural plans including structural cross-section, floor plan, decks or balconies, and elevations clearly depicting the design and

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exterior appearance including specification of materials, color scheme, trim and other details affecting the exterior appearance of the proposed Structures.

Prior to submission of detailed Plans and Specifications for any Structure proposed for any Parcel, the Review Board may require, and any applicant may submit for tentative approval by the Review Board, schematic or preliminary Plans and Specifications for any phase or stage thereof. The Review Board shall either (I) approve the Plans and Specifications, (ii) disapprove them, or (iii) approve them with conditions or qualifications.

Provided, nevertheless, that the requirements of this Section 5.6 shall not apply to any original construction of a Dwelling Unit and related appurtenant Structures made by Developer upon a Parcel, nor to Developer's construction or remodeling of any Community Facility.

5.7 Approval of Plans and Specifications. The Review Board shall approve Plans and Specifications (whether schematic, preliminary, or detailed) submitted to it with respect to any Parcel (or subdivision of Parcels) if it finds that they (a) comply with the requirements of Section 5.6 and (b) conform to the Design and Use Standards and will further the purposes outlined in Section 6.1. Upon final approval, a certified copy of the detailed Plans and Specifications shall be deposited for permanent record with the Review Board and a copy bearing the written approval of the Review Board shall be returned to the applicant. After the receipt of such final approval by the applicant, the Review Board shall not revoke such approval unless construction of a structure is not commenced on a parcel on or before six (6) months from the date of approval. Approval by the Review Board of detailed Plans and Specifications with respect to any Parcel shall not impair the Review Board's right subsequently to approve or deny a requested amendment of such Plans and Specifications relating to such Parcel (subject to the requirements of this Article) or to amend the Design and Use Standards.

5.8 Disapproval of Plans and Specifications. If Plans and Specifications (whether schematic, preliminary, or detailed) submitted to the Review Board with respect to any Parcel do not comply with (a) the Design and Use Standards or will not further the purposes outlined in Section 6.1 or (b) the requirements of Section 5.6 as to the information required to be included in the Plans and Specifications, the Review Board shall either disapprove such Plans and Specifications or approve them subject to such conditions and qualifications as the Review Board may deem necessary to achieve compliance. In the event that any Plans are disapproved, the applicant shall have the right to appeal such disapproval to the Board of Trustees, whose decision shall be final.

5.9 Failure of the Review Board to Act. If the Review Board shall fail to act upon any Plans and Specifications submitted to it within thirty (30) days after submission thereof, such Plans and Specifications shall be deemed to have been approved as submitted, and no further action by the Review Board shall be required. However, if construction of a Structure is not commenced on a Parcel on or before six (6) months from the date of submission of Plans and Specifications and diligently pursued to completion, then such "deemed approval" shall be automatically cancelled and a new submission shall be required.

5.10 Rules, Regulations, and Policy Statements. The Review Board may, subject to approval by the Board of Trustees, from time to time, adopt, amend, and enforce reasonable rules and regulations pertaining to its authorized duties and activities under this Declaration, and, from time to time, issue statements of policy with respect to Plans and Specifications (whether schematic, preliminary, or detailed) and such other matters on which it is authorized to act. Upon the adoption of any such rule, regulation, or policy statement, or any amendment thereof, the Review Board shall file in its records a copy thereof, certified by the chairman of the Review Board to be a true and complete copy, and the same shall become effective on the date of such filing. No such rule,

regulation, or policy statement, or any amendment thereof, shall operate to revoke any detailed Plans and Specifications previously approved by the Review Board.

The Review Board shall maintain a copy of the rules, regulations, policy statements, and of each amendment thereof, as a permanent record and shall make copies thereof available to any interested person at a reasonable cost.

5.11 Violations. If any Structure situated upon any parcel shall have been constructed, erected, placed, remodeled or altered other than in accordance with the approved detailed Plans and Specifications or if construction is not diligently pursued to completion, the Review Board shall certify a Default to the Owner of the Parcel involved; provided, however, that the Review Board may, upon such conditions as it may determine, waive any such Default if it finds that such Default does not substantially conflict with the policies of the Review Board or the Design and Use Standards.

5.12 Right of Entry. The Review Board through its authorized officers, employees, and agents, shall have the right to enter upon any Parcel at any reasonable time and upon reasonable written notice for the purpose of ascertaining whether such Parcel or the construction, erection, placement, remodeling, or alteration of any Structure thereon is in compliance with the provisions of this Article, without the Review Board or such officer, employee, or agent being deemed to have committed a trespass or wrongful act solely by reason of such action or actions.

5.13 Fees. The Review Board may charge reasonable fees for the processing of Plans and Specifications. Such fees may cover the cost of such processing, including inspection costs. Such fees shall be payable at the time of submission of the respective item for approval and shall be paid to the Review Board for the Association's account.

ARTICLE VI

DESIGN AND USE STANDARDS

6.1 Purposes. In order to assure the continued development and existence of the Property as a community of high aesthetic quality, the Review Board shall adopt and may, from time to time, amend Design and Use Standards for the Property and all Structures thereon in furtherance of the following purposes:

6.1.1 the compliance with all zoning and similar governmental regulations;

6.1.2 the promotion of the health, safety, and welfare of all Owners and Residents;

6.1.3 the preservation, beautification, and maintenance of the Property and all Structures thereon, as a development of high quality;

6.1.4 the preservation and promotion of environmental quality; and

6.1.5 the assurance of adequate water, sewage, and drainage facilities and other utilities and services.

These Design and Use Standards are not intended to and shall not, under any circumstance, apply to or be binding upon the Developer. They are intended to be effective after initial construction of Dwelling Units by the Developer and particularly to apply to additional Structures placed on Parcels and to additions, modifications, and improvements to existing Dwelling Units. The Review Board may, however, promulgate Design and Use Standards for the

Property and these Standards shall apply to the Developer, but no such Standard shall interfere with, prohibit, or inhibit the construction activities, maintenance of model units, promotional and sales activities, and other development and management activities of the Developer.

6.2 Subject Matter. The Design and Use Standards shall establish requirements relating to land use, architectural features, site planning, lighting, landscaping, and signage. The Design and Use Standards may include, but shall not be limited to, provisions as to the following:

6.2.1 the permitted uses of Parcels and Structures; provided, however, that no standards shall prohibit any use or activity which is permitted specifically by any applicable zoning provisions;

6.2.2 the placement of Structures on Parcels, including front, side and rear yard requirements;

6.2.3 the specification of materials, color schemes, screening structures, and other details affecting the exterior appearance of Structures;

6.2.4 the reservation of utility, visual, and other easements;

6.2.5 the installation, location, and maintenance of utility lines and facilities, including water, gas, electricity, sanitary and storm sewage, telephone, cable television and other communication systems;

6.2.6 the use of streams and other bodies of water;

6.2.7 the control of slopes to prevent erosion or sliding problems;

6.2.8 the removing or excavation of sand, gravel, earth, or sod;

6.2.9 the planting and preservation of trees and other natural resources and landscaping;

6.2.10 the size and location of driveways and parking facilities;

6.2.11 the size, construction materials, color and design schemes, and location of fences and walls;

6.2.12 the use, size, location and characteristics of signs and other advertising devices;

6.2.13 the outside storage of personal property;

6.2.14 the character, location, and direction of exterior lighting and street hardware;

6.2.15 the accumulation, storage, and disposal of refuse and trash;

6.2.16 the type and number of animals which may be kept or maintained;

6.2.17 any activity which may be considered noxious or offensive by reason of odor, sound, appearance, or sight, or which may be or become a nuisance or annoyance to the community; and

6.2.18 any activity which impairs the purposes outlined in Section 6.1.

6.3 Effective Date. Upon the adoption of the Design and Use Standards or any amendment thereto, the Review Board shall retain a copy thereof, certified

by the chairman of the Review Board to be a true and complete copy, and shall become effective on the date of such adoption. No amendment to the Design and Use Standards shall operate to revoke any detailed Plans and Specifications previously approved by the Review Board.

6.4 Permanent Record. The Review Board shall maintain a copy of the Design and Use Standards and of each amendment thereto as a permanent record and shall make copies thereof available to any Owner or prospective Owner at a reasonable cost.

6.5 Private Restrictions and Zoning. The Design and Use Standards shall not prevent Developer or another Owner from imposing additional restrictions on any Parcel provided that such restrictions have been included in the Plans and Specifications (or are included in amended Plans and Specifications) for the Parcel and approved by the Review Board. The Design and Use Standards shall not be construed as permitting any action prohibited by (a) any applicable zoning or other statute, ordinance, resolution, regulation, or order of the State of Ohio or any political subdivision or governmental instrumentality of the State of Ohio or (b) any other applicable covenant, condition, restriction, or reservation of easement contained in any recorded instrument. If any inconsistency exists between or among any provision of the Design and Use Standards, the Maintenance Standards, governmental requirements or recorded instruments with respect to any Parcel, the more restrictive provision shall apply.

ARTICLE VII

COVENANTS AND RESTRICTIONS OF USE AND OCCUPANCY

7.1 Purposes. In order to promote the health, safety, and welfare of all Owners, Residents, and Members, and to preserve, beautify, and maintain the Property and all Structures thereon as a development of high quality, and to preserve and promote an environmental quality, the following covenants, restrictions, and limitations as to use and occupancy are hereby adopted, declared, and established. These covenants and restrictions are in addition to the Design and Use Standards and the Maintenance Standards.

7.2 Covenants and Restrictions. The following are the covenants and restrictions and limitations as to use and occupancy to which the Property is hereby subjected.

7.2.1 Purpose of Property. An Owner, Tenant, or Resident of a Parcel may use its Dwelling Unit for any purpose or use which is permitted by law, including any applicable zoning regulations as they may exist and may be amended from time to time. Owners and Residents shall comply with all regulations, laws and ordinances of the City of Cincinnati, Ohio.

7.2.2 Detached Buildings. There shall be no building placed upon any Parcel, including, but not limited to, such buildings described in Section 1.26 (b) of this Declaration, except for Dwelling Units and original and expanded Community Facilities.

7.2.3 Exterior Surfaces of Buildings. No radio transmitting or receiving antenna, satellite dish, or television antenna shall be attached to the exterior of any Dwelling Unit, except one small satellite dish not exceeding eighteen (18) inches in diameter may be attached in an inconspicuous location approved by the Review Board. No free-standing antenna, dish, or receiver is permitted. Owners shall not cause or permit anything to be hung or displayed on the outside walls of a Dwelling Unit and no signs shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior consent of the Review Board with the exception of one sign advertising a Parcel for sale or rent, or signs used by Developer to advertise the Property during the

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Development Period. The size of any sign must comply with ordinances of the City of Cincinnati.

7.2.4 Vehicles and Parking. No trailer, truck, commercially licensed vehicle, motorcycle, bicycle, scooter, boat, or vehicle other than operative passenger automobiles, mini-vans, or station wagons in good repair shall be parked or kept on or adjacent to any Parcel unless fully enclosed within a Dwelling Unit's garage with the garage door fully shut. No unlicensed or inoperative vehicle may be parked or kept outside of a garage for more than 48 hours. No maintenance may be conducted on any vehicle outside the garage of a Dwelling Unit. Except for temporary parking of vehicles of non-Residents not exceeding twenty-four (24) hours, all vehicles belonging to or used by any person at a Dwelling Unit shall be parked on or directly in front of the Parcel on which that Dwelling Unit is located. All vehicles must be lawfully parked on paved surfaces provided and designated for vehicle parking. These restrictions shall also be enforceable on all public streets adjacent to the Property.

The word "trailer" shall include trailer coach, house trailer, horse or boat trailer, mobile home, motor home, automobile trailer, camp car, camper, or any other vehicle, whether or not it is self-propelled, constructed, or existing in such a manner as would permit the use and occupancy thereof for human habitation, for storage, or for the conveyance of animals, materials, machinery, tools, or equipment, whether resting on wheels, jacks, tires, or other foundation.

The word "truck" shall include and mean every type of motor vehicle commonly referred to as a truck, regardless of its size, carrying capacity, or type of motor vehicle license, other than passenger automobiles, mini-vans, and station wagons; provided, that any small or full-size pick-up truck or full-size van in good repair which is not commercially licensed or used for commercial or trade purposes and which is used as a primary, regular, and usual source of transportation on a routine basis by an Owner, Tenant, or Resident of a Dwelling Unit shall not be required to comply with the "truck" restrictions, but must meet all other vehicle restrictions.

Vehicles being used for the purpose of construction, delivery, or repair work upon any Parcel or Dwelling Unit may be permitted to park at the Property. Short-term parking (less than one (1) week) of a prohibited vehicle owned by a visitor to a Dwelling Unit is permitted, unless the Board orders its removal.

7.2.5 Hazardous Uses. No Owner, Tenant, or Resident shall permit anything to be done or kept in its Dwelling Unit or on its Parcel which would be in violation of any law.

7.2.6 Animals and Pets. No animals of any kind shall be bred or raised for sale in any Dwelling Unit or on any Parcel. No animals of any kind shall be accepted, kept, or permitted to remain in any Dwelling Unit or on any Parcel, except that animals commonly regarded as household pets in urban areas may be kept in reasonable and limited numbers, but no such animal shall exceed fifty (50) pounds. No more than two (2) dogs or two (2) cats, or one of each, of any kind may be kept in any Dwelling Unit or on any Parcel. No animal shall be allowed outside a Dwelling Unit unattended unless enclosed within a fully fenced area capable of restraining the animal and approved by the Review Board. Electronic fencing shall not be permitted. Animals must be on a leash when outside the Dwelling Unit and fenced area, and such leash shall not exceed eight (8) feet in length. No device or apparatus to which a line, wire, or rope is connected for the restraint of animals or pets shall be constructed, attached, or permitted upon any Parcel. Each owner of an animal shall collect promptly and properly dispose any excrement deposited by its animal to reduce the associated health risk. Any animal or animals causing or creating a nuisance, noise, odor, health hazard, insect infestation, disturbance, or danger, or which is kept in

violation of this Declaration or the rules and regulations promulgated by the Board shall be removed permanently from the Property by its Owner upon seven (7) days' written notice from the Board.

7.2.7 Nuisances. No activity which may be considered noxious or offensive by reason of odor, sound, appearance, sight, health or safety risk, or an activity conducted late in the evening which unreasonably disturbs others, shall be conducted on any Parcel, nor shall anything be done within any Structure (including Dwelling Units), either willfully or negligently, which may be or become such an annoyance or nuisance to the other Owners, Tenants, or Residents.

7.2.8 Trash. Trash, garbage, or other waste or recyclable materials shall not be kept upon a Parcel except in sanitary containers, cans, and bags kept in the garage for the Parcel (unless an alternative method of screening such containers, cans, and bags shall be approved by the Review Board). Trash cans, containers, and bags shall be brought to the curb by Owners for pick-up by the City of Cincinnati. Such curb deposit shall not be made sooner than twelve (12) hours before pick up and empty cans and containers shall be removed by Owners from curbside within twelve (12) hours after pick-up.

7.2.9 Mailboxes, Numerals, and Letters. The design, size, shape, and color of mailboxes, the numerals and letters thereof, and the numerals and letters identifying Dwelling Units shall be subject to approval by the Review Board as to design, style, location, color, and size. The Review Board shall maintain one or more approved designs which may be selected by Owners.

7.2.10 Easements. Easements for installation, maintenance, and location of utilities and drainage facilities are reserved on the Recorded plat for each Parcel. Owners and Residents may not obstruct or interfere with any such easements including the natural flow of surface water which shall, at all times, be kept free from obstruction.

7.2.11 Prohibited Activities. Except as otherwise provided herein, no industry, business, trade, occupation, or profession of any kind, whether commercial, religious, educational, or otherwise designated for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted on any part of the Property; provided, however, that to the extent permitted by law, an Owner, a Tenant, a Resident or any other person claiming through an Owner, may use a portion of any Dwelling Unit for an office or studio (other than a music studio) provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner, Resident, Tenant, or any other person claiming through an Owner; and provided further, that such activities do not increase the normal flow of traffic of individuals in and out of the Property or in and out of a Dwelling Unit. The right is reserved by Developer and its agents to place "For Sale" or "For Rent" signs on any unsold or unoccupied Dwelling Units or Parcels and to use any such Dwelling Unit, the Community Facilities, or other Structures on a Parcel as models and/or offices in connection with the sale or rental of Parcels and/or Dwelling Units.

7.2.12 Fences. All fences shall be subject to prior approval by the Review Board. No chain link or similar fences shall be erected or constructed anywhere upon the Property. All other fencing shall be standard three-rail split rail fences, or shrubs, hedges, or other fencing approved by the Review Board. Subject to prior approval by the Review Board, a wire fence liner of suitable mesh may be installed on the interior of a fence to restrain pets. Wood stockade-type fencing may, if approved by the Review Board, be erected abutting the rear of a Dwelling Unit for the purpose of enclosing a storage area or around the side or rear yard patio area abutting a Dwelling Unit for privacy purposes. All wood fencing shall be unfinished natural wood, stained to have a natural wood color.

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7.2.13 No Laundry on Parcels. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed on any Parcel.

7.2.14 Swimming Pools, Hot Tubs, and Spas. No in-ground swimming pool and no other swimming pool which extends more than one (1) foot above the finished grade of a Parcel shall be constructed, erected, placed, or permitted to remain upon any Parcel. Hot tubs or spas may be permitted only as authorized by the Review Board.

7.2.15 Impairment of Structural Integrity of Building. Nothing shall be done in an Dwelling Unit which will impair the structural integrity of that Dwelling Unit or of any Structure on an adjoining Parcel.

7.2.16 No Laundry or Rubbish in Community Facilities. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed on any part of the Community Facilities. The Community Facilities shall be kept free and clear of rubbish, debris, and other unsightly materials.

7.2.17 Activities at Community Facilities. Playing, lounging, parking of baby carriages or placement of playpens, bicycles, wagons, toys, vehicles, benches, or chairs on any part of the Community Facilities shall be subject to reasonable rules and regulations of the Association.

7.2.18 Outside Storage. No items except patio-type furniture in good repair shall be kept or stored outside any Dwelling Unit when not in use including, but not limited to, bicycles, scooters, wagons, grills, toys, exercise or sports equipment, tools, motor vehicle parts, and yard equipment, unless fully enclosed within a storage facility approved by the Review Board or otherwise permitted by the Board of Trustees. Patio-type furniture may be permitted to remain in front of a Dwelling Unit if placed on a porch, but may not remain on the lawn.

7.3 Failure to Comply. Failure to comply with the covenants and restrictions as to use and occupancy shall constitute a Default.

ARTICLE VIII

MAINTENANCE STANDARDS

8.1 Adoption and Amendment. In furtherance of the purposes outlined in Section 6.1, the Board shall have the right to adopt, and may from time to time amend, Maintenance Standards pertaining to the maintenance, repair, and appearance of all Parcels, and the exterior of all Structures thereon. If any provision of any applicable building inspection, housing inspection, or similar maintenance statute, ordinance, resolution, regulation, or order of the State of Ohio, any other political subdivision or governmental instrumentality of the State of Ohio, or the Board, is more stringent with regard to a Parcel than a comparable provision of the Maintenance Standards, such more stringent provision shall be deemed incorporated in the Maintenance Standards.

8.2 Obligation to Keep Premises in Good Repair. The Association shall keep each Parcel and the exterior of all Structures thereon in such maintenance, repair, and appearance as shall comply with the Maintenance Standards.

8.3 Inspection. The Board of Trustees, through its authorized officers, employees, and agents may inspect each Parcel and the exterior of each Structure thereon for compliance with the Maintenance Standards. After each such inspection, the Board shall, if any defects are found, issue an inspection report, with a copy to the Owner, listing the defects, if any, and the time within which they will be corrected.

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8.4 Water Drainage. Each open storm water drainage way or natural drainage system on any Parcel shall be maintained by the Association in good condition and repair so that there will be no interference with the normal flow of water therein. Neither the Owner of the affected Parcel nor anyone claiming under the Owner shall, except in an emergency, alter the location or grade of any such drainage way without the prior written consent of the Board.

8.5 Right of Entry. The Board, through its authorized officers, employees, and agents, shall have the right to enter upon any Parcel at all reasonable times and upon reasonable advance notice for the purpose of making inspections required by this Article without the Board or such officer, employee, or agent being deemed to have committed a trespass or wrongful act solely by reason of such act or actions.

ARTICLE IX

COMMUNITY FACILITIES

9.1 Rights of Enjoyment in Community Facilities. Each Owner shall have a right and nonexclusive easement for use and enjoyment of the Community Facilities, and such right and easement shall be appurtenant to, and shall pass with the title to the Owner's Parcel. Each Owner shall have a perpetual right of ingress and egress to that Owner's Dwelling Unit and Parcel, which shall be appurtenant to the ownership of the Dwelling Unit and Parcel. Each Resident shall have a nontransferable right to use and enjoy the Community Facilities, if any, which right shall terminate when such person ceases to have the status of a Resident. Such rights and privileges shall be subject, however, to the following:

9.1.1 The right of the Board, with the approval by (a) 75% of the votes cast by the Class A Members who are voting in person or by proxy at a meeting duly called for such purpose at which a quorum is present, and (b) the Class B Member, if any, voting in person or by proxy at such meeting, to borrow money for the purpose of constructing, equipping, improving, and maintaining Community Facilities and in aid thereof to mortgage the Community Facilities.

9.1.2 The right of the Board to adopt and enforce and from time to time amend reasonable rules and regulations pertaining to the use of the Community Facilities, including, but not limited to, regulations limiting guests of Owners and Residents who may use the Community Facilities at any one time.

9.1.3 The right of the Board to establish and charge reasonable admission and other fees for the use of any of the Community Facilities that are in the nature of recreational facilities (as determined by the Board). In establishing any such fee, the Board may establish reasonable classifications of Owners, Residents, Tenants, guests, and other persons. Each fee must be uniform within each class but need not be uniform between classes.

9.1.4 The right of the Board to suspend the right of any Owner or the privilege of any Resident, Tenant, guest, or other person to use such of the Community Facilities that are recreational in nature (as determined by the Board) for any infraction of the rules and regulations relating to the Community Facilities for a period not to exceed sixty (60) days for each infraction thereof.

9.1.5 The right of the Board to suspend the right of any Owner and the privilege of each Resident, Tenant, guest, or other person claiming through such Owner to use such of the Community Facilities that are recreational in nature (as determined by the Board) for the nonpayment or delinquency of the Assessment against such Owner's Parcel for a period not to exceed the period of such nonpayment or delinquency.

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9.1.6 The right of the Association to grant permits, licenses, and easements over the Community Facilities for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property.

9.1.7 All applicable provisions of valid agreements of the Association relating to the Community Facilities.

9.1.8 All other easements, restrictions, and rights to which the Property is subject.

9.2 Nonexclusive License of Enjoyment. The Association may grant a nonexclusive license, for a period of definite duration not to exceed one year, to enter upon and use and enjoy the Community Facilities to a person who is not an Owner, Resident, or person claiming under an Owner or Resident of land subject to this Declaration or any supplemental declaration. Any license granted by the Association to use and enjoy the Community Facilities shall provide as a condition and obligation of use that the licensee shall pay such consideration as is determined by the Association, and that the licensee and other persons claiming under the license shall be bound by all of the provisions of the Constituent Documents so far as they relate to the use of the Community Facilities.

9.3 Subordination to Mortgage or Other Lien. The rights and privileges provided in this Article shall be subordinate to any mortgage or other lien given by the Association for the purposes of acquiring, improving, or maintaining the Community Facilities.

9.4 Additional Community Facilities.

9.4.1 Developer may from time to time during the Development Period convey to the Association for nominal or other appropriate consideration, and the Association may accept conveyance of, any Parcel owned by Developer along with any Structure, improvement, or any facility located thereon including related fixtures, equipment, and furnishings located therein.

9.4.2 The Association shall not construct any capital addition or capital improvement to the Community Facilities if the cost to the Association of such addition or improvement exceeds the "maximum capital expenditure," as defined below, nor annex any additional Community Facilities unless such addition, improvement, or annexation, shall have been authorized by the Board and also approved by (a) 75% of the votes cast by the Class A Members who are voting in person or by proxy at a meeting duly called for such propose at which a quorum is present, and (b) the Class B Member, if any, voting in person or by proxy at such meeting. Such "maximum capital expenditure" shall be \$3,000 initially (based on \$100 from each of ten (10) Dwelling Units in Harvey Point and twenty (20) Dwelling Units in Cedar Meadows II) and shall be adjusted annually by the percentage change in the Consumer Price Index using the procedure as specified in Section 3.3.1.

9.5 Maintenance and Management of Community Facilities. The Association shall provide for the management of all Community Facilities and shall keep all Community Facilities in such maintenance, repair, and appearance as shall comply with the Maintenance Standards. The Association may fulfill this responsibility by contracting with any professional management company (including, without limitation, Developer or an affiliate or associate of Developer) for the management, maintenance, and repair of the Community Facilities upon such terms and conditions as shall be agreed upon by the Association and the manager, including reasonable compensation, term, and termination provisions. Notwithstanding the foregoing, any such contract shall provide that it (i) shall not continue for a term of one year beyond the time Developer is required to give up control of the Board pursuant to this Declaration and (ii) shall be terminable

without penalty by the Association at any time after transfer of control, upon ninety (90) days' notice to the manager, with or without cause.

9.6 Payment by First Mortgagees of Obligations and Reimbursement for Same. In the event that the Association shall (a) default with regard to payment of taxes or other obligations which may become a charge against the Community Facilities, or (b) fail to pay premiums for insurance in accordance with Article XII, and shall not in good faith contest liability for payment of same, first mortgagees of Parcels shall, upon prior written notice of intent to do so to the Association, jointly or severally, have the right to pay such amounts, whereupon such participating first mortgagees shall be entitled to reimbursement from the Association for payment of such amounts.

9.7 Use of Community Facilities by Developer. Developer and its affiliates and associates shall have the same rights of use and enjoyment of the Community Facilities (including use of Community Facilities for promotional and sales purposes) as the Class A Members during the Development Period.

ARTICLE X

COVENANT FOR STAGED DEVELOPMENT

10.1 Staged Development. At any time during the Development Period, the Developer may submit, make subject to, or annex to this Declaration, additional real property (the "Additional Property"). The Property and Additional Property shall consist of annexed Parcels which may include a maximum of ten (10) additional Dwelling Units. All intended improvements to the Additional Property shall be substantially completed before annexation of the Additional Property. All improvements to the Additional Property shall be of a quality of construction which is consistent with the initial improvements to the Property.

10.2 Supplemental Declaration for Staged Development. The Additional Property may be subjected, annexed, or submitted to this Declaration by filing of record a supplemental declaration which shall incorporate and extend this Declaration to such Additional Property.

10.3 Taxes. The Developer shall pay or otherwise satisfactorily provide on a prorated basis for all real estate taxes and other assessments relating to the Additional Property which cover any time period before the annexation of the Additional Property.

ARTICLE XI

PARTY WALLS

11.1 Definition. Each wall built during original construction as a division wall common to Structures built on adjoining Parcels shall be a "Party Wall," and to the extent not inconsistent with this Declaration, the general rules of Ohio law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply. Each of the Owners of adjoining Parcels shall own in severalty so much of any party Wall as stands upon its Parcel subject to the covenants, easements, and restrictions provided for herein. A Party Wall shall not include the decorated surface within a Dwelling Wall or any finishing materials or items applied to said surface including paint, lacquer, varnish, wallpaper, tile, carpeting, or paneling.

11.2 Covenants, Easements and Restrictions. The following covenants, easements, and restrictions as to use, maintenance, repair, restoration, and reconstruction of Party Walls are hereby declared, adopted, and established.

11.2.1 Easement of Use. The Owner of a Structure shall have the right and easement to use so much of any Party Wall as is owned by an adjoining Owner for any purpose not inconsistent with joint use of the Party Wall or prohibited herein. Such right of use shall include the right to enter the Parcel and Structure of an adjoining Owner at reasonable time, upon reasonable notice, and as reasonably necessary to repair, restore, reconstruct, maintain, or improve the Party Wall or any Structure of which the Party Wall is a structural part.

11.2.2 Damage or Destruction. In the event of damage or destruction of a Party Wall from any cause or peril, then repair, restoration, or reconstruction shall be undertaken by the Association as provided for herein in Articles XI and XII; provided, however, that (with regard to a Party Wall) if insurance proceeds are insufficient or if the damage or destruction is not due to insured cause or peril the expense of repair, reconstruction, or restoration as provided in Article XII shall be borne equally by Owners of Structures divided by a Party Wall regardless of the ownership interest in the Party Wall by such Owners; provided, however, that nothing herein shall release or be construed to release any Owner from liability for damages caused by such Owner by its negligence or willful misconduct.

11.2.3 Maintenance of Structural Integrity. The expense of repair and maintenance for the purpose of maintaining the structural integrity of a Party Wall shall be borne equally by Owners of Structures divided by a Party Wall. In the event, however, that an Owner or anyone for whose act an Owner would be legally liable causes a Party Wall to be exposed to the elements by any act, whether negligent, willful, or intentional, then such Owner shall bear the entire cost of weatherproofing the Party Wall to protect it from the elements.

11.2.4 Prohibited Uses. No one subject to this Declaration shall without the consent of adjoining Owners and the Review Board make or cause to be made openings in a Party Wall, decrease or increase the thickness of a Party Wall, add to or extend a Party Wall, or place or construct chimney flues or fireplaces against a Party Wall.

ARTICLE XII

DAMAGE OF DESTRUCTION OF STRUCTURES AND INSURANCE

12.1 Insurance of Structures. The Association shall obtain and at all times maintain insurance coverage on all Structures upon the Property owned by or leased to the Association (exclusive of land, foundations, excavations, ditches, changes in grade of six inches or more and other items normally excluded from insurance coverage) including fixtures and building service equipment to the extent they are a part of the Community Facilities, as well as common personal property and supplies owned by or leased to the Association.

In addition, the Association shall obtain, and at all times maintain, insurance coverage on all Structures upon the Property owned by any and all Owners ("Insured Owners") (exclusive of land, foundations, excavations, ditches, changes in grade of six inches or more and other items normally excluded from insurance coverage).

Such insurance coverage shall insure against loss or damage by fire, lightning, and such other perils as are at this time comprehended within the term "standard extended coverage," and including cost of demolition, vandalism and malicious mischief, sprinkler leakage, debris removal, and windstorm and water damage, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use.

Such insurance coverage also shall include all perils normally covered by the standard "all risk" endorsement, if such is available, and shall be obtained

from an insurance company authorized to do business in the State of Ohio in an amount not less than 100% of the current replacement costs or insurable value thereof, without deduction for depreciation, and with an agreed amount endorsement.

Such insurance coverage also shall have a deductible on any single loss or group of losses within one year in such amount as shall be found reasonable by the Board, after carefully considering and comparing the increased premium costs resulting from a low deductible with the lower premium costs, but higher per loss risk, resulting from a high deductible, together with all other pertinent factors. However, deductibles may not exceed the lower of \$10,000.00 or 1% of the applicable amount of coverage (\$1,000.00 or 1% of the insurable value of an individual Dwelling Unit), and funds for such deductibles must be included in the Association's reserves and be so designated.

The named insured shall be the Association individually for Structures, fixtures, building service equipment, and common personal property and supplies owned by or leased to the Association, and the Association as Trustee for each Insured Owner of other insured Structures naming the insured as "Harvey Point - Cedar Meadows II Homeowners Association, Inc. for the use and benefit of the individual owners." Such insurance shall be obtained and maintained for the benefit of all Members of the Association, Owners of Structures on the Property, and mortgagees.

Payments by the insurer for losses suffered by Insured Owners and their mortgagees shall be made to the Association as Trustee for such Owners and mortgagees. The Association may also maintain such additional insurance coverage as may from time to time be required by holders of first mortgages.

Any insurance policy providing the coverage described herein shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt and shall name any Servicer (as defined in Section 3.8 herein) as first lienor. Such policy shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Owner as hereinafter permitted. Such policy shall also contain either a waiver by the insurer of any increased hazard clause or a provision stating that the coverage will not be affected by the act, omission, or neglect of any person unless such act, omission, or neglect is within the knowledge and control and the Association prior to the occurrence of the loss.

Such policy of insurance shall contain provisions requiring the insurer to issue, upon request, to any mortgagee(s) of any Dwelling Unit, a certificate of coverage and also a written notice of termination not less than thirty (30) days prior to any expiration or cancellation of such coverage.

Such insurance by the Association shall be without prejudice to the right of the Owner of a Dwelling Unit to obtain individual contents or chattel property insurance, but no Owner may at any time purchase individual policies of insurance covering any item which the Association is required to insure. If any Owner does purchase such a policy, that Owner shall be liable to the Association for any damages, expenses, or losses which it suffers or incurs as a result thereof, and the Association shall have the same lien rights provided by Article II hereof for Common Expense payments with respect to any such damages, expenses, or losses not paid to it by such Owner.

If any of the insurance coverage required under this Section 12.1 is or becomes impractical to obtain, or is not available in the area where the Property is located, the Association shall obtain coverage which most closely approximates the required coverage with the deductible provisions described in the first paragraph of this Section 12.1.

7277PC1718

Property insurance covering Structures upon the Property owned by Owners shall be provided in an amount at least sufficient to pay the mortgage balance for each such Structure in the event of a covered loss, unless the appraisals provide separate valuations for land and improvements, in which case the insurance may be in an amount less than the mortgage balance so long as the insurance covers the full replacement cost of the improvement. The insurance described in this Section 12.1 which covers all structures upon the Property owned by or leased to the Association shall contain an agreed amount, demolition cost, and increased cost of construction endorsement, if available.

All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverages contained in the policies are sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

12.2 Appointment of Association as Trustee. Each Insured Owner by accepting/delivery of a deed for a Parcel of Property, thereby appoints the Association as its Trustee, and authorizes, directs, and empowers such Trustee to do in its sole discretion any or all of the following in furtherance of and pursuant to the provisions of this Article XII in providing insurance for said Owner's Structures (all to be done in the name of the Association as Trustee):

12.2.1 To purchase, contract for, acquire, maintain and pay premiums for and costs of such insurance.

12.2.2 To take any necessary action to recover and receive proceeds and/or payments payable on account of any insured loss, including, but not limited to, the right to compromise and adjust claims, negotiate settlements, commence and prosecute any action at law or other judicial or quasi-judicial action including arbitration proceedings.

12.2.3 To release, acquit, quit claim and forever discharge the insurer from any and all claims, demands, damages, indemnities, actions, causes of action, suits, or liabilities and to execute and deliver all necessary documents, releases, court entries, or contracts.

12.2.4 To contract for the repair, reconstruction, or rebuilding of any Structure damaged or destroyed and to pay for such repair, reconstruction, or rebuilding through and by applying, disbursing, or assigning payments or proceeds owed by or received from such insurance policies and/or the insured on account of any loss to the extent of such payments.

12.2.5 To do and perform all and every act and thing whatsoever requisite, necessary, and proper in furtherance of the pursuant to the provisions of this Article XII.

12.3 Provisions in Fire and Extended Coverage Insurance Policies. Every fire and standard extended coverage insurance policy purchased by the Association shall provide:

12.3.1 For the release by the issuer thereof of any and all rights of subrogation or assignment in all causes and rights of recovery against the Association, any Owner, member of Owner's family, Tenant, or Resident, or other occupant of a Structure, for a recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under such insurance policy.

12.3.2 That the insurer shall annually appraise all Structures and notify the Association of any excess/deficiency in coverage or over/under-insurance.

7277PC1719

12.4 Public Liability Insurance. The Association shall obtain comprehensive general liability insurance to insure itself, all Owners and Members and their respective families and other persons residing with them in the Dwelling Unit, and all persons lawfully in possession of or in control of any part of the Community Facilities, against liability for bodily injury, disease, illness, or death and for injury to or destruction of property occurring in connection with the operation, maintenance, or use of the Community Facilities. Such insurance shall afford protection to a limit of not less than \$1,000,000.00 with regard to bodily injury, disease, illness, or death suffered by any one person and to the limit of not less than \$1,000,000.00 with regard to any one occurrence, and to the limit of not less than \$1,000,000.00 with regard to damage to, or destruction of, property arising out of any one occurrence. The coverage shall provide protection, if available, against liability arising out of lawsuits related to employment contracts of the Association, water damage liability, comprehensive liability for non-owned and hired automobile, liability for property of others, and, if applicable, garage-keeper's liability, host liquor liability, workers' compensation liability, contractual liability, and such other risks as are customarily covered with respect to projects similar in construction, location, and use. The policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligence of the Association and/or another Owner or Owners.

12.5 Collection of Insurance Premiums. The Board shall collect insurance premiums pro-rata from each Owner for the policies referred to herein, and for such other policies as the Association shall determine from time to time to be desirable, either separately from each Owner or may add the amount of the insurance premiums as a special assessment to each Owner's Assessment as established in Articles II and III.

12.6 Damage or Destruction and Restoration of Structures.

12.6.1 Sufficient Insurance. If any part or all of a Structure which is insured by the Association shall suffer damage or destruction from any cause or peril insured against, and the proceeds of any policy or policies carried by the Association insuring against such loss or damage and payable by reason thereof shall be sufficient as determined by the Board to pay the cost of repair or restoration or reconstruction, then such repair, restoration, or reconstruction may, with concurrence of the mortgagee of such Structure, if any, be undertaken by the Association and the insurance proceeds may be applied by the Association in payment therefor, subject however to the provisions of Section 12.13 herein.

12.6.2 Insufficient Insurance or Uninsured Casualty. If any part or all of a Structure which is insured by the Association shall suffer damage or destruction from any cause which is not insured against or if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration, or reconstruction, then the cost of such repair, restoration, or reconstruction shall be considered a special assessment on the Parcel on which the affected Structure is located and shall be subject to the provisions of Articles II and XII.

12.7 Procedure for Reconstruction, Restoration and Repair. As soon as reasonably possible after a casualty causing damage or destruction to a Structure insured by the Association, the Association shall proceed to restore, repair, or reconstruct the Structure, subject to the provisions of this Declaration, to at least substantially the same condition in which the Structure existed immediately prior to the casualty.

All Plans and Specifications for such reconstruction, repair, and restoration shall be subject to approval as provided in this Declaration.

Specific procedures for reconstruction, restoration, and repair not provided for in this Article or elsewhere in this Declaration or any amendments thereto shall be determined by the Board from time to time.

12.8 Notice to First Mortgagees. If the Community Facilities shall be damaged in an estimated amount exceeding \$10,000.00, which amount shall be adjusted annually by the percentage change in the Consumer Price Index using the procedure as specified in Section 3.3.1, the Association shall notify any first mortgagees of such damage who requested to be notified of same, and shall notify of any Servicer (as defined in Section 3.8 herein), at the Servicer's address, of any such damage.

12.9 Cancellation or Substantial Modification. Policies required under this Article XII must contain a standard mortgage clause providing that they may not be cancelled or substantially modified by any party without at least thirty (30) days' prior written notice to the Association or named mortgagee(s).

12.10 Insurance Coverage to be Mandatory. The insurance of Structures not owned by the Association specified in Section 12.1 shall be mandatory. The provisions of this Article XII shall not affect the rights of a mortgagee to require a minimum amount of insurance coverage by an acceptable insurer or the rights of a mortgagee, pursuant to the terms of a mortgage or applicable laws and regulations, to require the application of insurance proceeds against outstanding indebtedness secured by a mortgage.

12.11 Remedy for Lack of Insurance. If insurance coverage required herein ceases to exist for any reason whatsoever, any Owner or mortgagee of a Structure may remedy the lack of insurance by purchasing policies to supply that insurance. The funds paid for premiums shall not reduce any premiums otherwise payable by that Owner on behalf of the Association for insurance obtained by the Association.

12.12 Perils Not Insured Against. The insurance provided for herein shall not insure personal property located within a Dwelling Unit or other Structure, regardless of ownership, and shall not insure against liability for personal injury or property damage arising out of or relating to ownership or occupancy of Dwelling Units. It shall be the responsibility of the Owner of each Dwelling Unit located upon a Parcel in the Property to obtain insurance coverage at its own expense for its personal liability for occurrences within and about said Dwelling Unit or upon its Parcel and also for protection of its personal property from perils insured against in fire and standard extended coverage insurance policies.

12.13 Distribution of Proceeds. Proceeds of insurance policies received by the Association as Trustee herein shall be distributed to or for the benefit of the Owners, to the extent of proceeds received, in the following order:

12.13.1 First, to payment of the Association's expenses in securing such proceeds and arranging for repair, restoration, or reconstruction. Such expenses may include legal fees, cost of estimates, permits, licenses, fees, appraisal fees, and opinions of experts. The foregoing itemization shall not limit the categories of expenses, but such expenses shall not in any event include normal administrative costs of the Association.

12.13.2 Second, to the payment of costs of restoration, repair or reconstruction.

12.13.3 The balance, if any, to the beneficial Owners of the property affected and their mortgagees jointly, if any, in the proportion to which they are entitled pursuant to the terms of the insurance.

7277pc1721

12.14 Easement for Repair of Dwelling Units. The Association through its authorized officers, employees, and agents shall have the right and easement to enter upon any Parcel at all reasonable times and upon reasonable notice to do anything necessary to repair, restore, and/or reconstruct Dwelling Units and Structures as provided in this Article. This right of entry shall include the right and easement to enter the Parcel of any Owner to repair, restore and/or reconstruct Dwelling Units or Structures on neighboring Parcels. The Association or its officers, employees, or agents shall not be deemed to have committed a trespass or wrongful act by reason of each entry to restore, reconstruct, and/or repair.

ARTICLE XIII

CONDEMNATION

13.1 Representation. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of the Community Facilities. Each Owner, by acceptance of delivery of a deed for a Parcel of Property, thereby appoints the Association its attorney-in-fact for such purposes.

13.2 Proceeds. If part or all of the Community Facilities are taken or acquired by a condemning authority, the award or proceeds of settlement shall be payable to the Association for the use and benefit of Owners and their mortgagees as their interests may appear.

ARTICLE XIV

ENFORCEMENT

14.1 Curing Defaults; Lien. In the event of any Default with respect to any Parcel under the provisions of this Declaration, the Board shall give written notice to the Owner thereof, with a copy of such notice to each Tenant or Resident in Default and a copy to any first mortgagee of the Parcel, setting forth with reasonable particularity the nature of such Default, and the specific action(s) required to remedy the Default. If the Owner, Tenant or Resident, shall fail to take the specific action(s) within thirty (30) days after the mailing of the notice, the Board may, but shall not be required to, exercise any or all of its rights hereunder. The Board may exercise without notice any of its rights hereunder with respect to any Default if it determines that an emergency exists requiring immediate action.

Costs incurred by the Association in exercising any of its rights with respect to any Parcel shall be a binding personal obligation of the Owner thereof which shall be payable on demand. If the Owner fails to pay such costs within thirty (30) days after demand, the Association shall enter the amount of the obligation, the name of the Owner as it appears on its records, and the description of the Parcel in a lien record book to be maintained by the Board at its main office, together with the date of such entry. The Association shall have a prior lien on such Parcel for such amount until paid and such lien shall have priority from the date of such entry over all other liens and encumbrances thereon whatsoever, excepting real estate taxes and assessments, liens of record as of the date of such entry, and liens of the United States of America, the State of Ohio, and all other political subdivisions or governmental instrumentalities of the State of Ohio to the extent made superior by applicable law, all bona fide prior recorded first mortgages, and the lien of any first mortgagee who comes into possession of a Chargeable Parcel pursuant to mortgage

foreclosure or by deed in lieu thereof. The lien provided in this Section shall be enforceable as provided in Sections 2.11 and 2.12.

14.2 Remedies. Nothing contained in this Article shall be deemed to affect or limit the rights of Developer, the Association, any Owner, Tenant, or Resident, or their legal representatives, heirs, devisees, successors, or assigns, by appropriate judicial proceedings, to enforce the restrictions of this Declaration, or recover damages for any Default. It is hereby declared that irreparable harm will result to beneficiaries of this Declaration by reason of a Default, and, therefore, each beneficiary shall be entitled to relief by way of injunction or specific performance to enforce the provisions of this Declaration, as well as any other relief available at law or in equity.

14.3 Right and Easement of Entry. The Association, through its authorized officers, employees, and agents, shall have the right and easement to enter upon any Parcel at all reasonable times and to do anything thereon necessary to perform the action or actions specified in the notice to the Owner to abate, remedy, extinguish, remove, or repair a Default, without the Association or such officer, employee, or agent being deemed to have committed a trespass or wrongful act solely by reason of each entry or such action or actions as are carried out in accordance with the provisions of this Article, provided that no summary abatement or similar procedure may be utilized through non-judicial means to alter or demolish items of construction.

14.4 No Waiver. The failure of Developer, the Association, any Owner, Tenant, or Resident, or their legal representatives, heirs, devisees, successors or assigns, in any one or more instances, to insist upon total compliance with any of the Restrictions, or to exercise any right or privilege conferred in this Declaration, shall not constitute or be construed as the waiver of such or any similar Restriction, right or privilege, including the right to cure any Default, but the same shall continue and remain in full force and effect as if no such forbearance had occurred.

14.5 Rules and Regulations. The Board may adopt, enforce as provided in this Article XIV, and from time to time amend, reasonable rules and regulations regarding the administration, interpretation, and enforcement of the Restrictions. Each such rule and regulation shall be consistent with and designed to further the purposes outline in this Declaration.

ARTICLE XV

DURATION, AMENDMENT AND TERMINATION

15.1 Duration. The Restrictions shall be covenants running with the land and shall bind the Property and every Parcel thereof, and shall (regardless of whether any such beneficiary owns an interest in any Parcel) inure to the benefit of and be enforceable by Developer, the Board, and each Owner, Tenant, and Resident and their legal representatives, heirs, devisees, successors, and assigns, and shall continue in full force and effect for twenty (20) years from the date on which this Declaration is recorded. Thereafter the Restrictions shall be automatically renewed for successive ten-year periods unless amended or terminated as provided in this Article.

15.2 Amendment or Termination. After the end of the Development Period, any provision of this Declaration may be amended in whole or in part or terminated by a recorded instrument approved by the Owners of at least 75% of all Parcels.

Prior to the end of the Development Period, any provision of this Declaration may be amended in whole or in part by a recorded instrument executed by Developer and approved by the Owners of at least 75% of all Parcels.

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The President of the Board shall determine whether the persons who have approved of any amendments or termination of this Declaration constitutes the Owners of at least 75% of all Parcels. Promptly after the approval of any amendment or termination of any part of this Declaration, the President of the Board shall cause to be Recorded (a) the written instrument of amendment or termination executed in properly recordable form by the President of the Association and Developer, if during the Development Period, and (b) the certificate of the President of the Association that the Owners of at least 75% of all Parcels have approved such instrument.

The Board shall maintain such copies of amendments filed with it by the President as a permanent record and shall make copies thereof available to any Owner at a reasonable cost.

Notwithstanding anything above to the contrary, this Declaration may be amended at any time during the Development Period without the vote of Owners by a written instrument executed by Developer for the purpose of eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Developer's original intent; making any changes necessary or desirable to meet the requirements of any institutional lender, the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any other agency which may insure or purchase loans on a Parcel; provided, however, that no such amendment shall materially affect any Owner's interest in the Association or the Community Facilities. Each Owner and each Owner's mortgagee, by acceptance of a deed to a Parcel or a mortgage encumbering such Parcel, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration by Developer as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Developer, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Developer to be necessary or proper to effectuate the provisions of this paragraph.

ARTICLE XVI

MISCELLANEOUS

16.1 No Reverter. No covenant, condition, restriction or reservation of easement contained in this Declaration is intended to create, or shall be construed as creating, a condition subsequent or a possibility of reverter.

16.2 Notices. Any notice required or permitted to be given to an Owner, Tenant, Resident, or Member, by the Board pursuant to the provisions of this Declaration shall be deemed given when mailed by United States mail, postage prepaid, addressed to such person's last address as it appears on the records of the Association.

16.3 Construction. The Board shall have the right to construe the provisions of this Declaration, and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, such construction shall be final and binding as to all persons and entities benefited or bound by the provisions of this Declaration.

16.4 Invalidity. The determination by a court of competent jurisdiction that any provision of this Declaration is invalid for any reason shall not affect the validity of any other provision hereof.

16.5 Headings. The headings of the Articles and Sections are for convenience only and shall not affect the meaning or construction of the contents of this Declaration.

7277PC1724

16.6 Singular. Throughout this Declaration, the singular shall be deemed to include the plural and vice versa.

16.7 Lease of Parcel. No Owner or Tenant of a Parcel or Dwelling Unit shall lease or sublease to another party any such Parcel or any such Dwelling Unit, or any part thereof, unless the lease is submitted to the Board at least fifteen (15) days in advance of the execution of the lease, and the lease is approved by the Board in writing or deemed approved. Except as described below, such lease shall be approved if it is in writing, is for a period of at least ninety (90) days, expressly provides that the terms of such lease shall be subject in all respects to the provisions of this Declaration, that any failure by the Tenant to comply with the terms of this Declaration shall be a Default under such lease, and such other terms as the Board reasonably may require. If a proposed lease has not been approved or disapproved by the Board within fifteen (15) days after it was submitted to the Board, the lease shall be deemed approved.

The intent of this Declaration is to encourage private home ownership and owner-occupancy in Harvey Point and Cedar Meadows II, and the Board may disapprove any lease submitted by an Owner who has leased that Parcel or Dwelling Unit, or any part thereof, for a total of twelve (12) months or more, whether or not continuous, in the previous twenty four (24) month period. Any action by the Board approving a lease in such a case shall not act to limit the authority of the Board to disapprove a lease in any other such case.

16.8 Reservation of Construction, Sewer, and Utility Easements. Developer hereby reserves easements for the construction, installation, and maintenance of utilities, drainage facilities, storm and sanitary sewers, as the same appear on the record plat of the Property, and to cut and grade slopes in and along Parcel boundaries at streets built within the Property.

16.9 Encroachments. If any portion of the Community Facilities encroaches upon any Parcel or if any portion of a Dwelling Unit or Structure located upon any Parcel inadvertently encroaches upon the Community Facilities or another Parcel as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any Structure, a valid easement for the encroachment and for the maintenance of same shall exist so long as the encroachment exists.

16.10 Availability of Documents. The Association shall make available to Members, Owners, and lenders, and to holders, insurers, or guarantors of any first mortgage, current copies of the Declaration, Regulations, and other rules concerning the Property. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances and the Association may assess a reasonable charge, payable in advance, for costs incurred by the Association to make such copies available.

16.11 Notice to and Rights of First Mortgagees, Insurers, and Guarantors. Any holder, insurer, or guarantor of any first mortgage may designate a representative to attend any Owners' or Members' meeting. Any first mortgagee, insurer, or guarantor shall, upon written request to the Association specifying its name and address and the Parcel number or address, be provided timely written notice of the following:

16.11.1 Any condemnation or casualty loss which affects a material portion of the Property or which affects any Parcel held, insured, or guaranteed by the first mortgagee, insurer or guarantor;

16.11.2 Any delinquency which remains uncured for sixty (60) days in the payment of Assessments or charges owed by an Owner of a Parcel held, insured, or guaranteed by the first mortgagee, insurer, or guarantor, or any Default which remains uncured for sixty (60) days;

7277PC1725

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

16.11.4 Any proposed action which would require the consent of a specified number of first mortgagees under Section 16.12;

16.11.5 Any notice which must be provided to Members or Owners under any of the Constituent Documents;

16.11.6 Notice of termination of the Development Period;

16.11.7 Any material amendment to any of the Constituent Documents;

16.11.8 The effectuation of any decision by the Association to terminate professional management and assume self-management of the Property under Section 9.5.

16.12 Consent of First Mortgagees. If a first mortgagee is given a written request to approve an amendment to the Declaration, and does not deliver or post a negative response to the requesting party within thirty (30) days after such request is given, it shall be deemed to have approved such amendment.

16.12.1 Notwithstanding compliance with the other provisions of this Declaration with regard to such actions, unless at least 67% of the first mortgagees (based upon one vote for each first mortgage) of Parcels have given their prior written approval, the Association shall not be entitled to:

16.12.1.1 by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any Community Facilities, except that the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association shall not be deemed within the meaning of this clause;

16.12.1.2 change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner or class of Members;

16.12.1.3 amend any provision of Articles V, VI, VII, or VIII of this Declaration;

16.12.1.4 fail to maintain fire and standard extended coverage on insurable Community Facilities in accordance with Section XII;

16.12.1.5 use hazard insurance proceeds for losses to any Community Facilities for other than the repair, replacement, or reconstruction of such improvements; or

16.12.1.6 elect to terminate the Declaration, except a termination on the conditions and as specified in Section 16.12.2.2.

16.12.2 Notwithstanding compliance with the other provisions of this Declaration with regard to such actions, unless at least 51% of the first mortgagees (based upon one vote for each first mortgage) of Parcels have given their prior written approval, the Association shall not be entitled to:

16.12.2.1 restore or repair the Property, after a partial condemnation or damage due to an insurable hazard, other than substantially in accordance with this Declaration and to its former condition;

16.12.2.2 elect to terminate the Declaration after substantial destruction or substantial taking in condemnation of the Property;

7277 PC 1726

16.12.2.3 add or amend any material provisions of the Constituent Documents which establish, provide for, govern, or regulate any of the following: voting; Assessments, Assessment liens, or subordination of such liens; reserves for maintenance, repair, and replacement of the Community Facilities (or Dwelling Units if applicable); insurance or fidelity bonds; rights to use of the Community Facilities; responsibility for maintenance and repair of the Property; expansion or contraction of the Property or the addition, annexation, or withdrawal of property to or from the Property; boundaries of any Dwelling Unit; interests in Community Facilities; convertibility of Dwelling Units into Community Facilities or of Community Facilities into Dwelling Units; leasing of Dwelling Units; imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey a Chargeable Parcel; any provisions which are for the express benefit of mortgage holders, eligible mortgage holders, insurers, or guarantors of first mortgages on Parcels. Such an addition or amendment shall not be considered material if made to correct a technical error, or only to clarify.

16.12.3 If any first mortgagee, insurer, or guarantor has previously required professional management of the Property, whether such entity became a mortgage holder or insurer or guarantor at that time or later, the Association may only decide to establish self management of the Property upon the prior consent of Owners of Dwelling Units to which at least 75% of the votes of the Association are allocated, and the approval of at least 51% of the first mortgagees (based upon one vote for each first mortgage).

16.13 Easement Over Common Walkways. For their convenience and benefit, there is hereby reserved to Developer, Mortgagees, Owners, Tenants, Residents and their successors, heirs, and/or assigns, guests, agents, employees, visitors, licensees, and invitees a nonexclusive perpetual easement and right of way for ingress and egress and as an unobstructed pathway for pedestrian travel over all sidewalks, pathways, and walkways now in existence or hereafter to be constructed upon the Property wherever located, whether located upon the Community Facilities or upon a privately-owned Parcel.

16.14 Right of Entry. The Association shall have a reasonable right of entry upon any Parcel without notice to make emergency repairs and upon reasonable notice to do other work reasonably necessary for the proper maintenance or operation of the Property.

16.15 Conflict. In the event of a conflict between the Restrictions or any one or more of them and the restrictions of any declaration which may be recorded subsequent to this Declaration, the more restrictive restriction, covenant, condition, easement, or other obligation shall control.

16.16 Termination. Any distribution made as a result of any termination of the Restrictions and/or the Association shall be reasonable and equitable.

16.17 FHA/VA Approval. This Declaration contains terms as required by FHA/VA regulations. Any changes to its terms may limit the ability to obtain mortgage financing. As long as there is Class B membership, annexation of additional property to this Declaration, dedication of any portion of Community Facilities, and amendment of this Declaration shall require the prior approval of FHA and/or VA.

IN WITNESS WHEREOF, Developer has caused this Declaration to be witnessed by its duly authorized officer as of the day and year first above written.

Developer:

Signed and acknowledged
in the presence of

Gloria D. Simmons
Laura Kenney

AVONDALE REDEVELOPMENT CORPORATION,
an Ohio non-profit corporation

By: W. James King
W. James King, Executive Director

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me by W. James King, Executive Director of Avondale Redevelopment Corporation, an Ohio non-profit corporation, on behalf of the corporation, this 17th day of February, 1997.

Gloria D. Simmons
Notary Public



GLORIA D. SIMMONS
Notary Public, State of Ohio
My Commission Expires Feb. 11, 2002

EXHIBIT A

AVONDALE REDEVELOPMENT CORP.

FEBRUARY, 1997

LEGAL DESCRIPTION
HARVEY POINT58
101-RB

SITUATED IN SECTION 9, TOWNSHIP 3, FRACTIONAL RANGE 2, MILLCREEK TOWNSHIP, MIAMI PURCHASE, CITY OF CINCINNATI, HAMILTON COUNTY, STATE OF OHIO, BEING PART OF LOT 2 OF JOHN MEARS ESTATE, RECORDED IN PLAT BOOK 1, PAGE 291, HAMILTON COUNTY RECORDERS OFFICE, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CROSSNOTCH AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF HARVEY AVENUE (60 FOOT STREET) AS NOW EXTENDED WITH THE SOUTHERLY LINE OF GLENWOOD AVENUE (50 FOOT STREET); THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY, NORTH 89° 20' WEST, FOR A DISTANCE OF 65.54 FEET TO THE REAL PLACE OF BEGINNING; THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY, NORTH 1° 44' WEST, FOR A DISTANCE OF 25.02 FEET TO A POINT ON THE CENTERLINE OF GLENWOOD AVENUE; THENCE ALONG SAID CENTERLINE, NORTH 89° 20' 03" WEST, FOR A DISTANCE OF 100.00 FEET; THENCE LEAVING SAID CENTERLINE, SOUTH 1° 44' EAST, FOR A DISTANCE OF 25.02 FEET; THENCE SOUTH 12° 53' WEST, 231.55 FEET; THENCE SOUTH 65° 45' EAST, 56.00 FEET; THENCE SOUTH 47° 30' EAST, 12.63 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY LINE OF HARVEY AVENUE; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY THE FOLLOWING COURSES AND DISTANCES: NORTH 37° 13' 20" EAST, 129.32 FEET; THENCE ON A CURVE DEFLECTING 17° 31' 28" LEFT HAVING A RADIUS OF 495.00 FEET FOR A DISTANCE ON ARC OF 151.40 FEET (CHORD OF ARC BEARS NORTH 28° 29' 09" EAST, 150.81 FEET); THENCE ON A CURVE DEFLECTING 109° 02' 35" LEFT HAVING A RADIUS OF 15.00 FEET FOR A DISTANCE ON ARC OF 28.55 FEET (CHORD OF ARC BEARS NORTH 34° 48' 53" WEST, 24.43 FEET) TO A POINT ON THE SOUTHERLY LINE OF GLENWOOD AVENUE; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89° 20' 03" WEST, FOR A DISTANCE OF 44.96 FEET TO THE PLACE OF BEGINNING.

CONTAINS 33971.46 SQUARE FEET OR 0.7798774 ACRES.

BEING SUBJECT TO EASEMENTS OF RECORD.

7277PC1729

12973 00790

RECD FOR TRANS

Transfer Not Necessary

BK

Dusty Rhodes

Hamilton County Auditor

2015 AUG 20 AM 10:03

DUSTY RHODES

AUDITOR

HAMILTON COUNTY AUDITOR

Wayne Coates
Hamilton County Recorders Office
Doc #: 15-0088901 Type: MT
Filed: 08/20/15 11:03:12 AM \$44.00
Off.Rec.: 12973 00790 F 059 4 221

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**FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS AND RESERVATION OF EASEMENTS FOR HARVEY POINT -
CEDAR MEADOWS II DEVELOPMENT**

This will certify that the First Amendment to Declaration of Covenants, Conditions
Restrictions and Reservation of Easements for Harvey Point-Cedar Meadows II Development
is herewith recorded in the office of the County Auditor, Hamilton County, Ohio, this
20th day of August, 2015.

HAMILTON COUNTY AUDITOR

DUSTY RHODES

By _____

Lisa M. Conn, Esq.
Cuni, Ferguson & LeVay Co., LPA
10655 Springfield Pike
Cincinnati, Ohio 45215
(513) 771-6768

**FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS AND RESERVATION OF EASEMENTS FOR HARVEY POINT –
CEDAR MEADOWS II DEVEOPMENT**

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (hereinafter “Declaration”) was recorded on February 18, 1997 at Official Record 7277, Page 1689 of the Hamilton County, Ohio Records;

WHEREAS, the Declaration and the Amendments thereto are binding upon the property described in Exhibit A attached hereto;

WHEREAS, the Harvey Point – Cedar Meadows II Homeowners Association, Inc. (hereafter, “Association”) desires to amend the insurance portion of the Declaration as described below;

WHEREAS, Pursuant to Section 15.2 of the Declaration, the Declaration may be amended upon approval of 75% of the Owners of Parcels at Harvey Point – Cedar Meadows II.

NOW THEREFORE, the Declaration is hereby amended as follows:

1. Article XII of the Declaration, Section 12.1, paragraph 5 shall be deleted in its entirety and replaced with the following paragraph that will serve as the new fifth paragraph to this Section 12.1:

“Such insurance shall have a deductible that is determined by the Board of Directors after weighing and considering the increased premiums costs resulting from a low deductible with a higher per loss risk. The Board of Directors shall notify the Dwelling Unit Owners when the Association’s deductible has changed so that Dwelling Unit Owners may notify their individual insurance carriers. The deductible for a loss on a claim made through the Association’s insurance under this Section shall be borne by the Association if the damage caused by the event that led to the insurance claim was suffered upon the Association’s Community Facilities or an area upon which the Association has the maintenance obligation. The deductible for a loss on a claim made through the Association’s insurance under this Section shall be borne by the Dwelling Unit Owner if the damage caused by the event that led to the insurance claim was suffered by a Dwelling Unit. If the damage caused by the event that led to an insurance claim was suffered by more than one Unit, then those damaged Unit Owners shall be financially responsible for the deductible payment in proportion to their Dwelling Unit’s share of overall damage of the claim (and Association shall be responsible for portion of the deductible in proportion to the Community Facilities’ share of the overall damage of the claim). Dwelling Unit Owners shall carry insurance coverage that will cover the cost of the deductible of the Association’s insurance policy should a claim be made against the Association’s policy for (i) their Dwelling Unit; and/or (ii) should a claim be made for loss to the Community Facilities or an area maintained by the Association and should the

Association levy an assessment to cover the Association's deductible. If a Dwelling Unit Owner does not have insurance to cover any deductible that is the responsibility of said Dwelling Unit Owner, it shall be the personal responsibility of said Dwelling Unit Owner, and subject to a Special Assessment under Section 2.6, due upon the date provided in the written notice by the Board, and subject to the lien and foreclosure provisions of Article II of the Declaration."

IN WITNESS WHEREOF, The President of the Association has executed this Amendment on July 24, 2015, and certifies it was approved by at least 75% of all Parcels at Harvey Point – Cedar Meadows II.

**HARVEY POINT - CEDAR MEADOWS II
HOMEOWNERS ASSOCIATION, INC.
An Ohio Non-Profit Corporation**

By Lynn Renfro, as President

STATE OF OHIO)
COUNTY OF HAMILTON)
SS:

The foregoing instrument was acknowledged before me this 24th day of July, 2015 by Lynn Renfro, as President of the Association.

Lisa M. Conn
NOTARY PUBLIC

This Instrument Prepared by:

Lisa M. Conn, Esq.
CUNI, FERGUSON & LEVAY CO., L.P.A.
10655 Springfield Pike
Cincinnati, Ohio 45215
(513) 771-6768



**Lisa Marie Conn, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.**

Exhibit A
Legal Description

Situated in Section 9, Township 3, fractional range 2, Millcreek Township, Miami Purchase, City of Cincinnati, Hamilton County, Ohio, and being and being Lots 1 through 10, inclusive, of the Harvey Point Subdivision, the plat for which is recorded at Plat Book 330, Page 5 of the Plat Records of Hamilton County, Ohio.

Situated in Section 15, Township 3, fractional range 2, Millcreek Township, Miami Purchase, City of Cincinnati, Hamilton County, Ohio, and being and being Lots 1 through 20, inclusive, of the Cedar Meadows II Subdivision, the plat for which is recorded at Plat Book 358, Page 48 of the Plat Records of Hamilton County, Ohio.

2
 Scott Crowley
 Hamilton County Recorder's Office
 Doc #: 2022-0021303 Type: NOL
 Filed: 02/28/22 10:11:11 AM \$34.00
 Off.Rec.: 14613 01226 F 2 243



**HARVEY POINT - CEDAR MEADOWS II HOMEOWNER ASSOCIATION, INC.
CERTIFICATE OF CONTINUING LIEN**

Pursuant to Ohio Revised Code § 5312.12 and Article II, Section 2.11 of the Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Harvey Point at Cedar Meadows - Phase II Development, filed for record in OR 7277, Page 1689 et seq., of Hamilton County Records, the undersigned, Harvey Point - Cedar Meadows II Homeowner Association, Inc., hereby claims a continuing lien against the following described lot:

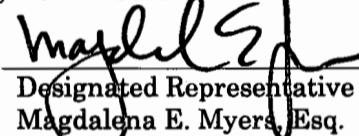
Record Owner: Rachelle D. Shells
 Description of Lot: 3591 Harvey Avenue PPN:113-0002-0098-00
 Cincinnati, Ohio 45229

Amount: \$1,258.00, plus interest pursuant to O.R.C. § 1343.03 from the 14th day of February, 2022 and any unpaid assessments accruing hereinafter until this lien is satisfied.

State of Ohio, }
 County of Hamilton } ss

IN WITNESS WHEREOF, Harvey Point - Cedar Meadows II Homeowner Association, Inc. has caused this Certificate of Lien to be executed by its duly authorized representative this 15 day of February, 2022.

Harvey Point - Cedar Meadows II Homeowner Association, Inc.

By: 

Designated Representative
 Magdalena E. Myers, Esq.

Subscribed and sworn to before me by Magdalena E. Myers, Esq. this 15 day of February, 2022.



Ashley Ryan Clark
 Notary Public, State of Ohio
 My Commission Expires:
 August 29, 2026


 Notary Public

This instrument was prepared by Magdalena E. Myers, Esq.

Kaman & Cusimano, LLC, 11311 Cornell Park Drive, Suite 220, Cincinnati, OH 45242 (513) 488-1012

THE CLAIM SECURED BY THIS LIEN HAS BEEN PAID AND THE LIEN IS HEREBY SATISFIED AND DISCHARGED.

DATE: _____ Harvey Point - Cedar Meadows II Homeowner Association, Inc.

By: _____
 Designated Representative

State of Ohio, }
 County of } ss

Subscribed and sworn to before me by _____ this _____ day of _____, _____.

Notary Public

SITUATED IN SECTION 9, TOWNSHIP 3, FRACTIONAL RANGE 2, MILLCREEK TOWNSHIP, MIAMI PURCHASE, CITY OF CINCINNATI, HAMILTON COUNTY, STATE OF OHIO, BEING PART OF LOT 2 OF JOHN MEARS ESTATE, RECORDED IN PLAT BOOK 1, PAGE 291, HAMILTON COUNTY RECORDER'S OFFICE AND BEING ALL OF LOT 9, HARVEY POINT, RECORDED IN PLAT BOOK 330, PAGE 5, HAMILTON COUNTY RECORDER'S OFFICE.

SUBJECT TO THE DECLARATIONS OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR HARVEY POINT- CEDAR MEADOWS II SUBDIVISION AS RECORDED IN O.R. VOL.7277, PAGE 1689, OF THE HAMILTON COUNTY, OHIO RECORDS.

TOGETHER WITH AND SUBJECT TO A MUTUAL EASEMENT AND RIGHT, AS DESCRIBED IN THE ABOVE RECORDED DECLARATION, IN A PARTY WALL WHICH SEPARATES THE IMPROVEMENTS ON THE LOT GRANTED HEREIN FROM IMPROVEMENTS ON ADJACENT LOT 10.

SUBJECT TO ANY CONDITIONS, EASEMENTS AND/OR RESTRICTIONS OF RECORD, IF ANY.

AND BEING FURTHER KNOWN AS: 3591 HARVEY AVENUE, CINCINNATI, OH 45229.

PERMANENT PARCEL NO.: 113-0002-0098.



EXHIBIT C

Report No.: 4198-1-ST600 0877-2023.8148435-230481043

PRELIMINARY JUDICIAL REPORT

Order No.: ST600 0877

Harvey Point – Cedar Meadows II Homeowner Association, Inc.
c/o RKPT, 312 Elm Street, Suite 2200
Cincinnati, Ohio 45202

Pursuant to your request for a Preliminary Judicial Report (hereinafter "the Report") for use in judicial proceedings, COMMONWEALTH LAND TITLE INSURANCE COMPANY (hereinafter "the Company") hereby guarantees in an amount not to exceed \$3,401.00 that it has examined the public records in Hamilton County, Ohio as to the land described in Schedule A, that the record title to the land is at the date hereof vested in Rachelle D. Shells by instrument recorded in Official Record Book 13770, Page 773 and free from all encumbrances, liens or defects of record, except as shown in Schedule B.

This is a guarantee of the record title only and is made for the use and benefit of the Guaranteed Party and the purchaser at judicial sale thereunder and is subject to the Exclusions from Coverage, the Exceptions contained in Schedule B and the Conditions and Stipulations contained herein.

This Report shall not be valid or binding until it has been signed by either an authorized agent or representative of the Company and Schedules A and B have been attached hereto.

Effective Date: 07/17/2023 07:59 AM

Issued By: COMMONWEALTH LAND TITLE INSURANCE COMPANY

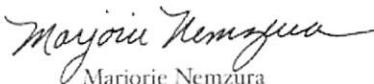
By: 
Authorized Officer or Agent
Jack L. Tucker



By:


Michael J. Nolan
President

Attest:


Marjorie Nemzura
Secretary

CONDITIONS AND STIPULATIONS OF THIS PRELIMINARY JUDICIAL REPORT

1. Definition of Terms

"Guaranteed Party": The party or parties named herein or the purchaser at judicial sale.

"Guaranteed Claimant": Guaranteed Party claiming loss or damage hereunder.

"Land": The land described specifically or by reference in Schedule A, and improvements affixed thereto, which by law constitute real property; provided however the term "land" does not include any property beyond the lines of the area specifically described or referred to in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, lanes, ways or waterways.

"Public Records": Those records under state statute and, if a United States District Court resides in the county in which the Land is situated, the records of the clerk of the United States District Court, which impart constructive notice of matters relating to real property to purchasers for value without knowledge and which are required to be maintained in certain public offices in the county in which the land is situated.

2. Determination of Liability

This Report together with any Final Judicial Report or any Supplement or Endorsement thereof, issued by the Company is the entire contract between the Guaranteed Party and the Company.

Any claim of monetary loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest guaranteed hereby or any action asserting such claim, shall be restricted to this Report.

3. Liability of Company

This Report is a guarantee of the record title of the Land only, as disclosed by an examination of the Public Records herein defined.

4. Notice of Claim to be given by Guaranteed Party

In case knowledge shall come to the Guaranteed Party of any lien, encumbrance, defect, or other claim of title guaranteed against and not excepted in this Report, whether in a legal proceeding or otherwise, the Guaranteed Party shall notify the Company within a reasonable time in writing and secure to the Company the right to oppose such proceeding or claim, or to remove said lien, encumbrance or defect at its own cost. Any action for the payment of any loss under this Report must be commenced within one year after the Guaranteed Party receives actual notice that they may be required to pay money or other compensation for a matter covered by this Report or actual notice someone claims an interest in the Land covered by this Report.

5. Extent of Liability

The liability of the Company shall in no case exceed in all the amount stated herein and shall in all cases be limited to the actual loss, including but not limited to attorneys fees and costs of defense, only of the Guaranteed Claimant. Any and all payments under this Report shall reduce the amount of this Report *pro tanto* and the Company's liability shall terminate when the total amount of the Report has been paid.

6. Options to Pay or Otherwise Settle Claims; Termination of Liability

The Company in its sole discretion shall have the following options:

- a. To pay or tender to the Guaranteed Claimant the amount of the Report or the balance remaining thereof, less any attorneys fees, costs or expenses paid by the Company to the date of tender. If this option is exercised, all liability of the Company under this Report terminates including but not limited to any liability for attorneys fees, or any costs of defense or prosecution of any litigation.
- b. To pay or otherwise settle with other parties for or in the name of the Guaranteed Claimant any claims guaranteed by this Report.
- c. To continue, re-open or initiate any judicial proceeding in order to adjudicate any claim covered by this Report. The Company shall have the right to select counsel of its choice (subject to the right of the Guaranteed Claimant to object for reasonable cause) to represent the Guaranteed Claimant and will not pay the fees of any other counsel.
- d. To pay or tender to the Guaranteed Claimant the difference between the value of the estate or interest as guaranteed and the value of the estate or interest subject to the defect, lien or encumbrance guaranteed against by this Report.

7. Notices

All notices required to be given to the Company shall be given promptly and any statements in writing required to be furnished to the Company shall be addressed to the Company at its office, P.O. Box 45023, Jacksonville, Florida 32232-5023.

EXCLUSIONS FROM COVERAGE

1. The Company assumes no liability under this Report for any loss, cost or damage resulting from any physical condition of the Land.
2. The Company assumes no liability under this Report for any loss, cost or damage resulting from any typographical, clerical or other errors in the Public Records.
3. The Company assumes no liability under the Report for matters affecting title subsequent to the date of this Report or the Final Judicial Report or any supplement thereto.
4. The Company assumes no liability under this Report for the proper form or execution of any pleadings or other documents to be filed in any judicial proceedings.
5. The Company assumes no liability under this Report for any loss, cost, or damage resulting from the failure to complete service on any parties shown in Schedule B of the Preliminary Judicial Report and the Final Judicial Report or any Supplemental Report issued thereto.

**PRELIMINARY JUDICIAL REPORT
(04/15/2010)**

Issued by Commonwealth Title Insurance Company

ORDER NO. ST600 0877

**PRELIMINARY JUDICIAL REPORT
SCHEDULE A
DESCRIPTION OF LAND**

Property Address: 3591 Harvey Avenue, Cincinnati, Ohio 45229
Parcel #: 113-0002-0098-00

SITUATED IN SECTION 9, TOWNSHIP 3, FRACTIONAL RANGE 2, MILLCREEK TOWNSHIP, MIAMI PURCHASE, CITY OF CINCINNATI, HAMILTON COUNTY, STATE OF OHIO, BEING PART OF LOT 2 OF JOHN MEARS ESTATE, RECORDED IN PLAT BOOK 1, PAGE 291, HAMILTON COUNTY RECORDER'S OFFICE AND BEING ALL OF LOT 9, HARVEY POINT, RECORDED IN PLAT BOOK 330, PAGE 5, HAMILTON COUNTY RECORDER'S OFFICE.

SUBJECT TO THE DECLARATIONS OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR HARVEY POINT- CEDAR MEADOWS II SUBDIVISION AS RECORDED IN O.R. VOL.7277, PAGE 1689, OF THE HAMILTON COUNTY, OHIO RECORDS.

TOGETHER WITH AND SUBJECT TO A MUTUAL EASEMENT AND RIGHT, AS DESCRIBED IN THE ABOVE RECORDED DECLARATION, IN A PARTY WALL WHICH SEPARATES THE IMPROVEMENTS ON THE LOT GRANTED HEREIN FROM IMPROVEMENTS ON ADJACENT LOT 10.

SUBJECT TO ANY CONDITIONS, EASEMENTS AND/OR RESTRICTIONS OF RECORD, IF ANY.

The foregoing legal description has been approved for transfer.

SCHEDULE B

The matters shown below are exceptions to this Preliminary Judicial Report and the Company assumes no liability arising therefrom. The Company has not searched the

public records for easements, restrictions, covenants, or licenses and make no representations or warranties regarding the same.

1. Subject to such rights of redemption, easements, restrictions, setback lines, declarations, conditions, covenants, reservation and rights of way which may impact title, if any.
2. Rights of owner, if any, under the Soldiers' and Sailors' Civil Relief Act.
3. Subject to coal, oil, natural gas, or other mineral interest and all rights incident thereto now or previously conveyed, transferred, leased, excepted or reserved.
4. Any lease, grant, exception or reservation of minerals or mineral rights together with any rights appurtenant thereto.
5. Subject to the 120 day Right of Redemption of the United States of America and the Internal Revenue Service under 28 United State Code 2410(c).
6. Subject to dower rights of the unknown spouse of Rachelle D. Shells.
7. A lien of all general taxes for the year 2022 and thereafter: Tax parcel number 113-0002-0098-00. Taxes for the first half of 2022 in the amount of \$1,318.13 are paid. Taxes for the second half of 2022 in the amount of \$1,318.13 are paid. Taxes for the year 2023 are undetermined and not yet due but constitute a lien. (Hamilton County Treasurer, 138 East Court Street, Suite 402, Cincinnati, Ohio 45202).
8. Urban Forestry City Assessment perpetual and re-certified annually. This assessment for the year 2022 in the amount of \$15.17 is paid. This assessment for the year 2023 is undetermined and not yet due, but constitutes a lien. (Hamilton County Treasurer, 138 East Court Street, Suite 402, Cincinnati, Ohio 45202).
9. Mortgage from Jessica Taylor and Waldemar Maldonado, husband and wife, to Mortgage Electronic Registration Systems, Inc. (P.O. Box 2026, Flint, Michigan 48501), as nominee for Talmer Bank and Trust (2301 West Big Beaver Road, Suite 525, Troy, Michigan 48084), in the original amount of \$93,575.00, dated April 21, 2016 and recorded April 29, 2016 in Official Record Book 13156, Page 254 of the Hamilton County, Ohio records.
10. Mortgage from Rachelle D. Shells, unmarried, to Mortgage Electronic Registration Systems, Inc. (P.O. Box 2026, Flint, Michigan 48501), as nominee for Keybank National Association (127 Public Square, Cleveland, Ohio 44114), in the original amount of \$110,900.00, dated October 1, 2018 and recorded October 9, 2018 in Official Record Book 13770, Page 775 of the Hamilton County, Ohio records.
11. Harvey Point – Cedar Meadows II Homeowner Association, Inc. Certificate of Continuing Lien against Rachelle D. Shells, in favor of Harvey Point – Cedar

Meadows II Homeowner Association, Inc. (c/o RKPT, 312 Elm Street, Suite 2200, Cincinnati, Ohio 45202), in the amount of \$1,258.00, plus costs and interest, recorded February 28, 2022 in Official Record Book 14613, Page 1226 of the Hamilton County, Ohio records.

12. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224) in the original amount of \$231.66, plus costs and interest, filed February 7, 2020 as CJ20-008702 of the Hamilton County Court of Common Pleas.

Pending Execution on said Certified Judgment Lien filed April 23, 2020 as Case Number EX2000314 of the Hamilton County Court of Common Pleas.

13. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$456.59, plus costs and interest, filed May 21, 2020 as CJ20-020601 of the Hamilton County Court of Common Pleas.
14. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$387.58, plus costs and interest, filed May 21, 2020 as CJ20-020602 of the Hamilton County Court of Common Pleas.
15. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$502.63, plus costs and interest, filed May 21, 2020 as CJ20-020603 of the Hamilton County Court of Common Pleas.
16. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$173.73, plus costs and interest, filed May 21, 2020 as CJ20-020604 of the Hamilton County Court of Common Pleas.
17. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$363.68, plus costs and interest, filed May 21, 2020 as CJ20-020605 of the Hamilton County Court of Common Pleas.
18. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$2,464.94, plus costs and interest, filed May 21, 2020 as CJ20-020606 of the Hamilton County Court of Common Pleas.
19. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$129.14, plus costs and interest, filed May 21, 2020 as CJ20-020607 of the Hamilton County Court of Common Pleas.

20. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$122.59, plus costs and interest, filed May 21, 2020 as CJ20-020608 of the Hamilton County Court of Common Pleas.
21. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,442.72, plus costs and interest, filed May 21, 2020 as CJ20-020609 of the Hamilton County Court of Common Pleas.
22. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,434.88, plus costs and interest, filed May 21, 2020 as CJ20-020610 of the Hamilton County Court of Common Pleas.
23. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$135.07, plus costs and interest, filed May 21, 2020 as CJ20-020611 of the Hamilton County Court of Common Pleas.
24. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,427.29, plus costs and interest, filed May 21, 2020 as CJ20-020612 of the Hamilton County Court of Common Pleas.
25. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$125.42, plus costs and interest, filed May 21, 2020 as CJ20-020614 of the Hamilton County Court of Common Pleas.
26. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,414.92, plus costs and interest, filed May 21, 2020 as CJ20-020613 of the Hamilton County Court of Common Pleas.
27. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$130.09, plus costs and interest, filed May 21, 2020 as CJ20-020615 of the Hamilton County Court of Common Pleas.
28. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$116.92, plus costs and interest, filed May 21, 2020 as CJ20-020616 of the Hamilton County Court of Common Pleas.
29. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in

the original amount of \$133.02, plus costs and interest, filed May 21, 2020 as CJ20-020617 of the Hamilton County Court of Common Pleas.

30. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,453.20, plus costs and interest, filed May 21, 2020 as CJ20-020619 of the Hamilton County Court of Common Pleas.
31. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,458.82, plus costs and interest, filed May 21, 2020 as CJ20-020618 of the Hamilton County, Ohio records.
32. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,462.75, plus costs and interest, filed May 21, 2020 as CJ20-020620 of the Hamilton County Court of Common Pleas.
33. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,430.24, plus costs and interest, filed May 21, 2020 as CJ20-020621 of the Hamilton County Court of Common Pleas.
34. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$1,836.21, plus costs and interest, filed November 30, 2020 as CJ20-039796 of the Hamilton County Court of Common Pleas.
35. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,733.64, plus costs and interest, filed March 3, 2021 as CJ21-007016 of the Hamilton County Court of Common Pleas.
36. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$3,468.27, plus costs and interest, filed March 3, 2021 as CJ21-007017 of the Hamilton County Court of Common Pleas.
37. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$134.45, plus costs and interest, filed March 3, 2021 as CJ21-007018 of the Hamilton County Court of Common Pleas.
38. Certified Judgment Lien against Rachelle D. Shells, in favor of the State of Ohio Department of Taxation (4485 Northland Ridge Blvd, Columbus, Ohio 43224), in the original amount of \$4,243.94, plus costs and interest, filed March 3, 2021 as CJ21-007019 of the Hamilton County Court of Common Pleas.

39. Child Support Enforcement Agency Lien against J.C. Taylor, JR., in favor of Hamilton County Child Support Enforcement Agency (222 East Central Parkway, Cincinnati, Ohio 45202), in the original amount of \$23,697.39, plus costs and interest, recorded February 12, 2009 in Official Record Book 11065, Page 830 of the Hamilton County, Ohio records.
40. Child Support Enforcement Agency Lien against J.C. Taylor, JR., in favor of Hamilton County Child Support Enforcement Agency (222 East Central Parkway, Cincinnati, Ohio 45202), in the original amount of \$10,088.97 plus costs and interest, recorded February 12, 2009 in Official Record Book 11065, Page 831 of the Hamilton County, Ohio records.