

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS**

FOR

THE RESERVE AT KENSINGTON HOMEOWNERS ASSOCIATION, INC.

This Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for The Reserve at Kensington Homeowners Association, Inc., and a copy of the Bylaws of the Reserve at Kensington has been filed for record in the records of Summit County, Ohio

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**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENT AND RESTRICTIONS OF THE RESERVE AT KENSINGTON**

Declarant, Twinsburg Four, LLC, an Ohio limited liability company, was the original owner of certain real estate in Twinsburg Township, Summit County, Ohio, described in Exhibit "A", attached hereto and incorporated herein (hereinafter referred to as "Property").

RECITALS:

WHEREAS, The Declaration of Covenants, Conditions, Easements and Restrictions for **The Reserve at Kensington Homeowners Association, Inc.** ("Declaration") was originally recorded as Document Number 55431658 on April 11, 2007 in the Summit County Records by Twinsburg Four, LLC. Subsequently the original Declaration was amended and modified 7 times, to wit:

Amendment No. 1. Recorded 4-11-2007, Document No. 55431660;
Amendment No. 2. Recorded 4-11-2007, Document No. 55431659;
Amendment No. 3. Recorded 4-19-2007, Document No. 55434310;
Amendment No. 4. Recorded 5-2-2007, Document No. 55438479;
Amendment No. 5. Recorded 5-9-2007, Document No. 55440596;
Amendment No. 6. Recorded 12-19-2008, Document No. 55591118;
Amendment No. 7. Recorded 5-2-2016, Document No. 56208642.

WHEREAS, Declarant was the developer of real property known as **The Reserve at Kensington**, located in the Township of Twinsburg, Summit County, Ohio, legally described in Exhibit "A" attached hereto (the "Property"), and desired to create a planned residential development in accordance with the Site Plan (hereafter defined) and in accordance with the Planned Residential Development District requirements of the Zoning Resolution of the Twinsburg Township, Ohio; and

WHEREAS, Declarant provided for (a) the orderly developments of the Property; (b) the establishment and maintenance of architectural and design controls and standards; (c) the preservation of Open Space (hereafter defined); (d) the use and maintenance of the Common Areas (hereafter defined); (e) the compliance with the Zoning Resolution of Twinsburg Township, Ohio; and (f) the protection of values within the Property. The foregoing was provided so that the residents of the Property may enjoy a fine environment for themselves and their families; and

WHEREAS, an association to regulates, administers and governs the Property for the fulfillment of the foregoing purposes with the power to levy and collect assessments from Owners (hereafter defined) within the Property and to pay the cost and expense of operating, maintaining, repairing and replacing the Common Areas. Such functions are assigned to The Reserve at Kensington Homeowners Association, Inc., a not-for-profit

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corporation, that Declarant created under the Laws of the State of Ohio (the "Association"); and

WHEREAS, this Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions ("the Declaration") together with the Amended and Restated Bylaws for **The Reserve at Kensington Homeowners Association, Inc.** (adopted in conjunction herewith and hereinafter referred to as the "Bylaws"), the Articles of Incorporation for **The Reserve at Kensington Homeowners Association, Inc.** (also adopted in conjunction herewith and hereinafter referred to as the "Articles of Incorporation"; it being understood that **The Reserve at Kensington Homeowners Association, Inc.** is hereinafter referred to as the "Association") are made in order to unify, amend, modify and update the Prior Governing Documents for simplicity in use and reference by all those with an interest therein, their successors and assigns, as well as the general public, for the governance, preservation and operation of **The Reserve at Kensington Homeowners Association, Inc.** a residential development located in Twinsburg Township, County of Summit, State of Ohio as more fully set forth in the legal description attached hereto and made a part hereof as Exhibit "A" (the "Development"); and

WHEREAS, pursuant to and in accordance therewith, the Members (as hereinafter defined) hereby authorize, establish and declare this Amended and Restated Declaration, as well as the Amended and Restated Bylaws and Articles of Incorporation adopted in conjunction herewith, to be in their mutual best interests and are made in order (i) to assure Twinsburg Township, County of Summit, State of Ohio and the general public that the Development is in compliance with the zoning regulations of Twinsburg Township, County of Summit, State of Ohio, (ii) to provide a general plan of governance, preservation and operation for the mutual benefit and protection of the Development, the Association as well as all present and/or future owners of all or any part of any parcel(s) of real estate located within the Development and (iii) that the terms, covenants, conditions, reservations, restrictions and easements contained in this Declaration and/or the Bylaws adopted in conjunction therewith run with each and every parcel of real property located within the Development as well as bind all current and/or future owners thereof and that each and every deed, mortgage, trust deed, or other instrument affecting title to or conveyance of any interest in any parcel of real property located within the Development shall be subject to, and the acceptance thereof shall be deemed to be an acknowledgment thereof and a consent to, the terms, covenants, conditions, reservations, restrictions and easements contained in the Declaration, Bylaws and/or the Articles of Incorporation; and

WHEREAS, the Members further authorize the Declaration, as well as the Bylaws and Articles of Incorporation adopted in conjunction herewith to be delivered to and filed for record in the public records of Recorder of Summit County, State of Ohio; and

WHEREAS, this Declaration, together with the Bylaws, the Articles of Incorporation for the Association and the laws of the State of Ohio shall serve as the governing documents for the governance, preservation and operation of the Development and the Association and the terms of the Prior Governing Documents shall hereinafter be considered



unenforceable as of the date of filing hereof in the public records of Summit County, Ohio.

NOW, THEREFORE, the Association establishes the following covenants, conditions, reservations, restrictions and easements:

ARTICLE I
PROPERTY SUBJECT TO THIS DECLARATION

1. The Property which is and shall be owned, held, transferred, sold, used and occupied subject to this Declaration is the real property described in Exhibit "A" which is attached to and made a part of this Declaration.

ARTICLE II
DEFINITIONS

2.1 As used in this Declaration, the following terms shall have the following respective meanings:

- a. "ARTICLES" or "ARTICLES OF INCORPORATION": The Articles of Incorporation of the Association which are filed with the Secretary of State of Ohio to create the Association.
- b. "ASSESSMENTS": The assessments levied against all Owners of Living Units and Vacant Single-Family Lot Owners to fund Common Expenses.
- c. "ASSOCIATION": The Reserve at Kensington Homeowners Association, Inc., a non-profit Ohio corporation, its successors and assigns, created to govern, operate, control and administer the Common Areas and to supervise and enforce this Declaration.
- d. "ASSOCIATION ROAD": Any street or other thoroughfare which is at any time constructed on the Property, including any curbs, gutters or sidewalks within the right of way of any such street or other thoroughfare. An Association Road may be titled in the name of the Association or may be titled in the name of an Owner, or otherwise titled, so long as it is dedicated as an Association Road.
- e. "BOARD": The Board of Trustees of the Association, sometimes also referred to herein as the "Trustees".
- f. "CODE": The Code of Regulations of the Association described in Exhibit "B" which is attached to and made a part of this Declaration.
- g. "COMMON AREAS": All real and personal property now or hereinafter

owned by the Association or otherwise held for the common use and enjoyment of the Owners or Occupants. Common Areas shall include (i) the entrances to the Property situated off existing and future public streets that abut the Property ("Entrances"), together with landscaping, sprinklers (if any) and other improvements at the Entrances; (ii) any walls and fences; (iii) Private Association Roads and signs, street lights (if any) and walks or pathways (if any); (iv) storm drainage that generally serves the Property; (v) any walking trails; (vi) real and personal property owned by the Association; (vii) real and personal property not owned by the Association but determined by the Board to be the responsibility of the Association; (viii) together with those areas, if any, which by contract with any Neighborhood (hereafter defined), with any commercial establishment or association, or with any local governmental authority may become the responsibility of the Association; and, (ix) any public rights-of-way within or adjacent to the Property which may be part of the Common Areas. Any Owner may delegate, in accordance with the Code and subject to such reasonable rules, regulations, and limitations as may be adopted in accordance therewith, his or her right of enjoyment to the Common Areas and facilities to the members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the Occupants of any leased Living Unit (hereafter defined). The term, Common Areas does not mean or imply that the public at large acquires any easement of use or enjoyment therein.

- h. "COMMON EXPENSES": The actual and estimated expenses of operating the Association, both for general or special purposes, including reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Code, and the Articles of Incorporation of the Association.
- i. "COMMUNITY-WIDE STANDARD": The standard conduct, maintenance, or other activity generally prevailing within the Property. Such standard may be more specifically determined and set forth by the Board.
- j. "DECLARANT": Twinsburg Four LLC, an Ohio limited liability company, and the specifically designated successors or assigns of any of its rights as Declarant under this Declaration or under any supplement to this Declaration involving the Property as the same may be expanded or contracted from time to time. No person, real or corporate, shall be deemed to be a successor, alternate or additional Declarant for the purposes of this Declaration unless and until such person or entity has been specifically so designated by Declarant herein, by instrument in writing and placed of record, and shall be deemed a successor and assign of Declarant only to the particular rights and interests of Declarant under this Declaration or under a supplement to this Declaration.

Declarant is also sometimes referred to herein as the "Original Declarant".

- k. "DEVELOPER": A Person acquiring title to a portion or all of the Property for the sole purpose of engaging in the business of improving the Property with Living Units for sale or rental and designated a Developer by Declarant.
- l. "ELIGIBLE MORTGAGE HOLDERS": Eligible Mortgage Holders shall mean banks, savings and loan associations, insurance companies and of the institutional lenders, holders, insurers or guarantors of first mortgages on the Property or portions thereof.
- m. "EXCLUSIVE COMMON AREAS": Exclusive Common Areas shall mean and refer to certain portions of the Common Areas "which are for the exclusive use and benefit of one or more, but less than all, "Neighborhoods", as defined herein. All costs associated with maintenance, repair, replacement and insurance of Exclusive Common Areas shall be assessed against the Owners of Living Units in only those Neighborhoods which are benefited thereby as a Neighborhood Assessment, as defined herein. By way of illustration and not by way of limitation, Exclusive Common Areas may include recreational facilities intended for the exclusive use of Owners within a particular Neighborhood or Neighborhoods and supported exclusively by Neighborhood Assessments. Initially, any exclusive Common Areas shall be designated as such and the exclusive use thereof shall be assigned in a Subsequent Amendment or in a deed conveying the Common Area to the Association. A portion of the Common Areas may be assigned as Exclusive Common Areas of a particular Neighborhood or Neighborhoods and Exclusive Common Areas may be reassigned upon the affirmative vote of Members entitled to exercise at least a majority of the voting rights of the Association, together with a majority of the votes within the Neighborhood(s) to which they are assigned.
- n. "THE RESERVE AT KENSINGTON": A Planned Residential Development Overlay District under the Zoning Resolution of Twinsburg Township consisting of the Property.
- o. "LIVING UNIT LOT": A platted single-family subplot upon which a Living Unit has been constructed.
- p. "LIVING UNITS": All units of detached residential housing to be situated on the Property, permitted to be constructed or created upon the Property under any applicable zoning code that now exists or that may hereafter be amended or created. Without limiting the generality of the foregoing, Living Unit shall mean a portion of the Property intended for any type of independent ownership for use and occupancy as a single family residence and shall, unless otherwise



specified, include within its meaning (by way of illustration, but not by way of limitation) single family houses on separately platted lots, as may be developed, used and defined as herein provided or as provided in any Subsequent Amendments; provided, further, the term shall also include all portions of the lot owned as a part of any structure thereon. For the purposes of this Declaration, a Living Unit shall come into existence when the improvements constructed thereon are sufficiently complete to reasonably permit the habitation thereof, whether or not a certificate of occupancy has been issued by the Township for the Living Unit.

- q. "MEMBER": A person or entity entitled to membership in the Association, as provided herein.
- r. "NEIGHBORHOOD": Neighborhood shall mean and refer to each separately developed and denominated residential area comprised of one or more housing types subject to this Declaration, whether or not governed by an additional owners' association, in which owners may have common interests other than those common to all Association Members, such as a common theme, entry feature, development name, and/or common areas and faculties which are not available for use by all Association Members. For example, and by way of illustration and not by way of limitation, each lifestyle home development, and single-family detached housing development may constitute a separate Neighborhood. In addition, each parcel of land intended for development as any of the above may constitute a Neighborhood, subject to division into more than one Neighborhood upon development. Neighborhoods may be divided or combined in accordance with Section 5.5 of this Declaration.
- s. "NEIGHBORHOOD ASSESSMENTS": Neighborhood Assessments shall mean assessments levied against the Living Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses.
- t. "NEIGHBORHOOD EXPENSES": Neighborhood Expenses shall mean and include the actual and estimated expenses incurred by the Association for the benefit of Owners of Living Units within a particular Neighborhood, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board and as more particularly authorized herein.
- u. "OCCUPANT": A person in possession of a Living Unit including, without limitation, an Owner or any guest, invitee, lessee, tenant, or family member of an Owner occupying or otherwise using a Living Unit.
- v. "OPEN SPACES": Land that is assigned as private open space use, including



"common land" and "open spaces" required by the Twinsburg Township Zoning Resolution.

- w. "ORIGINAL DECLARANT": Twinsburg Four LLC, an Ohio limited liability company, as more fully described in paragraph (1) hereof.
- x. "OWNER": The record Owner of fee simple title, shall exclude in all cases any party holding an interest merely as security for the performance of an obligation. If a Living Unit is sold under a land installment contract, the purchaser (Vendee, rather than the fee Owner) will be considered to be the Owner. For the purpose of this Declaration, the Owner of Living Units that are rented to others shall be as follows: for the purpose of votes and Assessments, the record Owner of the Living Unit; and for the purpose of use and enjoyment of common facilities and amenities which are part of the Common Areas, the Tenant residing in the Living Unit. Every Owner shall be treated for all purposes as a single Owner for each Living Unit held irrespective of whether such ownership is joint or in common. Where such ownership is joint or in common, the majority vote of such Owners shall be necessary to cast any vote to which such Owners are entitled.
- y. "OWNERSHIP INTEREST": The entire right, title and interest of any Owner in all of the freehold and leasehold estates of such Owner in his or her Living Unit.
- z. "PERSON": A natural individual, corporation, partnership, limited partnership, trust or other entity to which the law attributes the capacity of having rights and duties.
- aa. "PROPERTY": The land described in Exhibit "A" as the same may from time to time be amended.
- bb. "RULES": Rules and regulations that govern the operation and use of the Living Units and the Common Areas and any other property owned by the Association, as such rules and regulations may be adopted from time to time by the Board to implement and carry out the provisions and intent of this Declaration.
- cc. "SITE PLAN": The preliminary site plan of the Property and adjacent lands which currently shows a total of 101 Living Units, as the same may be supplemented, modified and amended from time to time.
- dd. "SUBSEQUENT AMENDMENT": An amendment to this Declaration which adds additional property to, or deletes property from the Property, In addition

thereto, a Subsequent Amendment may, but is not required to: (i) impose, expressly or by reference, additional restrictions and obligations on the land submitted by such Subsequent Amendment to the provisions of this Declaration; and/or (ii) create a Neighborhood and provide for Voting Members) for such Neighborhood; and/or (iii) otherwise amend this Declaration and/or the Code.

- ee. "TENANT": Any person(s) having a possessory leasehold estate in a Living Unit, other than an Owner.
- ff. "TOWNSHIP": Twinsburg Township, Summit County, Ohio.
- gg. "VACANT SINGLE-FAMILY LOT": Vacant Single-Family Lot shall mean, at any given time, any portion of the Property: (i) for which a plat has been recorded designating such portion of the Property as a lot upon which only one single family residence may be constructed; (ii) which has been conveyed to a person or entity other than Declarant; and (iii) upon which no Living Unit is situated.
- hh. "VACANT SINGLE-FAMILY LOT OWNER": Vacant Single-Family Lot Owner shall mean the record titleholder (other than Declarant), whether one or more persons or entities of the fee simple title to any Vacant Single-Family Lot The term "Vacant Single-Family Lot Owner" shall not mean or refer to any mortgagee of any Vacant Single-Family Lot unless and until such mortgagee has acquired title to such Vacant Single-Family Lot pursuant to foreclosure or any proceeding in lieu of foreclosure.
- ii. "LOT": A Living Unit Lot or a Vacant Single-Family Lot.

ARTICLE III **EASEMENTS AND RESERVATIONS**

3.1 There is hereby reserved in favor of Declarant and granted to the Association and each Developer, their successors and assigns, an easement upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utilities and service lines and systems including, but not limited to, water, sewer, energy, drainage, gas, telephone, electricity, television, cable and communication lines and systems. By virtue of this easement, it shall be expressly permissible for Declarant and the Association and their successors and assigns, or the providing utility or service company, to install and maintain facilities and equipment on the Property provided that such facilities shall not materially impair or interfere with any Living Units and provided further that any areas disturbed by such installation and maintenance are restored to substantially the condition in which they were found. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other

utility service lines or facilities for such utilities may be installed or located except as approved by the Board or unless the same are shown on a recorded plat. There is hereby reserved in favor of Declarant and the Association the right (but not the obligation) to grant neighboring property owners' easements for utility purposes so long as the granting of such easements does not overburden the utilities serving the Property.

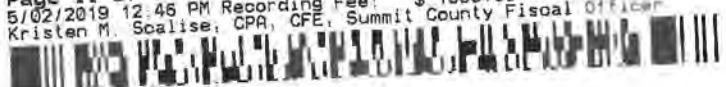
3.2 There is hereby created an easement upon, across, over and through the Association Roads and any designated sidewalks, walkways, bike paths, all-purpose trails and parking areas in favor of the Association, all Owners, Occupants, and their respective guests, licensees and public invitees for pedestrian and vehicular ingress and egress, as the case may be, to and from all of the various portions of the Property. There is reserved unto the Association, and its respective successors and assigns, the right and privilege to maintain guarded or electronically-monitored gates controlling vehicular access to and from the private road areas of the Property.

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

3.4 Easements are hereby created upon portions of the Common Areas necessary in connection with the construction, alteration, rebuilding, restoration, maintenance and repair of any Living Unit or other structures and improvements within the Property or serving the Property; provided, however, that in the exercise of any rights under this easement, there shall be no unreasonable interference with the use of any Living Unit or other structure or improvement on the Property. Any Person benefiting from the foregoing easement shall indemnify and save harmless Declarant, (the Association and each Owner and Occupant from and against any and all losses, damages, liabilities, claims and expenses, including reasonable attorney fees, resulting from any such construction, rebuilding, alteration, restoration, or maintenance and shall repair any damage caused in connection with such activities to substantially the condition that existed prior to such activities.

3.5 Fire, police, health, sanitation, medical, ambulance, school buses, utility company and other public or quasi-public emergency and service personnel and their vehicles shall have an easement for ingress and egress over and across the Association Roads and any other roads or drives within the Property for the performance of their respective duties. The Township or other governmental authority having jurisdiction shall have an easement for ingress and egress over and across and upon the Common Areas of the Property to repair and maintain all storm, drainage, ditches, structures and appurtenances, including, without limitation, the streams and wetlands within the Property, for the purpose of relieving any flooding or threatened flooding condition which might be harmful to the Property and to other property within the Township.

3.6 The right is hereby reserved by the Association's Board to grant cross-easements for: (a) the creation and/or preservation of lakes and ponds which may lie in part on any Living Unit Lot and part on the Common Areas; and (b) for any utilities or other facilities that will serve both the Common Areas and the Living Unit Lots.



3.7 Easements are created over the Common Areas to install, maintain, repair, replace and illuminate signs and lighting fixtures that are for the general benefit of the Property or for the identification of the Association Roads and the Neighborhoods. The type, size and location of the signs and lighting fixtures shall be subject to the approval of the Board.

3.8 There is hereby reserved for the benefit of the Association, and its agents, employees, successors, and assigns, an alienable, transferable and perpetual right and easement to enter upon any and all Vacant Single Family and Lifestyle Lots and upon the unimproved portions of Living Unit Lots for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash and debris in order to maintain reasonable standards of health, fire safety and appearance within the Property, provided that such easements shall not impose any duty or obligation upon the Association to perform any such actions; and provided farther, that in the exercise of its rights hereunder, the Association shall be entitled to be reimbursed by such Owner pursuant to Article II hereof.

3.9 There is hereby reserved for the benefit of the Association, and their respective agents, employees, successors and assigns, an alienable, transferable, and perpetual right and easement on, over, and across all Vacant Single Family Lots and all unbuilt portions of Living Unit Lots for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated or instituted by the Board, or by any Governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, the right to dispense pesticides and the right to maintain designated "wetland" areas.

3.10 As the improvements to be located within the Property for the easement rights granted or reserved under Sections 3.1, 3.2 and 3.6 are definable within specific areas, the Association shall have the right, but not the obligation, to: (i) limit such easements to specific areas and purposes, and record a document or documents releasing the balance of the lands from the burden of such easements; and/or (ii) record a plat or other document or documents setting forth the specific areas subjected to such easements; and/or (iii) dedicate to public or private use specific areas (and the improvements contained therein) within the Property to meet the requirements of the Township and other public authorities having jurisdiction over the same. The Association may exercise any of such rights without the necessity of obtaining the consent or approval of Owners and other Persons for whose benefit the easement rights are granted or reserved.

3.11 All easements and rights described herein are easements appurtenant to the Property (including the Living Units) and the Common Areas, shall run with said lands, and perpetually and at all times shall inure to the benefit of and be binding upon Declarant, its successors and assigns, and any Owner, Tenant, Occupant, purchaser, mortgagee or other Person having an interest in the Property, or any part or portion thereof. Reference to the easements and rights described in any part of this Declaration, in any deed of conveyance, lease, mortgage, trust, deed, declaration for another type of residential association, or other evidence of obligation shall be sufficient to grant such easements and rights to the respective grantees, lessees, mortgagees or trustees of such property, or any portion thereof, and to reserve to the grantor or lessor therein, their successors and assigns, as easements appurtenant to the remainder of such properties,



easements created by this Declaration for the benefit of any Owner, Tenant, Occupant, purchaser, mortgagee or other Person in respect to any portion of the Property as fully and completely as though such easements and rights were recited fully as set forth in their entirety in such document.

ARTICLE IV

COMMON AREAS-OWNERSHIP AND OPERATION

4.1. Declarant shall convey the Common Areas to the Association; provided, however, that Declarant may convey private roads located within a Neighborhood to the applicable Neighborhood Association. Any such conveyance shall have priority over all liens and encumbrances whatsoever except the easements, covenants, restrictions and provisions of this Declaration; easements, covenants, restrictions, conditions and other similar matters of record; real estate taxes and assessments which are a lien but are not due and payable at the time of said conveyance; and zoning and other resolutions, if any. Declarant shall cause such Common Areas to be released from any mortgage encumbering the same or shall cause the mortgagee of such areas to subordinate its mortgage on such areas in favor of this Declaration. The Association shall hold title to said parcels subject to the provisions of this Declaration.

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

ARTICLE V

THE ASSOCIATION

5.1 The Association is and shall remain a not-for-profit, corporation organized and existing under the laws of the State of Ohio, and charged with the duties and vested with the powers prescribed by law, and set forth herein, the Articles, and the Code, as such may be amended from time to time, providing no other documents shall for any reason be changed or interpreted so as to be inconsistent with these Restrictions.

5.2 Every Owner of a Living Unit shall be a member ("Member") of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Living Unit Lot. Transfer of a Living Unit Lot shall automatically transfer membership to the transferee.

5.3 Members shall have all such rights and be burdened with such obligations as are set forth in these Restrictions, the Articles, and the Code.

5.4 Members shall be entitled to one (1) vote for each Living Unit and Vacant Single-Family Lot owned.



5.5

- (a) Living Units Lots and Vacant Single Family Lots may be located within a Neighborhood designated by Declarant or the Board in a Subsequent Amendment. No other Person shall have the right to designate a Neighborhood. The Living Units and Vacant Single-Family Lots within a particular Neighborhood may be subject to additional covenants and/or the Owners of Living Units and Vacant Single-Family Lot Owners within a particular Neighborhood may be members of another owners' association ("Neighborhood Association") in addition to the Association. Each Neighborhood Association upon the affirmative vote, written consent, or any combination thereof, of a majority of Owners of Living Units and Vacant Single-Family Lots within the Neighborhood:
 - (i) May request that the Association provide a higher level of service or special services for the benefit of Living Units in such Neighborhood, the cost of which shall be assessed against the benefited Living Units as a Neighborhood Assessment pursuant to Article VIII of this Declaration;
 - (ii) May determine that expenses for the Neighborhood shall be paid and assessed by the Neighborhood Association.
- (b) Neighborhood Expenses, including the cost of landscaping, snow and ice removal from the driveways as deemed reasonable and necessary by the Neighborhood Association, shall be allocated pro rata among the Owners in a respective Neighborhood, as opposed to being allocated based on the actual expense relating to any particular Living Unit. Notwithstanding any other provisions of the Declaration, the Association shall have no responsibility for maintenance, repairs or replacements to Living Units caused by fire or other casualty, such as wind storms and the like, or other sudden causes, unless caused by the Developer, the Association, or their respective agents. The Owners of all Lots hereby grant to the Association or the respective Neighborhood Associations the right and easement, on, over, under and across the Lot and maintenance thereof. In connection with the special services described above, as well as other services which may be established for a Neighborhood, there shall be assessed against the benefited Living Units as a Neighborhood Assessment pursuant to Article VII of the Declaration the monthly or annual amount determined annually by the Board which may be changed from time to time to reflect costs and expenses for the provision of such services and other services which may be provided by the Neighborhood Association. As provided in the Declaration, the substantive rights and obligations set forth in the Codes of Regulations shall constitute and form a part of the Declaration, its covenants and restrictions, and shall run with the land, and be binding upon and inure to the benefit of all Persons having any right, title or interest in or to Units within such Neighborhood and such

Association.

- (c) There are three designated Neighborhoods, The Standard Lot Neighborhood recorded at instrument number 55431659 and 55440596 of the Records of Summit County, Ohio and The Lifestyle Lot Neighborhood recorded at instrument number 55431660 of the Records of Summit County.
- (d) Notwithstanding any provision of these Restrictions to the contrary, no Owner may paint or otherwise decorate or cause to be painted or otherwise decorated any exterior portion of any building or structure located on any Living Unit Lots without the consent of the Board.

5.6 Notwithstanding the rights and easements of enjoyment and uses created in Article III of this Declaration, and in addition to any right the Association shall have pursuant to this Declaration or in law, the Association shall have the right:

- (a) To borrow money from time to time for the purpose of improving the Common Areas and may secure said financing with a mortgage or mortgages upon all or any portion of property owned by the Association in accordance with its Articles and Code and subject to the provisions of this Declaration.
- (b) To take such steps as are reasonably necessary to protect the Common Areas from foreclosure.
- (c) To the extent permissible by zoning resolutions, to convey the Common Areas or a portion thereof, to a successor, provided, however, that any such conveyance shall require the vote of a majority of the Members, and provided further that such successor shall agree, in writing, to be bound by all easements, covenants, restrictions and the spirit of this Declaration.
- (d) To enter or authorize its agents to enter on or upon the Property, or any part thereof, when necessary in connection with any maintenance, repair or construction for which the Association is responsible or has a right to maintain, repair or construct Such entry shall be made with as little inconvenience to the Owner and Occupants thereof as practicable and any damage caused thereby shall be repaired by the Association, except as otherwise provided herein.
- (e) To grant, obtain or dedicate to public use easements and rights-of-way (i) for access and easements for the construction, extension, installation, maintenance or replacement of utility services and facilities, or (ii) to or from a public utility or governmental authority, and to or from any body or agency which has the power of eminent domain or condemnation over any portion of the Property.

ARTICLE VI
RESPONSIBILITIES OF THE ASSOCIATION

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

6.1 The Association shall maintain the Common Areas in a clean, safe, neat, healthy and workable condition, and in good repair, and shall promptly make all necessary repairs and replacements, structural and nonstructural, ordinary as well as extraordinary, subject only to the provisions of this Declaration. The Association shall provide equipment and supplies necessary for the maintenance (including landscape maintenance) and enjoyment of such property. All work performed by the Association under this Article shall be performed in a good and workmanlike manner. Exhibit C delineates the Maintenance responsibilities of the Master Association, Lifestyle Lot Neighborhood Association, and the Standard Lot Owner. The following are included among the Association's responsibility for maintenance:

- (a) Entranceway Areas: To operate, maintain, repair and replace any now existing or hereafter created entranceway area at or in the vicinity of any entrance to the Property from public or private roads, together with all associated landscaping and other related facilities such as sprinkler systems, signs, lighting, traffic control devices, decorative or screening walls, fences, fountains and pumps.
- (b) Perimeter Fences and Walls: To maintain, repair and replace all fences and walls situated at or near the perimeter of the Property.
- (c) Berms Along Public Roads: With respect to the berms (including berms within public rights-of-way) and landscaping thereon which are desired or required to be maintained adjacent to the perimeter of the Property to maintain such berms, and any landscaping on such portions of such berms, in good and attractive condition.
- (d) Roads, Boulevard Islands, and Median Strips: To maintain landscaping, signage or other improvement within any boulevard island, and median strip within the right-of-way of any portion of any of the Association Roads and to pay all real estate taxes, if any, assessed with respect thereto.
- (e) Street Lighting: With respect to all parts (including, but not limited to, poles, standards, fixtures, transformers, wires, bulbs and cables) of any street lighting system which are not or hereafter installed by or at the direction of the Association in the median strips or the rights-of-way of any portion of any of the Association Roads, to maintain the same in good order and condition, to make all replacements and renewals necessary to maintain the same, and to operate and to pay all costs of operating the same,



including, but not limited to, costs of electricity.

- (f) Security: To provide such security for the Property as the Association may from time to time deem desirable to maintain THE RESERVE AT KENSINGTON as a safe, secure residential environment. HOWEVER, THE ASSOCIATION SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR BY REASON OF THE INEFFECTIVENESS OF THE SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS AND INVITEES OF ANY OWNER, ACKNOWLEDGE THAT THE ASSOCIATION AND THE BOARD ARE NOT INSURERS AND THAT EACH OWNER TENANT, GUEST AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, LIVING UNITS AND THE CONTENTS OF LIVING UNITS, AND FURTHER ACKNOWLEDGE THAT THE ASSOCIATION HAS NOT MADE ANY REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN BY THE ASSOCIATION.
- (g) Drainage System: To maintain all ponds, piping, culverts, drains and other facilities (which are not publicly owned property) now or hereafter situated upon any portion of the Property which are intended for the collection, retention, detention, transmittal or disposal of storm-water (other than gutters, downspouts and other facilities attached to buildings) in clean and sanitary condition and in good order and repair and to make all replacements and renewals necessary to so maintain the same. This shall also include the Collector Drain System in the rear of Lots 85-101 described in Exhibit A.
- (h) Bike paths/Walking Trails and Paths: To maintain, repair, replace, or remove any bike paths/walking trails and paths situated anywhere on the Property, which is not in the public right-a-way, or placed in a public easement.
- (i) Open Space: The Association shall also pay for any real estate taxes and assessments assessed with respect to any such Open Space, and the Association shall hold title to such areas. The obligations set forth in this subsection shall be deemed to run with and burden the party accepting any such deed and title to the Open Space. The Association shall preserve and maintain the Open Space in accordance with the requirements of the Twinsburg Township Zoning Resolution.

- (j) Community Signs: To install, maintain, repair, replace and illuminate all signs located on any portion of the Property which are for the general benefit of the Property.
- (k) Maintenance of Non-Association Property: The Association may maintain property which it does not own, including, without limitation, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.
- (l) Rubbish Removal: The Association may provide rubbish removal services; the cost of which services shall be included in the Common Expenses as permitted by the Township.

6.2 The Association may, at the discretion of the Board, assume any maintenance responsibilities of a Neighborhood set out in this Declaration or in any Subsequent Amendment or declaration subsequently recorded which creates any Neighborhood Association. In such event, all costs of such maintenance shall be assessed only against the Living Units within the Neighborhood to which the services are provided. This assumption of responsibility may take place either by contract or agreement or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standards. The provision of services in accordance with this Section shall not constitute discrimination within a class. Upon resolution of the Board, each Neighborhood shall be responsible for paying, through Neighborhood Assessments, costs of maintenance of certain portions of the Common Areas within or adjacent to such Neighborhood, which may include, without limitation, special amenities and services within the Neighborhood, the costs of maintenance of any right-of-way and Open Space between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association. Any Neighborhood Association having responsibility for maintenance of all or any portion of the property within a particular Neighborhood shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If any such Neighborhood Association fails to perform its maintenance responsibility as required herein and in any additional declaration, the Association may perform it and assess the costs against all Living-Units within such Neighborhood as provided in Sections 7.21 and 7.24 of this Declaration.

6.3 The Association shall pay all taxes and assessments levied against portions of the Property owned by the Association and levied against the Common Areas, including, without limitation, personal property taxes, general real estate taxes and special assessments certified by the applicable public authority.

6.4 The Association shall pay and be reimbursed for all operating charges for water, gas, sewer, electricity, light, heat or power, telephone and other services used, rented or supplied to or in connection with any property owned and/or operated by the Association. All such utility services shall be contracted for and billed by and through the Association.

6.5

- (a) Insurance: The Board, or the Association's duly authorized agent, shall have the authority to and shall obtain, to the extent provided for in the Code, insurance for all insurable improvements on the Common Areas against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board shall also obtain a public liability policy covering the Common Areas; the Association and the Members for all damage or injury attributable to any acts or omissions of the Association or any of its Members or agents. Premiums for all insurance on the Common Areas shall be a Common Expense of the Association.
- (b) Individual Insurance: By virtue of taking title to a Living Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all-risk casualty insurance on the Living Units and structures constructed thereon, to the extent and in such amounts as provided for in the Code. Each individual Owner further covenants and agrees that in the event of loss, damage and destruction, the individual Owner shall proceed promptly to repair or to reconstruct the damaged structure in accordance with file provisions of the Code. A Neighborhood Association may impose more stringent requirements regarding the standards of rebuilding or reconstructing structures on the Living Unit and the standard for returning the site of the Living Unit to its natural state in the event the Owner decides not to rebuild or reconstruct.

6.6 The Association shall provide the management and supervision for the operation of the Common Areas. The Association shall establish and maintain such policies, programs and procedures and perform and carry out all other duties and acts reasonably necessary to fully implement this Declaration for the purposes intended and for the benefit of the Members (See, Exhibit "C" Maintenance Map).

6.7 As identified in Article V, Section 5.5(c), there are three Neighborhoods: Standard Lot Neighborhood, the Lifestyle Lot Neighborhood, and the Kensington Ridge Neighborhood.

- (a) The Reserve at Kensington Standard Lot Neighborhood and the Kensington Ridge Standard Lot Neighborhood

1. Annexation. Pursuant to Article II, Section 2.1(m) and Article IV, Section 4.1, the property described in Exhibit A was annexed to the terms of the Declaration for the purpose of designating Common Elements, imposing additional restriction and assigning maintenance responsibilities. Pursuant to Section 2.1(aa), the property described in Exhibit A was annexed to



the terms of the Declaration which are a covenant running with the land and binding upon the land and all owners thereof.

2. Designation of Neighborhood. The property described in Exhibit A shall be deemed to be a "Neighborhood" as set forth in Article II, Section 2.1(r) of the Declaration, excepting that part of the Property designated as Lifestyle Lot Neighborhood as set forth below in 6.7(b).

3. Designation of Common Elements. The property described in Exhibit A shall be deemed to be Common Elements as set forth in Article II, Section 2.1 (g) of the Declaration. Such Common Elements shall consist of entrance structures, surface water management, and open space, etc.

4. Drainage easements shown and noted on the Record Plan shall be part of the Surface Water Management System as set forth in the Declaration. The Lots shall also be subject to the easement in favor of the Association for the performance of any maintenance as set forth herein.

5. Neighborhood Assessment. See Article VIII below.

(b) Lifestyle Lot Neighborhood

1. Annexation. Pursuant to Article II, Section 2.1(m) and Article IV, Section 4.1, the property described in Exhibit A was annexed to the terms of the Declaration for the purpose of designating Common Elements, imposing additional restriction and assigning maintenance responsibilities. Pursuant to Section 2.1 (aa), the property described in Exhibit A was annexed to the terms of the Declaration which are a covenant running with the land and binding upon the land and all owners thereof.

2. Designation of Neighborhood. The property described in Exhibit A shall be deemed to be a "Neighborhood" as set forth in Article II, Section 2.1(r) of the Declaration.

3. Designation of Common Elements. The property described in Exhibit A shall be deemed to be Common Elements as set forth in Article II, Section 2.1 (g) of the Declaration. Such Common Elements shall consist of entrance structures, surface water management, and open space, etc.

4. Drainage easements shown and noted on the Record Plan shall be part of the Surface Water Management System as set forth in the Declaration. The Lots shall also be subject to the easement in favor of the Association for the performance of any maintenance as set forth herein.

5. Neighborhood Assessment. See Article VIII below.

ARTICLE VII
COVENANTS AND RESTRICTIONS

7.1 The intent of this Declaration is to cause the Property to be kept and maintained as a high-quality development. The covenants and restrictions provided in this Article shall be applicable to Owners, Land Contract Vendees, Lessees, Tenants and Occupants of the Property. The Covenants and Restrictions shall be broadly construed and interpreted in furtherance of this intent. Any Subsequent Amendment, declaration or other document for any Neighborhood may impose stricter standards than those contained in this Article so long as such standards do not conflict with Community-Wide Standards. The Association, acting through the Board, shall have authority to make and to enforce standards and restrictions governing the use of the Property whether contained herein or otherwise, and to impose reasonable user fees for use of Common Area facilities. Every Owner should consult their Neighborhood Design Guidelines for further information and details for permitted specification unique to each Neighborhood.

7.2 All Vacant Single Family Lots conveyed shall be used exclusively for single family residence purposes and only one such residence shall be permitted thereon. All Living Unit Lots and the Common Areas are subject to all easements, rights-of-way of record, and the zoning resolutions of the Township. Living Unit Lots shall meet the following requirements;

- (a) Type: One and two story in design.
 - (i) A one-story Living Unit shall be a structure, the living area being the first-floor space only, constructed with or without a basement and a space between the first-floor ceiling and the roof of adequate heights to permit its use as a dwelling space.
 - (ii) A two-story Living Unit shall be a structure, the living area of which is on two levels connected by a stairway, constructed with or without a basement.
 - (iii) No structure shall exceed 35 feet (two (2) stories) in height.
- (b) Living Area: The "living area" of any Living Unit shall be not less than finished habitable area as set forth below. "Living area" shall not include garages, attics, basements (except finished walk-outs), breezeways, patios, or any enclosed area not heated for year-round living.
 - (i) Such floor area shall not be less than the following in;

One-story and two-story 1,400 square feet. In no event shall the Living Area of any Living Unit be greater than 7,500 square feet.
- (c) (i) Side Yards: Each Living Unit shall have a side yard along each lot line. The least dimension of each said yard shall be not less than 5 feet from the side yard nearest



the street on any corner lot shall have a width as designated on the recorded plat. No shrubbery shall be closer than permitted set back to the street on corner lots.

- (ii) When two or more lots are acquired and used as a single Living Unit site, the side lot line shall refer only to the lines bordering on the Living Unit Lot owned by the adjoining Owner.
 - (iii) Front Yards: Each Living Unit in the Standard Lot Neighborhood shall have a front yard of not less than 25 feet from the street right-of-way which may be subject to further set back restrictions as may be required by the Board, natural topography and terrain of the Living Unit Lot. Each Living Unit in the Lifestyle Lot Neighborhood shall have a front yard of not less than 25 feet from the back-of-curb which may be subject to further set back restrictions as may be required by the Board, natural topography and terrain of the Living Unit Lot.
 - (iv) Corner Lots: Where a Living Unit Lot is located at the intersection of two or more streets; there shall be a front yard on each street side of a corner lot. No accessory building shall project beyond the front yard line on either street.
- (d) No Living Unit Lot in this subdivision shall be subdivided or divided, unless or until the Plat showing such proposed subdivision or division shall have been submitted to the Association Board and the written consent of the Association Board to such subdivision or division has been obtained and approved by the Summit County Planning Commission and Twinsburg Township.

7.3 Unless originally constructed by Declarant, no fence, wall or hedge shall be erected unless a detailed drawing of design, height and location of the proposed fence, wall or hedge is first submitted to the Board and a written consent for such fence, wall or hedge is given. No fence, wall or hedge of any kind or for any purpose shall be erected; placed or suffered to remain on any Living Unit Lot nearer to the street or highway upon which the Living Unit Lot faces or abuts than the front building line of the residence, unless it is for decorative purposes and approved by the Board. No chain link fence will be permitted except as approved by the Board.

7.4 All garbage or trash containers shall be stored in the garage.

7.5 No outdoor clothes drying area shall be allowed on the Property.

7.6 No spirituous or fermented liquor shall be manufactured or sold, either at wholesale or retail, on any residential premises and no place of public entertainment or resort of any character shall be established, conducted or suffered to remain on any residential premises.

7.7 No unsightly growth such as weeds, underbrush or the like, shall be permitted to grow or remain upon any lot and no refuse, pipe or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. However, the natural wooded and ground cover conditions of portions of the lot may remain, provided that they are aesthetically pleasing

to the appearance of the Property as a whole.

7.8 The Association reserves the right to establish grades and slopes on the lots and to fix the grade at which any building or structure shall be hereafter erected or placed, so that the same may conform to a general plan wherein the established grade and slope of each lot shall be the same, as the lots on either side, having due regard for natural contours and drainage of the land.

7.9 No garage shall be erected which is detached from the main building. All garages must be of sufficient size to house a minimum of two automobiles.

7.10 No lumber, metals, bulk material, refuse or trash shall be burned, whether in indoor incinerators or otherwise (excluding the burning of firewood in a fireplace or wood burning stove), kept, stored, or allowed to accumulate on any portion of the Property, except for normal residential accumulation pending pick-up and except building materials during the course of construction or reconstruction of any approved building or structure, except firewood may be stored within Living Units, on patio "areas or other areas designated by the Board. If trash or other refuse is to be disposed of by being picked up and carried away on a regularly recurring basis, containers may be placed in the open on any day that a pick-up is to be made, thereby providing access to persons making such pick-up. At all other times such containers shall be stored in such manner that they cannot be seen from adjacent and surrounding property. No dumping of rubbish shall be permitted on any portion of the Property. Anything herein to the contrary notwithstanding, the Association or the Board may adopt a Rule or Rules which permit burning, incineration or storage of refuse or trash if the same becomes reasonably necessary for the safety, health or welfare of the Occupants, and is permitted by law.

7.11 The following shall be prohibited:

- (a) Drilling oil or gas wells on land designated for Living Unit Lots.
- (b) Mining or extraction of any minerals including the removal of sand or gravel; provided, however, this restriction shall not prohibit the removal of any material in connection with development of the Property for permitted uses by Declarant.
- (c) The keeping, raising, and harboring of cattle, swine, fowl, livestock, reptiles and horses; provided, however, that nothing in this restriction shall prohibit the keeping of household pets excepting the above, provided they are not kept, bred or maintained for commercial purposes, or kept in a manner as to constitute a nuisance. Any such pet causing or creating a nuisance or unreasonable disturbance, or annoyance shall be permanently removed from the Property upon three days' written notice from the Board. Dogs shall at all times whenever they are outside a Living Unit be confined on a leash held by a responsible person unless contained on their Living Unit Lot by an Invisible Fence or a similar non-structural pet containment system. The Rules (as may

be adopted by the Board or the Association) may limit the number of pets which may be kept in any one Living Unit. The Board shall have absolute power to prohibit a pet from being kept on the Property or within a Living Unit if the Board finds a violation of this Section. Additional covenants affecting the property within a Neighborhood may impose more stringent restrictions on animals.

- (d) Temporary structures, boats, construction equipment, truck beds, tractors, semi-tractors, or trailers of any kind (travel, camping, motor homes, etc.); provided, however, that this restriction shall not prohibit trailers and temporary structures used in connection with the building of an Owner's home. Any recreational trailer or boat may be kept provided it is kept in the garage out of sight.
- (e) Signs, billboard or advertising devices of any kind except as permitted in the Board Policies and Guidelines.
- (f) Nuisances and noxious or offensive activities of any kind. The Board shall have absolute power to determine what is "reasonable" and what is "unreasonable" under this Section.
- (g) Radio towers.
- (h) Any unlicensed vehicle of any description that is kept outside.
- (i) Any unattached storage buildings, sheds, barns, etc.
- (j) Newspaper or magazine receptacles, tubes or other containers, other than as prescribed by the Board.
- (k) Small vegetable and fruit gardens shall be permitted in the rear yard. No agricultural or farming activity for commercial purposes shall be permitted. Additional landscaping may be installed with prior approval in accordance with Section 9.2 of the Declaration. The Association shall have the right to require the Owner to maintain such additional landscaping and also the right to remove such additional landscaping if the Owner fails to maintain it.

7.13 Except as expressly permitted in this Declaration, or by the Rules, no industry, business, trade or full-time or part-time occupation, hobby or profession of any kind, commercial, educational, or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Property; provided, however, an Occupant may use a portion of his or her Living Unit for his office or studio, so long as the activities therein shall not interfere with the quiet enjoyment or comfort of any other Occupant and such use does not result in the Living Unit becoming principally an office, school or studio as distinct from a Living Unit. Furthermore, no trade or business may be conducted in or from any Living Unit without the written approval of the Board first being obtained. Such approval

may be granted so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Living Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming onto the Property who do not reside in the Property except by appointment only; (d) the business activity does not involve door-to-door solicitation of Occupants of the Property; and (e) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board. The Board may adopt Rules which intensify, relax or amend the prohibitions of this Article. Nothing in this Section shall preclude the leasing of a Living Unit by an Owner as provided for by this Declaration, the right of the Board (or a firm or agent employed by the Board) to approve commercial activities such as charity events, sporting events requiring admission, temporary food and beverage operations and brokerage offices for sales of Vacant Single-Family Lots and for new sales of Living Units and resales of Living Units.

7.14 The exterior of any building or structure on the Property shall not be altered, modified, changed or redecorated in such a way as to change the appearance or decor of the structure, nor shall any of the landscaping appurtenant to such building or structure be materially changed without the express written authorization of the Board. The style, type and location of mailboxes and lamp posts shall be prescribed by the Board.

7.15 No person shall change the grade on any portion of the Property without first obtaining the written consent of the Board.

7.16 No Person, other than the Association, shall interfere with the free flow of water through any drainage ditches or storm sewers within the Property.

7.17 No Lot shall be subdivided, or its boundary lines changed except with the proper written approval of the Board or except as expressly authorized herein. Any such division, boundary line change or replotting shall not be in violation of the applicable subdivision and zoning regulations.

7.18 All ponds and streams within the Property shall be aesthetic amenities only and no other use thereof including, without limitation, swimming, playing or use of personal flotation devices shall be permitted. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of ponds, or streams within the Property. Nothing shall be done which disturbs or potentially disturbs designated "wetlands" within the Property in any manner unless permits are obtained from the governmental authorities having jurisdiction over "wetlands". No dredging or filling shall be undertaken on any property adjacent to any water body without the prior written consent of the Board.

7.19 No Person shall use the words THE RESERVE AT KENSINGTON or any derivative thereof in any printed or promotional material without the prior written consent of the

Board; provided, however, that Owners may use the name THE RESERVE AT KENSINGTON in printed and promotional material where such word is used solely to specify that particular property is located within THE RESERVE AT KENSINGTON.

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

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

7.22 Nothing contained in these Restrictions shall preclude the imposition of more stringent restrictions imposed elsewhere in this Declaration, other than in a Neighborhood for which a Neighborhood Board has been established, other than, restrictions imposed in deeds conveying the Property or portions thereof, and restrictions imposed by the Board, so long as such restrictions are consistent with Community-Wide Standards created by this Association or adopted by the Board.

7.23 Upon the conveyance of a Living Unit or any interest therein, the grantor shall have the right to request the Association to issue a Certificate of Compliance stating that it has no record of a violation of this Article. A Certificate of Compliance may be relied upon by all persons for all purposes. Neither the Board nor such officer or agent signing the Certificate shall have any liability to the grantor, grantee or mortgagee of a Living Unit or to others if the Certificate of Compliance issued hereunder is not correct.

7.24 If any Person required to comply with the foregoing Covenants and Restrictions is in violation of any one of same, including, but not by way of limitation, design review criteria or standards established by the Board, the Board shall have the right to give written notice to such Person to terminate, remove or extinguish such violation. Such notice shall expressly set forth the facts constituting such violation. Except in the case of an emergency situation, the violating party shall have fifteen (15) days after written notice of the violation to

take reasonable action to cause the removal, alleviation or termination of same. In the case of an emergency situation, or in the case of the failure of the violating party to comply with the provisions hereof after notice, the Association shall have the right, through its agents and employees, to enter upon the land where the violation exists and to summarily terminate, remove or extinguish the violation. In addition to the foregoing, the Association shall have the right to obtain an injunction from any Court having jurisdiction for the cessation of such violation or attempted violation of this Article. The rights and remedies of the Association contained in this Article shall be nonexclusive and in addition to any other right or remedy available at law or in equity, including a claim or action for specific performance and/or money damages (including punitive damages), together with attorney fees and other reasonable costs of such actions. Furthermore, the failure or neglect to enforce any term, covenant, condition, restriction, right or procedure herein shall in no event and under no circumstances be construed, deemed or held to be a waiver with respect to any subsequent breach or violation thereof. Subject to the provisions of the Code, a Person in violation of this Article VII shall be obligated to the Association for money damages and for the full amount of all costs and expenses, including attorney fees, incurred to remedy any such violation. If said amounts are not paid within ten (10) calendar days following said notification, then said amount shall be deemed "delinquent", and shall, upon perfection as provided in Section 9.5, become a continuing lien upon (the portion of the Property owned or occupied by such Person(s) and a personal obligation of the Person(s) violating this Article. In addition, the Owner of any portion of the Property shall be liable jointly and severally for any obligations of any Occupant of such Owner's property.

7.25 All driveways shall be paved with concrete. Gravel or loose stone driveways are not permitted.

7.26 All external parts of fireplaces, such as chimneys or direct vent fireplaces shall be constructed of masonry, stucco or vinyl siding material (except the fire boxes which can be a pre-assembled metal unit).

7.27 In accordance with Section 7.21 hereof, deck and patio areas within a Living Unit Lot shall be kept and maintained in good repair by each respective Owner. Any Owner's plantings of shrubbery, grass, trees and flowers shall be subject to the approval of the Board.

7.28 (a) No Living Unit shall be leased by an Owner to others for business, speculative, investment or other similar purpose. The intent of this restriction is to create a community of resident Owners. This restriction on leasing shall not apply to Living Units that are occupied by the parent(s) or child(ren) of the Living Unit Owner(s). All Living Unit Owners with an executed lease at the time of this amendment are permitted to let the lease run until the current lease term expires, provided a copy of said lease is furnished to the Association within thirty (30) days of this amendment. Upon expiration of the current lease term, no subsequent lease or renewals of a lease shall be permitted unless the requirements to request a hardship as set out in this provision are met. It shall be deemed a violation of this provision if a Living Unit Owner fails to provide a copy of the current lease as set forth above.

(b) To meet special situations, and to avoid undue hardship or practical

difficulties, the Board will grant automatic, one-time exception to this restriction on leasing to the Living Unit Owner. This exception shall be automatically granted upon written application to the Board for the hardship exception. Upon receiving approval from the Board, the Owner may lease the Living Unit to a specified renter for a period of no less than six (6) months and no more than twenty-four (24) consecutive months provided it is the same tenant for the entire lease term. This hardship shall not be extended, nor can it be transferred or sub-let to another lessee. At the conclusion of the lease term or upon the lessee vacating the property prior to the end of the lease term, the Living Unit shall be Owner occupied. An executed copy of the written lease and a list of all persons in residence in the Living Unit shall be provided to the Board prior to the start of the lease term. Any such lease must contain a provision that requires the tenant and all occupants to abide by the Declaration, the Code of Regulations and the Rules and Regulations of the Association. The Living Unit Owner shall continue to be liable for the obligations of ownership of the Living Unit and shall be responsible for the conduct of the lessee.

(c) The Board shall have the right to dispossess or otherwise act for the Living Unit Owner in case of default under the lease for violation of the Declaration, Bylaws or the Rules and Regulations, including violation of this Section 7.28. The Association may initiate eviction proceedings to evict any tenant, for any violation of the Declaration, Code of Regulations, Rules, or applicable laws, by the tenant, any occupant of the unit, or the Unit Owner of the Unit. The action shall be brought by the Association, as the Living Unit Owner's agent, in the name of the Living Unit Owner(s). The Association shall give the Unit Owner(s) at least ten (10) days written notice of the intended eviction action. The costs of the eviction action, including attorney fees, paralegal fees, court costs, and other expenses incurred by the Association for the eviction action, shall be charged to the Unit Owner(s) and shall be the subject of a special assessment against the offending Living Unit Owner(s) and made a lien against that Unit.

(d) In no event shall a Living Unit be leased under this section for transient or hotel purposes, which is defined to mean: (i) rental for any period less than six (6) full months, or (ii) any rental if the occupants of the Living Unit are provided in connection with the rental, customary hotel services such as room service for food and beverage, maid service, furnishing of laundry or linen service, or bell-boy services.

(e) Any Living Unit that is owned in a corporate or fiduciary capacity must file a certificate with the Association designating the occupant(s) of the Unit on behalf of the entity. Names of occupants, home and work addresses, home, work and mobile telephone numbers and emergency contact information must be included. Any time the above information changes, the Association must be notified within three (3) days of the change.

7.29 (a) No person (i) whose name appears on the state registry of sex offenders and child-victim offenders maintained under Section 2950.13 of the Revised Code, or (ii) whose name is indicated on the state registry of sex offenders and child-victim offenders and being convicted of or having plead guilty to either a sexually oriented offense that is not registration-exempt sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense; is permitted to establish a resident, occupy or maintain a residence within any Unit, Lot or Property within The Reserve at Kensington Homeowners Association.

(b) The Association may seek to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, any breach of this prohibition. If any Member (either by his own registration or by the registration of any resident or occupant) shall breach this residency prohibition, said Member shall pay to the Association, in addition to any other sums due, all costs and expenses incurred by the Association in connection with the enforcement of this provision, including attorney fees and court costs. Said costs and expenses shall be charged as an Assessment against said Member. The Association, in addition to all other remedies available, shall have the right to place a lien upon the estate or interest of said Member as further explained and set forth in this Declaration.

(c) This residency prohibition shall not be deemed to have abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur. This residency prohibition does not impose a duty on the Association to monitor the state registry of sexual offenders maintained under section 2950.13 of the Revised Code.

ARTICLE VIII **ASSESSMENTS**

There is hereby established a Neighborhood Assessment for the purpose of the Neighborhood Expenses of the Association which apply to The Reserve at Kensington Standard Lot Neighborhood, the Kensington Ridge Standard Lot Neighborhood, and The Reserve at Kensington Lifestyle Lots. Such Neighborhood Expenses shall be, but not limited to, (1) operation, maintenance, repair and replacement of the Common Elements and other maintenance as required by Article VIII of this Declaration and as set forth above; (2) the cost of any insurance attributable to Common Elements required by this Declaration; and (3) reasonable reserves for contingencies and replacement of the Common Elements. The Neighborhood Assessment shall not be subject to any limitations and shall be allocated equally to each The Reserve at Kensington Standard Lot Neighborhood, the Kensington Ridge Standard Lot Neighborhood, and The Reserve at Kensington Lifestyle Lots may be changed from time to time to reflect costs and expenses for the provision of such services and other services which may be provided by the Association.

In addition to the Neighborhood Assessment, there is hereby established a Lifestyle Lot Assessment which applies only to The Reserve at Kensington Lifestyle Lots. The Lifestyle Lot Assessment shall not be subject to any limitations and shall be allocated equally to each Lifestyle Lot. The Lifestyle Lots Assessment may be changed from time to time to reflect costs and expenses for the provision of such services and other services which may be provided by the Lifestyle Neighborhood.

8.1 The costs and expenses incurred by the Association in the exercise of its obligations with respect to the Common Areas shall be levied as assessments against the Members based on their relative benefit from the amenities of the Association and otherwise with the Code.

8.2 Each Owner hereby covenants and agrees by acceptance of the deed to a Living Unit or a Vacant Single-Family Lot, whether or not it shall be so expressed in any such deed or other conveyance, to pay to the Association all Assessments levied against such Owner in accordance with this Declaration on or before the due date for any such Assessment. In the



event that the Assessment is not paid by the tenth (10th) day of the month, then such Assessment shall be "delinquent" and the Assessment, together with the Costs of Collection, as defined in Section 10.3 hereof shall, upon "Perfection" as provided in Section 9.1 become a continuing lien upon the interest of such Person in his Living Unit or Vacant Single-Family Lot, as the case may be, and shall bind such Owner, his heirs, devisees, personal representatives, successors and assigns. A Co-Owner of a Living Unit or a Vacant Single-Family Lot shall be personally liable, jointly and severally, with all other Co-Owners for all Assessments made by the Association with respect to said Living Unit or Vacant Single-Family Lot.

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

8.4 Upon the voluntary conveyance of an Ownership Interest, the grantee of the Ownership Interest shall be jointly and severally liable with the grantor for all unpaid Assessments levied pursuant to this Declaration against the grantor of his Ownership Interest prior to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor any amounts paid by the grantee therefor. However, any such prospective grantee, upon written request delivered to the Association, shall be entitled to a statement from the Trustees of the Board or an officer of the Association setting forth the amount of all unpaid Assessments due the Association with respect to the Ownership Interest to be conveyed and such grantee shall not be liable for, nor shall the Ownership Interest conveyed be subject to a lien, for any unpaid Assessments which become due prior to the date of the making of such request if the same are not set forth in such statement. The statement referred to herein may be included in the Certificate of Compliance referred to in Section 7.23 of this Declaration. A devise of an Ownership Interest or the distribution of said Ownership Interest pursuant to the Statute of Descent and Distribution shall be deemed to be a voluntary conveyance. An unpaid Assessment shall not be deemed a charge or lien against the Ownership Interest until perfected as such pursuant to Article IX.

8.5 In addition to the provisions contained in this Article VIII, Owners receiving benefits, items, or services not provided to all Owners within the Property that are incurred upon request of the Owner for specific items or services, or that are incurred as a consequence of the conduct of less than all Owners, their licensees, invitees or guests covenant and agree to pay to the Association such specific assessments as the Association may deem proper.

ARTICLE IX
LIENS

9.1 If any Owner fails to timely pay an Assessment, Additional Assessment or Neighborhood Assessment levied in accordance with this Declaration (such Owner hereinafter referred to as the "Delinquent Owner"), or if an Owner shall violate any rule or breach any restriction, covenant or provision contained in this Declaration or in the Code, the Board may authorize the perfection of a lien on the Ownership interest of the delinquent and/or violating Owner by filing for record with the Recorder of Summit County, a Certificate of Lien. The Certificate of Lien shall be in recordable form and shall include the following:

- (a) The name of the Delinquent Owner.
- (b) A description of the Ownership Interest of the Delinquent Owner,
- (c) The entire amount claimed for the delinquency and/or violation, including interest thereon and Costs of Collection (defined in Section 10.2 and Section 10.3).
- (d) A statement referring to the provisions of this Declaration authorizing the Certificate of Lien.

9.2 Said lien shall remain valid for a period of five (5) years from the date of filing of said Certificate of Lien, unless sooner released or satisfied in the same manner provided by law for the release or satisfaction of mortgages on real property or discharged by the final judgment or order of a court in an action to discharge such lien. A lien may be renewed by the subsequent filing of a Certificate of Lien prior to the expiration of the five (5) year period referred to above.

9.3 A lien perfected under this Article IX shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide mortgages which have been filed for record. A lien perfected pursuant to this Article may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association after authorization from the Board. In any such foreclosure action, the affected Owner shall be required to pay reasonable rental for such Ownership Interest during the pendency of such action and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same.

9.4 The creation of a lien upon an Ownership Interest owned by a Delinquent Owner shall not waive, preclude or prejudice the Association from pursuing any and all other remedies granted to it elsewhere in this Declaration, whether at law or in equity.

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



ARTICLE X
REMEDIES OF THE ASSOCIATION

10.1 If any Owner fails to pay an Assessment, Additional Assessment or Neighborhood Assessment when due, such Owner and the Occupants of any and all Living Units of such Owner, shall not be entitled to vote on Association matters until said Assessment, Additional Assessment or Neighborhood Assessment is paid in full.

10.2 The violation of any Rule, or the breach of any restriction, covenant or provision contained in this Declaration or in the Code, shall give the Association the right, in addition to all other rights set forth herein and provided by law, (a) to enter upon the Living Unit or Vacant Single Family Lot or portion thereof upon which, or as to which, such violation or breach exists, and summarily abate and remove, at the expense of the Owner of the Ownership Interest where the violation or breach exists, any structure, thing or condition that may exist thereon, which is contrary to the intent and meaning of this Declaration, the Code or the Rules, and the Association or its designated agent shall not thereby be deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; (c) to commence and prosecute an action for specific performance or an action to recover any damages which may have been sustained by the Association or any of its Members, as well as an action for punitive damages if warranted; and/or (d) to collect costs of suit and reasonable attorneys' fees incurred in connection with the exercise by the Association of any remedies hereunder, the same to be deemed "Costs of Collection" under Section 10.3 hereof.

10.3 If any Owner fails to timely pay any Assessment, Additional Assessment or Neighborhood Assessment any sums or costs due under this Declaration, the Association may pursue any or all of the following remedies, which remedies shall be in addition to any other available remedy in the Code and this Declaration or at law or in equity;

- (a) Sue and collect from such Owner the amount due and payable, together with interest thereon at the rate of twelve percent (12%) per annum (but in no event shall said interest rate exceed the highest interest rate chargeable to individuals under applicable law), and the Cost of Collection hereafter defined.
- (b) In addition to the amount referred to in (a) above, the Association may assess against such Owner, liquidated damages, not to exceed fifteen percent (15%) of the amount of the delinquency or One Hundred Dollars (\$100.00), whichever amount is greater, said amount to be determined by the Board provided, however, that in no event shall said amount exceed the highest interest rate chargeable to individuals, to individuals under applicable law. Said liquidated damages shall be in addition to interest, the expenses of collection incurred by the Association, such as attorney fees, court costs and filing fees. The actual expenses of collection and the liquidated damages shall hereinafter be referred to as the "Cost of Collection".



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

10.4 The remedies provided in this Article X against a Delinquent Owner may also be pursued against the heirs, executors, administrators, successors and assigns and grantees of such Owner.

ARTICLE XI **NO PARTITION**

Except as is permitted in this Declaration, there shall be no partition of the Common Areas or any part thereof nor shall any person acquiring any interest in the Property or any part thereof seek any such judicial partition. This Article shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE XII **CONDEMNATION**

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

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

ARTICLE XIII **MORTGAGEES' RIGHTS**

The following provisions are for the benefit of holders, insurers or guarantors of first mortgages on Living Units and Vacant Single-Family Lots. To the extent applicable, necessary or proper, the provisions of this Article shall apply to both this Declaration and to the Code. Where indicated, these provisions apply only to Eligible Mortgage Holders; provided, however, that voting percentages set forth herein are subject to and controlled by higher



percentage requirements, if any, set forth elsewhere in this Declaration for specific actions.

13.1 An Eligible Mortgage Holder who provides written request to the Association (such request to state the name and address of such Eligible Mortgage Holder and the address of the applicable Living Unit or Vacant Single-Family Lot), will be entitled to timely written notice of:

- (a) any proposed termination of the Association;
- (b) any condemnation or casualty loss which affects a material portion of the Property or which affects any Living Unit on which there is a first mortgage held, insured or guaranteed by such Eligible Mortgage Holder;
- (c) any delinquency in the payment of Assessments or other charges owed by an Owner subject to the mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days; or
- (d) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

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

- (a) Unless two-thirds (2/3) of the first mortgagees or Owners give their consent, the Association shall not: (i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any portion of the Property owned by the Association (the granting of easements for public utilities or for public purposes or the dedication to public use of utilities or roads consistent with the intended use of the Property shall not be deemed a transfer); (ii) change the method of determining the obligations, Assessments, dues or other charges which may be levied against an Owner, (iii) fail to maintain fire and extended coverage insurance as required by this Declaration; or (iv) use hazard insurance proceeds for any Common Area losses for other than repair, replacement or reconstruction of such properties.
- (b) The provisions of this Section shall not be construed to reduce the percentage vote that must be obtained from mortgagees or Owners or a larger percentage vote as may otherwise be required for any of the actions contained in this Article.
- (c) First mortgagees may, jointly or singularly, pay taxes or other charges which are in default or which may or have become a charge against the Common Areas and may pay overdue premiums of casualty insurance policies or secure new casualty insurance coverage upon the lapse of a policy, for the Common Areas, and Eligible Mortgage Holders making such payments shall be entitled to immediate reimbursement from the



Association.

ARTICLE XIV **GENERAL PROVISIONS**

14.1 All of the Easements, Covenants and Restrictions which are imposed upon, granted and/or reserved in this Declaration constitute Easements. Covenants and Restrictions run with the Property and are binding upon every subsequent transferee of all or any portion thereof, including, without limitation, land contract vendees, grantees, Tenants, Owners and Occupants. Each grantee accepting a deed or Tenant accepting a lease (whether oral or written) which conveys any interest in any portion of the Property that is submitted to all or any portion of this Declaration, whether or not the same incorporates or refers to this Declaration, covenants for himself, his heirs, personal representatives, successors and assigns to observe, perform and be bound by all provisions of this Declaration and to incorporate said Declaration by reference in any deed, lease or other agreement of all or any portion of his interest in any of the Property.

14.2 Unless sooner terminated as hereinafter provided, the Easements, Covenants and Restrictions of this Declaration shall continue for a term of fifty (50) years from the date this Declaration is recorded, after which time, said covenants and restrictions shall automatically be extended for successive periods of ten (10) years each, unless terminated by an instrument signed by members having not less than seventy-five percent (75%) of the voting rights of the Association.

14.3 Any notices required to be given to any person under the provisions of this Declaration shall be deemed to have been given when personally delivered to such Person's Living Unit or mailed, postage prepaid, to the last known address of such Person or principal place of business if a corporation, provided, however, that a notice of "delinquency" of any payment due hereunder shall be made by personal delivery to such Living Unit or principal place of business, or by certified or registered mail, return receipt requested. The effective date of such notice shall be the date said notice is personally delivered or postmarked. Notices to Declarant shall be deemed given only when received and must be either hand-delivered or mailed by certified or registered mail, postage prepaid, to Declarant, 8530 N. Boyle Parkway, Twinsburg, Ohio 44087.

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

14.5 The Association or the Board, where specifically authorized herein to act, shall have the right to construe and interpret the provisions of this Declaration and, in the absence of an adjudication by arbitrators or a court of competent jurisdiction to the contrary, its



construction or interpretation shall be final and binding as to all Persons or property which benefit, or which are bound by the provisions hereof. Any conflict between any construction or interpretation of the Association or the Board and that of any Person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation by the Association or the Board, as the case may be. The Association and the Board, to the extent specifically provided herein, may adopt and promulgate Rules regarding the administration, interpretation and enforcement of the provisions of this Declaration. In adopting Rules and in making any finding, determination, ruling or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association and the Board, as the case may be, shall take into consideration the best Interests of Owners, Tenants and Occupants to the end that the Reserve at Kensington shall be preserved and maintained as a high quality residential community.

14.6

- (a) Declarant reserved the right and easement for itself and owners of lands near the Property to whom Declarant, in Declarant's sole discretion, may grant the same right and easement, to tie into, use, repair, maintain and replace, without charge, any and all common lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way in, on or over the Property or any part thereof, that will not materially interfere with the use or operation of any building, structure or other improvement thereon, in connection with the development and/or operation of the Property. Any damage to buildings, improvements and real estate (including landscaping, if any) caused thereby shall be promptly repaired and restored to its prior condition by the party to whom such right and easement has been granted.
- (b) The Board, on behalf of the Association, hereby reserves the right to grant to or enter into any easements or covenants for the installation, maintenance, service or operation of any and all common lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way in, on, or over the Property, or any part thereof that will not materially interfere with the use or operation of a building, structure or other improvement thereon. Any damage caused thereby shall be promptly repaired and the land shall be restored to its prior condition.
- (c) The Board, on behalf of the Association, reserves the right to enter into covenants and easements with any utility or public authority which the Board believes, in its sole discretion, to be in the best interests of the Property.
- (d) The Board, on behalf of the Association, reserves the right to perform or cause such work to be performed as is incident to the improvement of the Property, owned or controlled by the Association, notwithstanding any covenant, easement, restriction or provision of this Declaration or its

exhibits, which may be to the contrary.

- (e) The Board, on behalf of the Association, reserves the right to impose, reserve or enter into additional covenants, easements and restrictions with grantees of Living Units and Vacant Single-Family Lots as long as such additional easements, covenants and restrictions are not in conflict with the rights, duties and obligations of Owners as set forth in this Declaration.
- (f) Each reservation, right and easement specified or permitted pursuant to this Article shall include the right of ingress and egress for the full utilization and enjoyment of the rights reserved and/or granted herein. The word "common" as used in this paragraph shall mean any and all lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way intended for the use of or used by more than one Owner. Any easements or rights referred to in this Article, whether granted by Declarant prior to the filing of this Declaration or subsequent thereto, shall at all times have priority over the provisions of this Declaration and any lien created under this Declaration.

14.7 This section intentionally left blank.

14.8 Invalidation of any one of the easements, covenants, restrictions or provisions contained herein shall in no way affect the validity of any other provision.

14.9 Unless otherwise provided in this Declaration, any controversy, dispute or claim arising out of or relating to this Declaration or the breach thereof shall be resolved by and through binding arbitration held in Twinsburg Township, Ohio pursuant to the provisions of the Commercial Arbitration Rules of the American Arbitration Association then in effect except as modified below. The parties shall, upon the written request of either party, choose a mutually acceptable arbitrator. If the parties are unable to agree on such an arbitrator, then each party shall within five (5) business days after such date select one independent arbitrator. The two independent arbitrators so selected shall select a third independent arbitrator, and the matter shall be resolved by such third arbitrator. Such arbitration proceeding shall be conducted in as expedited a manner as is then permitted by commercial arbitration rules (formal or informal), and the arbitrator or arbitrators in any such arbitration shall be persons who are expert in the subject matter of the dispute. Both the foregoing agreement of the parties to arbitrate any and all such claims, and the results, determination finding, judgment and/or award rendered through such arbitration, shall be final and binding on the parties hereto and may be specifically enforced by legal proceedings.

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



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

- (a) This Declaration may be amended by the Association for the purpose of:
(1) complying with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public entity, or private insurance company which performs (or may in the future perform) functions similar to those currently performed by such entities; or (2) inducing any of such agencies or entities who make, purchase, sell, insure or guarantee first mortgages; or (3) correcting clerical or typographical or obvious factual errors in this Declaration or any Exhibit hereto or any supplement or amendment hereto; or (4) complying with the under-writing requirements of insurance companies providing casualty insurance, liability insurance or other insurance coverages for the Association; or (5) bringing any provision hereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination; or (6) correcting obvious factual errors or inconsistencies between this Declaration and other documents governing The Reserve at Kensington, the correction of which would not materially impair the interest of any Owner or Eligible Mortgage Holder; or (7) enabling a title insurance company to issue title insurance coverage with respect to the Property or any portion thereof, in furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant and/or to the Board to vote in favor of, make or consent to a Subsequent Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting any portion of the Property and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of the power to the Declarant to vote in favor of, and make and record a Subsequent Amendment To effect said amendment, Declarant shall file a supplement to the Declaration setting forth the Subsequent Amendment which shall be signed by Declarant, if Declarant is a Member, or else the Board, and shall be effective upon the filing of the Subsequent Amendment with the Summit County Recorder.
- (b) This section intentionally left blank.
- (c) Any provision of this Declaration may be amended or repealed following a meeting of the Members held for such purpose, by the affirmative vote of Members having at least a majority of the voting power of the Association unless a greater percentage of vote is required pursuant to this Declaration or in accordance with the statutes of the State of Ohio; provided, however,

that any amendment which would terminate or materially affect the easements set forth in Article III of this Declaration shall not be adopted (except as expressly provided to the contrary in this Declaration) unless all persons whose rights are terminated or materially affected shall affirmatively consent in writing to such amendment. Written notice shall be given to each Member at least ten (10) days in advance of the date of a meeting held for the purpose of amending this Declaration, which notice shall expressly state the modification to be considered at such meeting. Each amendment shall be effective when signed by the President and one other officer of the Association and then filed for record with the Summit County Recorder.

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

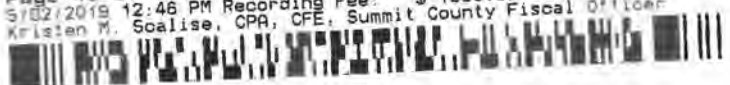
14.13 The heading of each Article in this Declaration is inserted only as a matter of convenience and for reference purposes, and in no way defines, limits or describes the scope or intent of this Declaration or in any way affects this Declaration.

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

It is understood and agreed that as of the date the Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for The Reserve at Kensington Homeowners Association, Inc., are filed for record, the Prior Governing Documents shall be unenforceable and any conflict between the provisions of the Prior Governing Documents and the Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for The Reserve at Kensington Homeowners Association, Inc. and the Amended and Restated Bylaws of The Reserve at Kensington Homeowners Association, Inc. shall be interpreted and construed in favor of this Declaration. Further, any conflict between the provisions of the Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for The Reserve at Kensington Homeowners Association, Inc. and the provisions of this Declaration shall be interpreted and construed in favor of this Declaration. Upon recording of the Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for The Reserve at Kensington Homeowners Association, Inc., only the Members of record at the time of such filing shall have standing to contest the validity of this Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for The Reserve at

Kensington Homeowners Association, Inc. whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one (1) year of the recording of this Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for The Reserve at Kensington Homeowners Association, Inc.

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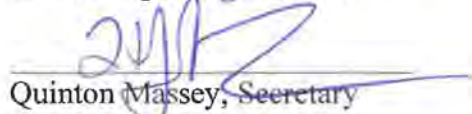


THE RESERVE AT KENSINGTON HOMEOWNERS ASSOCIATION, INC.

IN WITNESS WHEREOF, the undersigned, being the Trustees of the Association herein, has hereunto set its hand this 13th day March, 2019.

Signed in the presence of:


William Spence, President


Quinton Massey, Secretary

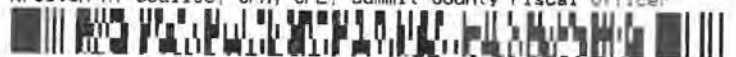
STATE OF OHIO)
COUNTY OF Cuyahoga) SS:

The foregoing instrument was acknowledged before me this 13th day of March, 2019, by **WILLIAM SPENCE**, President and **QUINTON MASSEY**, Secretary, of The Reserve at Kensington Homeowners Association, Inc., an Ohio corporation, on behalf of the corporation.


Notary Public



STEVEN T. AVNER
NOTARY PUBLIC
STATE OF OHIO
My Commission Expires
December 12, 2022



AFFIDAVIT

STATE OF OHIO)
)
COUNTY OF Cuyahoga) SS:

William Spence, being first duly sworn, states as follows:

1. He is the duly elected and acting President of The Reserve at Kensington Homeowners Association, Inc.
2. As such President, he caused copies of the Amended and Restated Declaration of Covenants, Conditions, Reservations and Easements to be distributed per the governing documents for review and vote on the same for adoption.
3. All Owners shall receive recorded copies of the Amended and Restated Declaration of Covenants, Conditions, Reservations and Easements.
4. Further affiant sayeth naught.


William Spence, President

BEFORE ME, a Notary Public, in and for said County, personally appeared the above-named **WILLIAM SPENCE**, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Twinsburg, Ohio, this 13 day of March, 2019.


Notary Public



STEVEN T. AVNER

**NOTARY PUBLIC
STATE OF OHIO**

**My Commission Expires
December 12, 2022**

CERTIFICATION OF THE SECRETARY

The undersigned, being the duly elected and qualified Secretary of The Reserve at Kensington Homeowners Association, Inc., hereby certifies that there are executed consents of the requisite number of Members to pass this Amended and Restated Declaration of Covenants, Conditions, Reservations and Easements in the records of the Association. Further, there are no mortgagees on file with the Association with regard to requiring consent.


Quinton Massey, Secretary

BEFORE ME, a Notary Public, in and for said County, personally appeared the above-named **QUINTON MASSEY**, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Twinsburg, Ohio, this 12th day of March, 2019.



STEVEN T. AVNER

**NOTARY PUBLIC
STATE OF OHIO**

My Commission Expires
December 12, 2022


Notary Public

