

**DECLARATION OF
COVENANTS, CONDITIONS,
RESTRICTIONS AND ASSESSMENTS, AND RESERVATION OF EASEMENTS**

FOR

VILLAGE AT SUGAR CREEK RESIDENTIAL COMMUNITY

INDEX

ARTICLE 1	PURPOSE AND DEFINITIONS	2
1.01	Purpose of Declaration.....	2
1.02	Definitions.....	3
ARTICLE 2	LAND USE RESTRICTIONS	6
2.01	Restrictions as to Use of Lots, and Size of Buildings.....	6
2.02	Lot Splits Prohibited.....	6
2.03	Trade or Commercial Activity Prohibited..	6
2.04	Temporary Improvements	7
2.05	Incomplete Structures	7
2.06	Antenna	7
2.07	Utility Services	7
2.08	Exterior Materials and Colors	8
2.09	Mailboxes	9
2.10	Fences	9
2.11	Clotheslines	9
2.12	Site Placement	9
2.13	Service Screening, Storage Areas	9
2.14	Storage Tanks.....	10
2.15	Building Exterior.....	10
2.16	Pools	10
2.17	Energy Conservation Equipment	10
2.18	Signs	10
2.19	Landscaping	10
2.20	Nuisances	11
2.21	Maintenance of lots and Buildings	11
2.22	Mineral Exploration	11
2.23	Machinery and Equipment; Hobbies	11
2.24	Vehicles, Trailers, Boats, Commercial Vehicles or Motor Homes.....	12
2.25	Pets and Breeding Animals.....	12
2.26	Hazardous Materials.....	13
2.27	Leasing	13
2.28	Drainage and Grading	13
2.29	Exemption of Declarant.....	14
ARTICLE 3	ARCHITECTURAL REVIEW COMMITTEE	15
3.01	Purposes of Committee	15
3.02	Committee Responsibilities; Effect of Actions..	15
3.03	Composition and Appointment of Committee	16
3.04	Costs and Expenses of the Committee.	16
ARTICLE 4	APPROVAL OF PLANS	16
4.01	Requirement of Approval	16
4.02	Basis of Approval.....	17
4.03	Satisfactory Plans and Specification..	18

4.04	Liability Relating to Approvals.....	18	
4.05	Certificate of Compliance	18	
ARTICLE 5	THE ASSOCIATION.....	19	
5.01	Membership	19	
5.02	Classes of Membership	19	
5.03	Voting	20	
5.04	Suspension of Voting Rights	20	
5.05	Proxies	20	
5.06	By-Laws	20	
5.07	Notice of Sale or Transfer of Title.....	20	
ARTICLE 6	POWERS AND DUTIES OF THE ASSOCIATION	21	
6.01	Management Body.....		216.02
6.03	Duties.....	21	
6.04	Delegation of Duties.....	22	
ARTICLE 7	ASSESSMENT OF THE ANNUAL REGULAR ASSESSMENT.....		22
7.01	Establishment of Regular Assessment.....	22	
7.02	Annual Budget and Statements.....	23	
7.03	Interest on Delinquent Assessment... ..	23	
7.04	Delinquency of More than 90 days.....	23	
7.05	Rules and Procedures for Billing and Collecting Assessments.....	24	
7.06	Certification of Status of Assessments.....	24	
ARTICLE 8	IMPOSITION OF CHARGE AND LIEN UPON LOTS	24	
8.01	Establishment of Lien for Regular Assessments.. ..	24	
8.02	Establishment	of	Lien for
8.03	Personal Liability for Assessments	25	
8.04	Foreclosure of Lien for Assessments.....	26	
ARTICLE 9	USE OF FUNDS	26	
9.01	Application of Assessments	26	
9.02	Authority to Borrow Funds	26	
9.03	Authority to Maintain Surplus.....	27	
9.04	Authority to Enter into Contracts	27	
ARTICLE 10	ENFORCEMENT.....	28	
10.01	Interpretation	28	
10.02	Abatement and Suit.....	28	
10.03	Failure to Enforce Not a Waiver of Rights.....	29	
ARTICLE 11	ADDITIONS TO THE PROPERTY.....	29	
11.01	Annexation of Annexation Property.....	29	
11.02	Notice of Annexation.....	29	

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FOR

VILLAGE AT SUGAR CREEK RESIDENTIAL COMMUNITY

WITNESSETH

WHEREAS, GOLF AT SUGAR CREEK, LCC, an Ohio Limited Liability Company ("Declarant") is the owner of certain real property located in the Township of Jackson, County of Allen and State of Ohio that is depicted on Exhibit "A" attached hereto and made a part hereof (the "master Site"), and Declarant intends to develop thereon a residential community to be known as "Village at Sugar Creek" (the "Village at Sugar Creek"), and other residential and commercial developments which Declarant deems consistent therewith; and

WHEREAS, Declarant intends to develop Village at Sugar Creek in phases ("Phases"), the first Phase of which is being subjected to this Declaration pursuant to the Deed to which this Declaration is attached; and

WHEREAS, Declarant intends, from time to time, to subject additional Phases of Village at Sugar Creek to this Declaration or other substantially identical deed covenants, conditions, restrictions, assessments, liens and easements; and

WHEREAS, Declarant desires to provide for the establishment and ongoing enforcement of certain covenants, conditions, restrictions, assessments, liens and easements for those Phases of Village at Sugar Creek subject to this Declaration to promote the general welfare, recreation, health, safety, enjoyment and preservation of values for the benefit of owners of Lots or Units within the Village at Sugar Creek so subjected to this Declaration; and

WHEREAS, Declarant may incorporate the Village at Sugar Creek Owners' Association (the "Association"), as an Ohio non-profit corporation, pursuant to Article 5 of this Declaration for the purposes discussed in Article 6 of this Declaration; and

WHEREAS, Declarant may delegate or assign to the Association all or portions of the Developer's rights to administer and enforce

the provisions of this Declaration, and after such time as said delegation or assignment occurs, the costs incurred by the Association in connection with said administration and enforcement shall be an encumbrance upon the then existing Lots or Units of the "Village at Sugar Creek".

NOW, THEREFORE, in pursuance of a general plan for the protection and benefit, and the mutual advantage of all of the property subject to this Declaration and all persons who may now or hereafter become owners of any part of such property, and for the preservation of the values and amenities within the Master Site, Declarant, by the Deed to which this Declaration is attached, submits the portion of the Village at Sugar Creek described in the attached Exhibit "B" (the "Property") to the following covenants, conditions, restrictions, liens, assessments and easements, and imposes upon the Property the obligation to pay to the Association the assessments as further set forth herein, and the Grantee in the foregoing Deed, for itself and its successors and assigns, hereby agrees that all portions of the Property shall hereafter be held, conveyed, leased, occupied, used and improved subject to the covenants, conditions, restrictions, liens, assessments and easements as set forth herein, which shall run with the Property for all purposes and shall be binding upon the Property and the Grantee, together with its respective successors and assigns, and shall inure to the benefit of the Property, the Grantee, Declarant, and owners of any portion of the Property and any additional Phases of Village at Sugar Creek similarly subject to a declaration substantially identical to this Declaration, and their respective successors and assigns:

ARTICLE 1

PURPOSE AND DEFINITIONS

1.01 Purpose of Declaration

The purpose of this Declaration and the various covenants, conditions, restrictions, liens, assessments and easements contained herein, are to insure the proper development and use of the Property; to protect against such improper development and use of lots within the property as might decrease the value of other property within the Property; to prevent the erection of any structure of improper design or materials on any lot within the Property; to encourage the erection of aesthetically attractive improvements and landscaping at appropriate locations;

to prevent dangerous or hazardous activities on the Property; and to prevent uses upon the Property which are inconsistent with the residential community uses planned for the Property; to establish and maintain proper setbacks from streets, adequate open space between structures and appropriate elevations for the grade of such lots and the structures erected thereon; and, in general, to adequately provide for a first class, high quality residential community upon the Property consistent with the general plan reflected in this Declaration.

1.02 Definitions

A. Annexation Property shall mean any portion of the Master Site or adjacent property which may, from time to time, be subjected to this Declaration or substantially identical declaration, and thereafter be included in the term "Property."

B. Assessments shall be used as a generic term which shall include the following:

(i) Regular Assessment shall mean the charge against each Owner and his respective Lot or Unit representing an allocable portion of the Common Expenses of the Association;

(ii) Compliance Assessment shall mean the charge against an Owner representing the costs incurred by the Association in bringing such Owner and his Lot or Unit into compliance with this Declaration, or any amount due the Association based upon disciplinary proceedings against an Owner in accordance with this Declaration;

(iii) Special Assessment shall mean the charge against an Owner for his respective Lot or Unit representing a portion of the cost of taking any extraordinary action for the benefit of the membership of the Association pursuant to the provisions of this Declaration; and

(iv) Membership Fees shall mean the initial membership fee and any annual membership fee adopted by the Association pursuant to Section 5.01 hereof.

C. Association shall mean Village at Sugar Creek Owners' Association, an Ohio non-profit corporation, and its successors and assigns, which may be established by Declarant.

D. Board shall mean the Board of Trustees of the Association.

E. Bylaws shall mean the By-Laws of the Association adopted by the Board, as such By-Laws may be amended, from time to time.

F. Committee shall mean the Village at Sugar Creek Architectural Review Committee created pursuant to Article 3 hereof.

G. Common Expenses shall mean and refer to the actual and estimated costs to be paid by the Association for the following: (a) managing and administering the Association; (b) providing insurance, as provided for herein; (c) paying that portion of any Assessments not paid by the Owner responsible for payment; (d) paying the cost of administering and enforcing this Declaration incurred by the Association; (e) paying the costs and expenses of the Committee in excess of the plan review fees collected by the Committee, pursuant to Section 3.04 hereof; and (f) paying for all other expenses incurred by the Association for the benefit of all Owners.

H. Declarant shall mean and refer to Golf at Sugar Creek, LLC, an Ohio Limited Liability Company and to any person or entity acquiring all of Declarant's then remaining interests in the Master Site if Golf at Sugar Creek, LLC or its successor, so designates such acquiring person or entity as Declarant.

I. Declaration shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Assessments and Reservation of Easements, as amended from time to time.

J. Design and Landscape Standards shall mean the guidelines adopted by the Committee from time to time, pursuant to Article 3 hereof.

K. Improvements shall mean and include, without limitation, buildings, garages, roads, driveways, parking areas, fences, grading, excavating, retaining walls, swimming pools, screening walls, ornamentation, signs, stairs, decks, patios, sport courts, clotheslines, exterior lighting, hedges, windbreaks, plantings, planted trees and shrubs, poles, irrigation equipment, exterior air conditioning equipment and all other installations, structures and landscaping.

L. Lot shall mean any plot of land designated and shown upon any recorded subdivision plat of the Property or recorded re-subdivision thereof as a numbered lot.

M. Member shall mean every person or entity who holds

membership in the Association.

N. Neighborhood streets shall mean those streets so designated for each Phase of Village at Sugar Creek. For the first Phase of Village at Sugar Creek the only Neighborhood Streets are that Portion of _____ and _____ delineated on the recorded plat of said first Phase. For subsequent Phases the Neighborhood Streets will be identified in the Notice of Annexation.

O. Notice of Annexation shall mean a written notice recorded in the Allen County, Ohio Recorder's Office annexing one (1) or more Phases of the Annexation Property to the Property, thereby subjecting such Phase(s) to this Declaration.

P. Owner shall mean the holder of record title to the fee interest in any Lot or Unit, whether or not such title holder actually resides on the Lot or in a Unit.

Q. Public Agencies shall mean and refer collectively to the various local, State and Federal governmental agencies having jurisdiction over the Property.

R. Property shall mean all land described in the attached Exhibit "B" and all Improvements now or hereafter built, installed or erected thereon. From and after each addition of Annexation Property to the land described in Exhibit "B" attached hereto, subjecting it to the provisions of this Declaration pursuant to Article 12 hereof, the term "Property" shall also include each such additional parcel of Annexation Property land and each Improvement then or thereafter built, installed or erected thereon.

S. Residence shall mean the individual dwelling and the related Improvements that are constructed upon a Lot or Unit, which may consist of: single family, multi-family or condominiums.

T. Resident shall mean each person residing in a Residence.

U. Restrictions shall mean these covenants, conditions, restrictions, liens, assessments and easements, together with all of the provisions contained herein as they now appear or as they may hereafter be amended.

V. Tenant shall mean a person, firm, partnership, corporation or other entity possessing or claiming to possess a leasehold interest in any Residence or portion of the Property.

W. Unit shall mean a part of the property consisting of

one or more rooms on one or more floors of a building and designated as a unit and delineated on the drawings provided for in section 5311.07 of the Ohio Revised Code.

ARTICLE 2

LAND USE RESTRICTIONS

The following use restrictions shall be maintained and enforced with respect to the Property:

2.01 Restrictions as to use of Lots and Size of Buildings:

Subject to the consolidation of two (2) or more lots for construction of a Residence and related improvements, each Lot shall be used for single-family, multi-family or condominium residential purposes and for no other purpose; provided, however, that Declarant reserves for itself, and builders with whom the Declarant may contract, the right, until all Lots are sold (and escrows closed), to carry on normal sales activities on the Property, including the operation of models and sales offices. In the case of single family residences no more than one (1) single family residence per lot shall be permitted.

All residences constructed on the Property shall have minimum floor areas established by the Architectural Review Committee.

The first floor elevation and siting of each Residence shall be subject to the approval of the Committee, provided no Residence or Garage shall be closer to any street than the building set back lines delineated upon the recorded plat of each Phase of Village at Sugar Creek.

2.02 Lot splits Prohibited:

No Lot shall be split, divided or subdivided for sale, resale, gift, transfer or otherwise, so as to create a new lot or building site. However, subject to compliance with all requirements of any governing Public Agency, a Lot may be split between two adjoining Lots to expand the size of those Lots, but not to create another building site (e.g. if three Lots in a row on a street are sequentially number in order Lots 1,2, and 3, Lot 2 in the middle

may be divided and portions thereof added to Lots 1 and 3 respectively, resulting in two larger building sites where three building sites originally existed).

2.03 Trade or Commercial Activity Prohibited:

No trade or commercial activity shall be conducted upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to any Owners of Lots or Units within the Property.

2.04 Temporary Improvements:

No temporary building or structures shall be permitted on any portion of the Property, provided, however, trailers, temporary buildings, barricades and the like shall be permitted for construction purposes during the construction period for a permanent building and for sales purposes during the sales of Lots in the Phases of Village at Sugar Creek, provided, in addition, the Committee shall have theretofore approved in writing the design, appearance and location of the same. Any permitted temporary Improvement shall be removed not later than fourteen (14) days after the date of completion of the building(s) to which said temporary structure was related, and shall be permitted for no longer than a period of one (1) year, unless a variance is granted by the Committee.

2.05 Incomplete Structures:

In the event that an Owner's plans are approved pursuant to Article 4 infra, in that event a Residence shall be completed by the Owner within one (1) year from the date of the plan's approval by the Architectural Committee, including but not limited to all landscaping, drives, sidewalks, yards, etc., unless a variance is granted by the Committee. The failure of an Owner to complete a Residence within one (1) year from the date of the approval of plans pursuant to Article 4 may subject the Owner to either a compliance assessment or a special assessment or both.

2.06 Antenna:

No antenna, satellite dish or other apparatus for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained on the Property outside any Improvements, whether attached to an improvement or otherwise, without the prior written approval of the

Committee.

2.07 Utility Service:

(a) No lines, wires or other devices for communications purposes, including telephone, television, data and radio signals, or for transmission of electric current or energy, shall be constructed, placed or maintained anywhere in or upon the property unless the same shall be in or by conduits or cables constructed, placed and maintained underground or concealed in, under or on a Residence or other approved Improvements; provided, however, aboveground electrical transformers and other equipment may be permitted if properly screened and approved by the Committee. In addition, all gas, water, sewer, oil and other pipes for gas or liquid emissions shall also be placed underground or within or under Residences. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incident to the construction of approved Improvements.

(b) All residences are subject to a contract entered into with the Village of Beaverdam and the County of Allen for the treatment and maintenance of waste water. The initial fee for a residential customer shall be a flat rate of \$42.00 per month. The monthly fee would then be initially apportioned \$29.50 to the Village of Beaverdam for treatment and \$12.50 to the County of Allen for maintenance. The monthly fee is subject to periodic increases and/or adjustments.

(c) All residences are further subject to a contract with the City of Lima for the delivery of water, and each residence being required to pay pursuant to the contract, a fee to the City of Lima of \$50.00 per month plus the insider rate on water consumed by each residence. The monthly fee is subject to periodic increases and/or adjustments. The contract with the City of Lima further provides that the individual owners of condominiums and residential lots agree to initiate or join in any annexation proceedings at such time as the property may be subject to annexation and will take all steps necessary to obtain its ratification by the appropriate local jurisdictions.

(d) The waste water collection system to be installed in the development is to be a pressure collection system, which will require having a sewage ejector pump installed by the Developer. The ejector pump shall be located near the front or side of the

residence to allow for effective maintenance of the pump.

(e) Copies of the contracts with the Village of Beaverdam and the City of Lima may be obtained by contacting James F. Blair, Attorney at Law, 212 North Elizabeth Street, Lima, Ohio 45801.

2.08 Exterior Materials and Colors:

The Committee shall have the sole right to approve or disapprove materials and colors, including changes in colors, for any Improvements, including but not limited to all initial construction and improvements, and any exterior redecorating, remodeling, and any and all other subsequent improvements.

2.09 Mailboxes:

All mailboxes in the subdivisions shall be subject to approval by the Committee.

2.10 Fences:

No fences, decorative or otherwise, shall be constructed or installed, without the prior approval of the Committee pursuant to Article 3 of this Declaration, and no "privacy," "stockade" or similar visually obstructive fences or any fence taller than six (6) feet shall be permitted on any Lot without the prior approval of the Committee. Further, no dog runs will be permitted on any Lot without the prior approval of the Committee.

2.11 Clotheslines:

No Clotheslines for outdoor drying or airing of laundry shall be permitted.

2.12 Site Placement:

All Residences and other Improvements shall be placed so that the existing topography and landscape shall be disturbed as little as possible, and so that the maximum number of desirable trees and other natural features will be preserved, unless the Committee approves in writing some other placement.

2.13 Screening; Storage Areas:

Garbage and refuse shall be placed in containers, which

shall be concealed and contained within the Residence, or shall be concealed by means of a screening wall of material similar to and compatible with that of the Residence on the Lot or Unit, or shall be concealed by sufficient landscaping to provide a permanent screen at all times of the year (e.g. evergreen vegetation). These elements shall be integrated with the Residence plan, be designed so as not to attract attention, and shall be located in as reasonably inconspicuous manner as is possible. Unless specifically approved by the Committee in writing, no materials, supplies or equipment shall be stored on any Lot or Unit except inside the Residence so that they are not visible from neighboring streets or properties. No outdoor buildings (other than a detached garage or a small attractive storage building having the same or compatible exterior appearance as the residence and subject to prior written approval by the Committee), shall be permitted on a Lot.

2.14 Storage Tanks:

No storage tanks, including, but not limited to those used for storage of water, gasoline, oil, other liquid or any gas, shall be permitted on the Property outside a Residence except as approved by the Committee.

2.15 Building Exterior:

All windows, porches, balconies and exteriors of Residences shall be maintained at all times in a neat and orderly manner.

2.16 Pools:

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

2.17 Energy Conservation equipment:

No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed in the Village of Sugar Creek unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Committee. No windmills, wind generators or other apparatus for generating power from the wind shall be erected or installed on any Lot or Unit.

2.18 Signs:

No sign, poster, display or other advertising device of any kind shall be displayed to the public view on or from any Lot or Unit without the approval of the Committee, except such signs as may be used by Declarant in connection with the Development of the Property and sale of Lots, and except for: (a) one (1) "for sale", "for lease" or "for exchange" sign of reasonable size (but not exceeding six (6) square feet), design and materials on any Lot, and only during such time as the Residence located on that Lot is actively marketed for sale, lease or exchange, as the case may be; and (b) political signs for two (2) weeks prior to an election of reasonable size (but not exceeding four (4) square feet per sign), which shall be promptly removed the day following the election.

2.19 Landscaping:

Each Lot shall be landscaped according to the plans approved by the Committee. All shrubs, trees, grass and plantings of every kind shall be kept well maintained, properly cultivated and free of trash and other unsightly material. Landscaping as approved by the Committee shall be installed no later than one hundred eighty (180) days following occupancy of or completion of Residence, whichever occurs first.

2.20 Nuisances:

No rubbish or debris of any kind shall be placed or permitted to accumulate upon any portion of the Property and no odors shall be permitted to arise or be emitted therefrom so as to render any portion of the Property unsanitary, unsightly, offensive or detrimental to any of the remainder of the Property or to the Residents thereof. In addition, no exterior lights shall be permitted, the principal beam of which shines upon areas other than the Lot upon which they are located, or which otherwise cause unreasonable interference with the use and enjoyment of other Lots by Residents thereof; and no speakers, horns, whistles, bells or other sound devices, shall be located, used or placed on any Lot, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof.

2.21 Maintenance of Lots and Buildings:

No lot and no Residence or other Improvement shall be permitted to become overgrown, unsightly or to fall into disrepair, and all Residences and Improvements shall at all times be kept in

good condition and repair and adequately painted or otherwise finished in accordance with specifications established by the Committee.

2.22 Mineral Exploration:

The Property shall not be used in any manner to explore for, use, or exploit commercially any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth soil or any other substance located in or under ground.

2.23 Machinery and Equipment; Hobbies:

No commercial machinery or equipment of any kind shall be placed, operated or maintained upon any Lot except such machinery or equipment reasonably necessary for use in connection with maintenance or construction of Improvements as approved by the Committee. Hobbies or activities that tend to detract from the aesthetic character of the Property, and Improvements used in connection with such hobbies or activities, shall not be permitted unless carried out or conducted as directed by the Committee. This paragraph has reference to, but is not limited to, such activities as automotive and boat repair, and sport activities involving equipment placed on a Lot outside a Residence.

2.24 Vehicles, Trailers, Boats, Commercial Vehicles, or Motor Homes;

No automobile or motor driven vehicle may be left upon any Lot or any street abutting any Lot or Unit for a period longer than seventy-two (72) hours in a condition such that it is incapable of being operated upon the public highways, after which time the vehicle shall be considered a nuisance and detrimental to the welfare of the neighborhood and must be removed. Any towed vehicle, boat, trailer, motor home or mobile home regularly stored upon any Lot or any street abutting any lot temporarily kept thereon for periods longer than seventy-two (72) hours each, shall be considered a nuisance and must be removed. The foregoing, however, does not apply to such boats or other vehicles, whether motor-driven or towed, as are stored wholly within a private garage. No commercial vehicles may be parked, stored or temporarily kept on any Lot or any street abutting any Lot except when stored

wholly within private garages, or except when there temporarily to service existing Improvements (e.g. repair vehicles, moving vans, etc.) or to be used in connection with the construction of Improvements on a Lot or Unit.

2.25 Pets and Breeding of Animals:

No animals, except common household pets shall be kept, bred or maintained upon any Lot or Unit for any commercial purpose, and common household pets shall not be kept, bred or maintained on any Lot or Unit in unreasonable numbers, as may be determined by the Board, from time to time. Each Owner shall be responsible for cleaning up any unclean or unsanitary condition caused by said pet. All pets maintained on a Lot or Unit must be kept either within an enclosure, yard or patio. The Association, upon the approval of a majority of the Board, shall have the right to prohibit maintenance of any other animal within the Property which, in the opinion of the Board, constitutes a private nuisance to any other person. No animals shall be kept on Lots not improved by a Residence.

2.26 Hazardous Materials:

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

2.27 Leasing:

No Owner shall be permitted to rent or lease his Lot or Unit, including the Residence located thereon, for transient or hotel purposes or for a period of less than four (4) months. No Owner may rent or lease less than the entire Lot or Unit and entire Residence thereon. Other than the foregoing, there are no restrictions on the right of an Owner to rent or lease his Lot and Residence or Unit.

2.28 Drainage and Grading:

No drainage ditches, swales, streams, impoundments, ponds, or lakes; no mounds, knobs, dams or hills; and no other physical improvements or elements of the landscape or terrain which control or determine the location or flow of surface water and drainage patterns may be destroyed, altered or modified by or at the direction or with the consent of any Owner without the prior written consent of the Committee. No Improvements to any Lot shall be made in any manner whatsoever that is inconsistent with the master grading plans established by Declarant or its successors or assigns for the property, as they now exist or may hereafter be modified from time to time, without the prior written consent of the Committee. In the event of any destruction, alteration, modification or improvement made or occurring without such prior consent of the Committee, Declarant and the Association and their respective representatives shall have the joint and several rights to enter upon any Lot and to remedy or repair, at the expense of the Owner of said Lot, any such destruction, alteration, modification or improvement without being guilty of trespass and without liability to any Owner with respect to the same or the consequences thereof. Whenever, because of construction of Improvements on a Lot or for some other reason, silt would run off of a Lot onto any adjacent property, the Owner of such a Lot shall be obligated to provide a means of siltation control to prevent silt from running off of such Lot onto such adjacent property.

2.29 Exemption of Declarant:

Nothing in this Article or elsewhere in this Declaration shall limit in any matter whatsoever the rights of Declarant to complete the planning, development, grading, construction, advertising, marketing, leasing and sales of the Lots or Units, and all other property within the Master Site (including any property which may be annexed thereto pursuant to the provisions of this Declaration), including, without limitation, the following specific rights, which may be exercised by Declarant, or by its agents and employees, in conjunction with such development and marketing, until all Lots or Units in the Property and all other property in the Master Site is sold (and escrows closed) :

(a) The right to maintain and operate one (1) or more advertising, sales or leasing office(s) located upon any Lot(s) owned by Declarant without approval of the Association and the right to permit builders to construct and operate "model homes" on

Lots for the purpose of marketing homes to be constructed by that builder; and

(b) The right to post and display from any Lot(s) owned by Declarant any sign, flag, banner, billboard or other advertising which Declarant may, in its sole discretion, deem appropriate, irrespective of size, color, shape or materials of such items. Also the right to permit builders and/or owners to place up to four (4) signs (but not exceeding six (6) square feet each) on a lot during and up to 30 days after occupancy, for the purposes of building, financing, advertising, etc.; and

(c) The right to install, place, replace, construct, reconstruct or modify any Improvement on, or remove any Improvement from any Lot owned by Declarant which reasonably relates to the development, marketing or sales of the Lots, as Declarant may, in its sole discretion, deem appropriate; and

(d) The right to conduct any commercial activity upon any Lot or Unit owned by Declarant which reasonably relates to the development, marketing or sales of the Lots or Units; and

(e) The right to park vehicles upon any Lot owned by Declarant which reasonably relates to the development, marketing or sales of the Lots or Units.

All or any portion of the rights of Declarant herein and elsewhere in this Declaration may be assigned in whole or in part by Declarant to any successor-in-interest in the Master Site, including the Annexation Property, or to the Association or the Committee by an express written assignment recorded in the Records of Logan County, Ohio.

ARTICLE 3

ARCHITECTURAL REVIEW COMMITTEE

3.01 Purpose of Committee:

The Declarant shall establish the Village at Sugar Creek Architectural Review Committee (the "Committee") for the following purposes:

(a) To provide a staff of persons for reviewing, evaluating, approving and disapproving proposed plans for Improvements and ensuring the proposed plans are consistent with the Design Guide

and R-PUD Development Performance Standards established by the Declarant.

(b) To establish, maintain and preserve specific architectural guidelines and standards to carry out the intent of these Restrictions, which guidelines and standards from time to time in effect with respect to all or any portion of the Property shall hereinafter be referred to as the "Design and Landscape Standards". The Design Landscape Standards may be revised or updated and may provide for different criteria and standards for improvements depending upon location.

(c) To enforce the provisions of these Restrictions through the plan review process.

(d) To develop a reasonable Plan review fee schedule for the submission, and re-submission, if applicable, of plans for approval.

3.02 Committee Responsibilities; Effect of Actions:

The Committee shall exercise its best judgment to see that all Improvements on any Lot or Unit conform to the various terms of this Declaration and the Design and Landscape Standards as to external design, quality and types of construction, materials, colors, setting, height, grade, finished ground elevation, landscaping, and tree removal. The actions of the Committee, through its approval or disapproval of plans and other information submitted pursuant hereto, shall be conclusive and binding on all interested parties.

3.03 Composition and Appointment of Committee:

There shall be three (3) members of the Committee, one of whom shall be elected by the Committee to serve as Chairperson. The Declarant, if an individual, or any of the Declarant's officers or employees may serve as a member of the Committee. The Committee is required and shall be maintained at all times by the Declarant or the Board as the case may be.

Until such time as Declarant or its successor or assigns has sold all of the land within the Master Site, unless earlier delegated by Declarant to the Board, the Declarant shall appoint all three (3) members of the Committee. Thereafter, the Board shall appoint all three (3) members of the Committee. The Committee shall employ the services of such a licensed architect as consultant to the Committee, if desired.

3.04 Costs and Expenses of the Committee:

So long as the Declarant appoints all three (3) members of the Committee, the Declarant shall pay all of the costs and expenses of the Committee in excess of the plan review fees collected by the Committee, if any excess exists. After such time as the Board starts appointing all three (3) members to the Committee, the Association shall pay all of the costs and expenses of the Committee in excess of the plan review fees collected by the Committee, if any excess exists.

ARTICLE 4

APPROVAL OF PLANS

4.01 Requirement of Approval:

No Improvements, including excavation, grading, improvement, changes, construction, addition, landscaping, tree removal, or other work or action which in any way alters the exterior appearance of a Lot from its theretofore natural or improved state (and no change, alteration or other modification of any of the foregoing previously approved hereunder), and no addition to or modification of any Improvement (whether or not theretofore approved hereunder), shall be commenced or continued until the same shall have first been approved in writing by the Committee in accordance with this Declaration and the Design and Landscape Standards. Approval shall be requested by submission to the Committee of two (2) sets of complete plans and specifications, showing the following, together with a review fee pursuant to a schedule developed by the Committee:

(a) Proposed land contours and grades;

(b) All buildings, and other structures, access drives, and other improved areas, and the locations thereof on the site;

(c) All landscaping, including existing and proposed tree locations and planting areas (and specie thereof), mail boxes and exterior ornamentation;

(d) Plans for all floors, cross sections and elevations, including projections and wing-walls;

(e) Exterior lighting plans;

(f) Walls, fencing and screening;

(g) Patios, walks, decks, pools, and porches;

(h) Signs and parking areas;

(i) Samples of materials to be used to the extent requested by the Committee; and

(j) Such other information, data, and drawings as may be reasonably requested by the Committee.

Specifications shall describe types of construction and exterior materials to be used, including, without limitation, the colors and manufacturers thereof, and shall otherwise be prepared according to the Design and Landscape Standards.

4.02 Basis of Approval:

Approval shall be based, among other things, upon conformity and harmony of the proposed plans with the Design and Landscape Standards and other structures located upon the Property; the effect of the location and use of Improvements on neighboring Lots; and conformity of the plans and specifications to the general intent of and specific provisions of these restrictions. If the Architectural Committee fails within forty-five (45) days after receipt of said Plans and Specifications to either approve or disapprove said Plans and Specifications, they shall be deemed approved and the requirements herein fulfilled. If The Architectural Committee disapproves said Plans and Specifications, then the Owner may revise and resubmit said Plans and Specifications until approval by the Architectural Committee.

4.03

Satisfactory Plans and Specifications

If satisfactory plans and specifications are not received and approved by the Architectural Committee within one

(1) year following conveyance of title to an Owner (or such extension of time as Declarant may at its sole option extend) then in that event the Declarant reserves, and each Owner hereby acknowledges, the right of the Declarant at its option, to repurchase the Lot at the original purchase price thereof as evidenced by the closing statement executed at the time of purchase.

4.04 Liability Relating to Approvals:

Neither Declarant, the Committee nor any member thereof, nor any of their respective agents, contractors, consultants, architects, heirs, personal representatives, successors or assigns, shall be liable to anyone submitting plans for approval by reason of mistakes in judgment, negligence" or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans. Every person and entity who submits plans to the Committee agrees, by submission of such plans, that he or it will not bring any action or suit against the Committee or Declarant, or any of their members, agents, contractors, consultants or architects to act or to recover any damages.

4.05 Certificate of Compliance:

After any Improvement is completed in compliance with all provisions of this Article 4 and of Section 2.01 hereof, the Owner of the lot upon which the Improvements are located may request in writing the Committee issue a certificate certifying that said Improvement is completed and in compliance with all provisions of this Article 4 and of Section 2.01 hereof, which certificate shall be issued by the Committee within 15 days of its receipt of written request therefor, and which certificate shall be evidence that said Improvement is completed and in compliance with all provisions of this Article 4 and of section 2.01 hereof. The Committee may make a reasonable charge for the issuance of such certificates, which must be paid at the time that the request for such certificate is made.

ARTICLE 5

THE ASSOCIATION

5.01 Membership:

When the Declarant incorporates the Association, every person or entity who is then an Owner or thereafter becomes an Owner shall be a Member of the Association. All memberships in the Association shall be appurtenant to the Lot or Unit owned by each Member, and Memberships in the Association shall not be assignable, except to the person or entity to whom the title to the Lot or Unit has been transferred. Ownership of such Lot or Unit shall be the sole qualification for membership in the Association. The Association may adopt a membership fee to be collected at the time a new owner purchases a Lot or Unit, and may adopt an annual membership fee, all by a majority vote of the Members attending a duly called meeting called for that purpose. Unpaid Membership Fees shall be a lien on Lots or Units owned by Members who fail to pay such membership Fees.

5.02 Classes of Membership:

The Association shall have two (2) classes of voting membership, as follows:

Class A. Class A Members shall be all Members, with the exception of Declarant. Each Class A Member shall be entitled to vote, based upon the par value, being a number expressed in points assigned to a Lot or condominium Unit pursuant to the schedule attached as "Exhibit C" to this Declaration, for each condominium Unit or Lot owned. When more than one (1) person holds title to a single Lot or Unit, all co-Owners shall be Members, provided, however, in no event shall more than the par value number of votes be cast with respect to any Lot or Unit, and if the co-Owners cannot agree on how the vote should be cast, no vote will be counted for that Lot or Unit.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to ten (10) times the par value of each Lot or Unit it owns, provided, that the Class B membership shall cease and be converted to Class A Membership (e.g. the assigned par value per Lot or Unit) on the tenth (10th) anniversary of the date this Declaration is filed for record with the Allen County, Ohio Recorder.

Any action taken by the Association which must have the approval of the membership of the Association before being undertaken shall require a majority vote of the membership in attendance at a duly called meeting of the Association, unless a specific provision of this Declaration or the By-Laws or Articles of the Association requires the approval of a greater percentage of the voting membership.

5.03 Voting:

Those Members appearing in the official records of the Association as record Owners of Lots or Units shall be entitled to notice of any meeting of Members. In the event of any dispute as to the entitlement of any member to vote or the results thereof, the Board shall act as arbitrators and a decision of the Board shall, if rendered in writing, be final and binding upon the Members; provided, however, that the Board shall have no jurisdiction to determine any matters relating to the entitlement of Declarant to vote or the manner of the exercise of its vote.

5.04 Suspension of Voting Rights:

The Board shall have the authority to suspend the voting rights of any Member to vote at any meeting of the Members for any period during which such Owner is delinquent in the payment of any Assessment.

5.05 Proxies:

Votes may be cast in person or by proxy. Proxies must be filed with the Secretary of the Board before the appointed time for each meeting. The proxy shall also identify the person or persons authorized to exercise the proxy.

5.06 By-Laws:

The Board shall adopt By-Laws to govern the Association and its Board. Said By-Laws may be amended as provided by the applicable terms of said By-Laws, provided, however, no amendments may be adopted which are inconsistent with the terms of this Article 5.

5.07 Notice of Sale or Transfer of Title:

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

title to the Lot or Unit.

ARTICLE 6

POWERS AND DUTIES OF THE ASSOCIATION

6.01 Management Body:

When incorporated, the affairs of the Association shall be managed by a Board of Trustees. The initial Board shall be appointed by the Declarant. Thereafter, the Board shall be elected as provided in the By-Laws.

6.02 Board Powers:

The Board shall have the right and power to perform all lawful acts which may be necessary to manage and control the affairs of the Association. The Board shall have the following specific powers:

- (a) Enforce the provisions of this Declaration;
- (b) Levy and collect Assessments from the Owners of all Lots or Units and enforce payment of such Assessments;
- (c) Retain, if deemed appropriate by the Board, and pay for legal and accounting services necessary and proper for the efficient operation of the Association; and
- (d) Perform any and all other acts and things that a nonprofit, mutual benefit corporation organized under the laws of the State of Ohio is empowered to do, which may be necessary, convenient or appropriate in connection with the administration of the Association's affairs and the carrying out of the Association's duties as set forth in this Declaration.

6.03 Duties:

The Board shall perform and execute the following duties of the Association to the extent sufficient funds are available from Assessments paid by the Owners:

- (a) Obtain liability insurance for the Association and Board members;
- (b) Maintain and repair any property owned by or assigned to the Association, including but not limited to pathways, drainage ways, and common areas. In the event any maintenance or repairs are

required due to the willful or negligent acts or omissions of an Owner or Owners, the Association shall levy the cost of such maintenance and repair as a Compliance Assessment against the responsible Owner(s);

(c) Pay any real or personal property taxes and assessments which the Association is required to pay;

(d) Cause financial statements for the Association to be regularly prepared;

(e) Assume and payout of the Assessments all costs and expenses incurred by the Association in connection with the performance and execution of all of the aforesaid powers and duties, and any other powers and duties the Association may assume;

(f) Enforce all applicable provisions of the Declaration; and

(g) Within ten (10) days of the mailing or delivery of a written request from an Owner, provide said Owner with a copy of this Declaration and the Articles and By-Laws for the Association, together with a true statement in writing as to the amount of any delinquent Assessment, penalties, attorneys' fees and other charges which are due relative to a particular Lot or Unit as of the date of such request, subject to a reasonable charge therefore, as determined by the Board.

6.04 Delegation of Duties:

In the event that the Association shall delegate any or all of its duties, powers or functions to any person corporation or firm to act as manager, neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated.

ARTICLE 7

ASSESSMENT OF THE ANNUAL REGULAR ASSESSMENT

7.01 Establishment of Regular Assessment:

For the purpose of providing funds for uses specified in Article 9 hereof, the Board shall for each year commencing with its year of incorporation, fix and assess the yearly assessment referred to in Section 1.02 (B) (i) against each Lot or Unit by establishing a budget and apportioning the budget to the Lots or Units included in the property in a manner consistent with the

valuation of each property as determined by the base assessment of the Allen County Auditor, adjusted for the additional services provided each of the individual unit owners. Notwithstanding anything in this Section 7.01 to the contrary, there shall be a minimum yearly Regular Assessment for each Lot or Unit in the amount of Ten Dollars (\$10.00) commencing in the calendar year following the calendar year in which the Association is incorporated. In making each such assessment, the Board shall separately assess each Lot or Unit, and each such Lot or Unit shall be charged with and be subject to a lien for the amount of Regular Assessment.

7.02 Annual budget and Statements:

On or before December 1st of each year, or as soon as shall be practicable thereafter, the Board shall establish a budget for the Association for the ensuing calendar year, which shall be the basis of the regular Assessment calculations referred to in Section 7.01 above. As soon after said budget is established as possible the Board shall send a written statement to each Owner setting forth the amount of the budget established for the ensuing calendar year, together with the amount of the Regular Assessment set for the ensuing year and the frequency of payment therefor (e.g. monthly, quarterly, etc). Said budget and amount of Regular Assessment shall be binding upon the Owners unless modified by a majority vote of the Members attending a duly called meeting called for that purpose. In the event the Board determines for some reason that the budget must be adjusted after the initial budget has been distributed to the Owners, the Board may send a written statement to each Owner setting forth the amount of the revised budget. If a Residence is built across more than one Lot, or an Owner combines two or more Lots to create one assessable parcel for real property tax purposes, the Owner shall be charged a Regular Assessment for each Lot or portion thereof. The Regular Assessment may be billed, in annual, semiannual, quarterly or monthly installments, as the Association shall determine.

7.03 Interest on Delinquent Assessment:

If an Owner shall fail to pay any Assessment within thirty (30) days following the date of issuance of the statement therefor, the same shall be deemed delinquent and will bear interest at the rate of ten percent (10%) per annum, or such legal rate as may be set by the Board from time to time.

OR INSTALLMENT

7.04 Delinquency for More than 90 Days:

If an Owner shall fail to pay any Assessment or any installment thereof within ninety (90) days following the date of issuance of the statement therefore, the Association shall have the right to sue such Owner for a personal judgment, and, in addition, shall have the right to enforce the lien, hereinafter imposed. The amount due by such Owner shall include the unpaid Assessment or installment thereof, as well as the cost of such proceedings, including reasonable attorneys' fees, and the aforesaid interest. In the event an appropriate court refuses jurisdiction of a proceeding to enforce said lien or finds said lien to be unenforceable, invalid, or ineffective, then the Association shall have the right to sell the property at public or private sale in satisfaction of the amounts then owing. Every aspect of the sale including the method, manner, time, place and terms shall be commercially reasonable. The Association shall give such Owner reasonable notice (by certified mail, or by publication in a newspaper of general circulation in Allen County) of such sale at least thirty (30) days prior to such sale, and such notice shall contain the date, time and place of such sale.

7.05 Rules and Procedures for Billing and Collecting Assessments:

The Board shall have the power and authority to adopt rules and procedures respecting the billing and collection of the Assessments which shall be binding on all Owners, provided that such procedures shall not be inconsistent with the provisions of this Article 7.

7.06 Certification of Status of Assessments:

Upon written demand by an Owner, the Association shall within a reasonable period of time thereafter issue and furnish to such Owner a certificate stating that all Assessments or installments thereof (including interests and costs, if any) have been paid with respect to any specified Lot or Unit as of the date of such certificate, or, if all Assessments and installments thereof have not been paid, setting forth the amount (including interest and costs, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificate, which must be paid at the time that the request for such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot or Unit in question.

ARTICLE 8

IMPOSITION OF CHARGE AND LIEN UPON LOTS AND UNITS

8.01 Establishment of Lien for Regular Assessment:

The Regular Assessment, together with the continuing obligation to pay all future Regular Assessments assessed in all future years and all installments thereof, shall be and remain a first charge against, and a continuing first lien upon each Lot or unit, which shall bind such property in the hands of the then Owner, his or its heirs, executors, administrators, successors and assigns, and said charge and lien shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon the Lot or Unit whether arising from or imposed by judgment or decree or by an agreement, contract, mortgage or other instrument, saving and excepting only such liens for taxes or other public charges as are by applicable law made superior thereto and the lien of a bona fide first mortgage on the subject Lot or Unit. If a Regular Assessment is past due more than thirty (30) days, the Board may, at its discretion, file notice of the amount of the lien with the Allen County, Ohio Recorder. Notwithstanding whether any such filing of a notice of the amount of the lien for a Regular Assessment is made, the lien therefor is an automatic and continuing lien as above stated.

8.02 Establishment of Lien for Other Assessments:

Any Membership Fee, Compliance Assessment or Special Assessment shall be and remain a charge against, and a continuing lien upon each Lot or Unit from the date such Assessment is assessed, and shall have the priority equal to a lien filed the date of such assessment. If a Membership Fee, Compliance Assessment or Special Assessment is past due more than thirty (30) days, the Board may, at its discretion, file a notice of the amount of the lien with the Allen County, Ohio Recorder. Notwithstanding whether any such filing of a notice of the amount of the lien for a membership Fee, Compliance Assessment or Special Assessment is made, the lien therefore is an automatic and continuous lien as above stated from the date assessed.

8.03 Personal Liability for Assessments:

In addition to taking subject to the charge and lien imposed by Sections 8.01 and 8.02 hereof, each Owner of each Lot or

Unit by the acceptance of a deed or other instrument of conveyance therefor, whether or not it shall be so expressed in such deed or instrument of conveyance, and every other Owner, regardless of how he, she or it acquired title to a Lot or Unit, shall be deemed to have agreed to be personally liable for the payment of all Assessments assessed by the Association against such Lot or Unit to which such Owner holds title. If more than one Owner holds title to a Lot or Unit, all such co-Owners shall be jointly and severally liable for all Assessments assessed against their Lot or Unit.

8.04 Foreclosure of Lien for Assessments:

The Lien for any Assessment may be enforced by judicial foreclosure by the Association in the same manner in which mortgage on real property may be foreclosed in Ohio. In any such foreclosure, the Owner shall be required to pay all costs of foreclosure, including reasonable attorneys' fees incurred by the Association. All such costs and expenses shall be secured by the lien being foreclosed. The Association shall have the right and power to bid at the foreclosure sale or other legal sale to acquire the Lot or Unit foreclosed upon, and thereafter to hold, sell, lease, convey, use, encumber or otherwise deal with the same as the owner thereof.

ARTICLE 9

USE OF FUNDS

9.01 Application of Assessments:

The Association shall apply all funds received by it pursuant to these Restrictions, and all other funds and property received by it from any source, including without limitation, the proceeds of loans referred to in 9.02 and the surplus funds referred to in 9.03, to the following, in the order stated:

1. The payment of all principal and interest, when due, on all sums borrowed by or loaned to the Association, to the extent required under any agreement with holders or owners of debt obligations referred to in 9.02 hereof;
2. Administrative costs and expenses incurred by the Association in the exercise of its powers, authority, and duties described in this Declaration;
3. The promotion of the recreation, health, safety and welfare of the Owners, including the publication and distribution of a neighborhood newsletter, if the Board so desires.

9.02 Authority to Borrow Funds:

In order to secure the repayment of any and all sums borrowed by or loaned to it from time to time, the Association is hereby granted the right and power:

1. To assign and pledge all revenues received and to be received by it under any provision of these Restrictions, including, but not limited to, the proceeds of the Regular Assessments payable hereunder; and
2. To enter into agreements with holders and owners of any debt obligations with respect to the collection and disbursement of funds, including, but not limited to, agreements wherein the Association covenants:
 - (a) to assess the Regular Assessments on a given day in each year, and to assess the same in a particular amount;
 - (b) to establish sinking funds or other security deposits:
 - (c) to apply all funds received by the Association first to the payment of all principal and interest, when due, on such debts, or to apply the same to such purpose after providing for costs of collection;
 - (d) to establish such collection, payment and lien enforcement procedures, not inconsistent with the provisions of this Declaration, as may be required by holders or owners of any such debt obligation; and
 - (e) to provide for the custody and safeguarding of all funds received by the Association.

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

9.03 Authority to Maintain Surplus:

The Association shall not be obligated to spend in any

particular time period all the sums collected or received by it in such time period or in any other time period and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Regular Assessment in any year, but may carry forward from year to year and time to time such surplus as the Board in its absolute discretion may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes as set forth in this Declaration and its By-Laws.

9.04 Authority to Enter into Contracts:

The Association shall have the power and authority to contract with any person, corporation, firm or other entity, including, but not limited to, Declarant, for the exercise of any one or more of the various powers and authority granted to and duties to be performed by the Association hereunder, and to delegate such powers and authority to any agent or employee of the Association, and the exercise of those powers and authority by such person, corporation, firm, entity, agent or employee shall be deemed the exercise of those powers and authority by the Association, except that no independent contractor shall be deemed by virtue of these provisions to be the agent of the Association. There shall be no requirement of any bond or surety for the Association, its agents, employees, or others assuring the exercise of the powers and authority granted hereunder except as the Board shall in its sole discretion deem necessary or desirable for the safeguarding of any funds received by the Association.

ARTICLE 10

ENFORCEMENT

10.01 Interpretation:

In case of uncertainty as to the meaning of any article, paragraph, sentence, clause, phrase or word in these Restrictions, the interpretation by the Declarant shall be final and conclusive upon all interested parties, such authority to interpret may be assigned to the Board at any time.

10.02 Abatement and suit:

Violation or breach of any of these Restrictions shall give to the Association and to Declarant the joint and several rights to enter the Lot or Unit involved and abate and remove the

same at the expense of the Owner of the Lot or Unit involved (which expense may be assessed and collected as a Compliance Assessment and it shall become a lien upon the Lot or Unit as provided in Section 8.02 hereof) or to proceed at law or in equity against such Owner or any person or persons who have violated or are attempting to violate them from doing so, and to cause said violation or attempted violation to be remedied, or to recover damages therefor. In addition, any owner whose Lot or Unit is subject to this Declaration may take legal action to enforce the use restrictions contained in Article 2 of this Declaration against any other Owner who is in violation thereof. In any legal or equitable proceedings for the enforcement of the provisions of these Restrictions, the unsuccessful party or parties shall pay the attorneys' fees of the prevailing party or parties, in such amount as may be affixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

10.03 Failure to Enforce Not a Waiver of Rights:

Failure of the Committee, the Association or Declarant, or any Owner, to enforce any of these Restrictions shall in no way be deemed a waiver of the right to enforce any other of these Restrictions.

ARTICLE 11

ADDITIONS TO THE PROPERTY

11.01 Annexation of Annexation Property:

From time to time, the Declarant, or any successor Declarant, may subject any portion of the Master Site or adjacent property to this Declaration without the assent of the Association or the Owners of Lots or Units already included in the Property, and, after such subjection to this Declaration, such Annexation property shall thereafter be included in the defined term "Property" as used in this Declaration. However, Declarant is under no obligations to subject any additional portion of the Master Site to this Declaration.

11.02 Notice of Annexation:

The annexation of Annexation Property authorized under this Article 11 shall be made by filing of record with the Allen County, Ohio Recorder a Notice of Annexation, covering the Annexation property, and the Notice of Annexation may contain such complementary additions to and modifications of the Restrictions

set forth in the Declaration (only with respect to said Annexation Property, and which are not inconsistent with the general scheme of this Declaration.

ARTICLE 12

AMENDMENTS, PERIOD OF DURATION

12.01 Amendments:

Until Declarant has sold the first Lot or Unit in the Village at Sugar Creek, Declarant may, in its sole and absolute discretion, unilaterally amend this Declaration at any time and from time to time. Any such amendment may impose covenants, conditions, restrictions and easements upon the Village at Sugar Creek in addition to those set forth herein, including, without limitation, restrictions on use and covenants to pay additional charges with respect to the maintenance and improvement of the Village at Sugar Creek. After Declarant sells the first Lot or Unit, Declarant may unilaterally amend this Declaration only if such amendment is: (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial order, (b) necessary to enable any reputable title insurance company to issue title insurance coverage on a Lot or Unit, (c) required to conform to the requirements of the Federal National Mortgage Association, ("FNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC"), or any successor to either of them or similar government sponsored entity; or (d) necessary to correct errors; provided, however, any such amendment shall not materially adversely affect the title to any Lot or Unit unless the Owner thereof had consented to such amendment in writing. Any amendment not initiated by Declarant may be made only with the consent of Declarant and the written consent of at least 67% of the Owners. No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

12.02 Periods of Duration:

This Declaration, and the charges and liens provided for herein, shall run with the land; shall continue in full force and effect for a period of twenty (20) years from the date hereof; and

shall be automatically extended for successive periods of ten (10) years each, unless prior to the commencement of any ten (10) year extension a written notice of termination is filed by the Association with Recorder of Allen County, Ohio after 67% of the Members sign an instrument in favor of said termination, which instrument shall be recorded with said notice of termination.

12.03 Perpetuities:

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

ARTICLE 13

CONSTRUCTIVE NOTICE AND ACCEPTANCE

Every person who now or hereafter owns or acquires any rights, title or estate in any portion of the Property is and shall be conclusively deemed to have consented and agreed to every Restriction contained herein whether or not a reference to these Restrictions is contained in the instrument by which such person acquired an interest in said Property.

ARTICLE 14

EASEMENTS

14.01 Platted Easements:

Declarant hereby reserves walking paths, drainage easements, common areas, and utility easements. The utility easements which are defined on the recorded plat by a centerline and defined width for the purpose of constructing utility lines over or through the Property within the easements depicted on the recorded plats creating the lots, and Declarant may grant easements to any utility over and across said platted easements.

14.02 Use of Easement Areas:

Within the utility easement areas designated on the recorded plat of the phases of Village at Sugar Creek, no buildings shall be erected. In addition, no planting or other material shall be placed or permitted to remain within any such easement areas

which may damage or interfere with utility installations located in the easement, or interfere with the direction of the flow of the drainage swales, ditches or channels or water over said easement areas. The easement area of each Lot and all surface improvements thereon shall be maintained continuously by the Owner of said Lot, except for those improvements for which a public authority or public utility company is responsible, and except for common areas designated to be maintained by the Association.

ARTICLE 15

MUTUALITY

All restrictions, condition and covenants contained herein are made for the direct, mutual and reciprocal benefit of Declarant, the Association, and the Owners and their successors and assigns; these Restrictions shall create mutual equitable servitudes upon the Property in favor of other real property within the Master Site; these Restrictions shall create reciprocal rights and obligations between the respective Owners and privity of contract and estate between all grantees thereof; and these Restrictions shall, as to the Owner of any Lot or Unit, his heirs, personal representatives, successors and assigns, operate as covenants running with the land for the benefit of all of the Property and the Owners.

ARTICLE 16

PARAGRAPH HEADINGS

The Paragraph headings are intended for convenience only and are not intended to be a part of this Declaration in any way to define, limit or describe the scope or intent of the particular paragraph to which they refer.

ARTICLE 17

GOVERNING LAW; EFFECT OF INVALIDATION; SEVERABILITY

These Restrictions shall be governed by the laws of the State of Ohio, being the State in which the Property is located. If any provision of these Restrictions is held to be invalid by any Court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

In witness whereof, we have set our hands hereto this ____ day
of _____ 2004.

GOLF AT SUGAR CREEK, LLC

By: _____

By: _____

By: _____

County of Allen:

:SS

State of Ohio :

The foregoing instrument was acknowledged before me this ____
day of _____ 2004 by _____,
and _____, authorized Members and Managers of Golf at
Sugar Creek, LLC, an Ohio Limited Liability Company, who
acknowledge that this is their free act and deed individually and
as Members and Managers on behalf of the Limited Liability Company.

Notary Public - State of Ohio

This Instrument Prepared By:

King & Blair, Attorneys at Law, 212 N. Elizabeth St., Lima, OH 45801
(419) 224-1353

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made by and between the City of Lima ("City") and Golf at Sugar Creek, LLC ("Sugar Creek") to express the mutual understanding of the parties with respect to city water service and development of the property referenced herein.

WHEREAS, Sugar Creek owns approximately 208 acres of land in unincorporated sections of Jackson and Richland Townships on which it has already sited an 18 hole public golf course and plans to develop contiguous to said golf course single family residential lots, condominium units, golf villas, and patio homes. (See attached map); and

WHEREAS, Sugar Creek desires to enhance its development by entering into a long term exclusive arrangement with the City for water service; and

WHEREFORE, the parties hereby understand and agree to the following terms and conditions:

SECTION 1: CONSIDERATION GIVEN BY SUGAR CREEK

- 1.01. Sugar Creek agrees to pay for the materials and construction of a water pipeline sized to serve the needs of Sugar Creek, including the costs of easements or rights of way. The pipeline shall be the property of the City of Lima.
- 1.02. Sugar Creek agrees to pay all regular tap fees and water service fees, as they may be determined from time to time by the City.
- 1.03. Sugar Creek agrees to make as part of its declaration of covenants, conditions, restrictions, and assessments and reservations of easement (which shall be subject to the approval of the City) a provision whereby all residential water users of the development shall pay a yearly contract fee to the City of Lima in the sum of \$600.00 per year, (\$50.00 per month) in addition to the monthly water bill at the then existing inside the city rate. The parties agree this contract fee applies to the golf course property (\$50.00 per month). However, the golf course is only required to purchase water from the city to be used in the clubhouse, restaurant, and restroom facilities, not for other golf course purposes (i.e. irrigation and equipment cleaning). In addition, the City reserves the right to require individual residential water contracts with such users, upon the same terms above, to provide a direct payment obligation to the City.
- 1.04. Sugar Creek agrees that when the pipeline is constructed and sized to serve its needs, the City will be the exclusive provider of water service to all water users on the Sugar Creek development in perpetuity. Except for the golf course, the City reserves the right to require non-residential users to enter into separate water contracts as may then be required by the City for commercial or industrial customers.
- 1.05. Sugar Creek agrees, and will take all steps necessary to ensure, that all successors in ownership to all or a portion of the property to be serviced by the water provided under this

agreement will be bound by covenants or other property title provisions requiring similar annual contract fee payments to the City.

- 1.06. Sugar Creek agrees to initiate or join in any annexation proceeding at such time as the property may be subject to annexation and that it will take all steps necessary to obtain its ratification by the appropriate local jurisdictions, including taking any available court action to perfect such annexation, at its expense. Sugar Creek agrees to make as part of its declaration of covenants, conditions, restrictions, and assessments and reservations of easement (which shall be subject to the approval of the City) a provision whereby all purchasers of real property in this development shall be bound by the same annexation terms set forth herein.
- 1.07. Sugar Creek agrees that all successors in ownership to all or a portion of the property to be serviced by the water provided under this agreement will be bound by property title provisions that will require the successors to join in annexation to the City or to directly petition an annexation to the City.

SECTION 2: CONSIDERATION GIVEN BY THE CITY

- 2.01 The City will permit Sugar Creek to tap into the water line along North Dixie Highway and extend said water line to the golf course property at Sugar Creek's expense, except there shall be no tap fees for this extension.
- 2.02 In the event that the Village of Bluffton enters into a contract to purchase water from the City of Lima, subsequent to the formal contract referenced in section 4.01 below, then in that event the City will require as part of its contract with the Village that the Village reimburse Sugar Creek for one-half of the construction costs of said water line from its present terminus to the golf course property.
- 2.03. Should any water users along the extension built by Sugar Creek desire to connect to said extension, said users will be required to pay a recoupment fee to the City using a front footage calculation based on the total cost of said extension. The City agrees to reimburse such recoupment fees to Sugar Creek.
- 2.04. The City will charge inside-the-city water rates for the water service provided to Sugar Creek, its successors and assigns, as such rate be determined from time-to-time.
- 2.05. The City will grant credits to all persons who work in the City and already pay the City's income tax to offset the contract fees associated with their water service.

SECTION 3: TERM

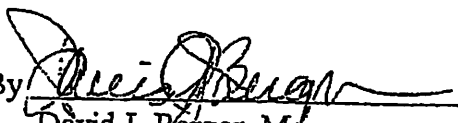
- 3.01 The term of this MOU is six months unless extended by mutual agreement of the parties.
- 3.02 This MOU may be terminated by either of the parties upon 30 days notice given by either

party to the other.

SECTION 4: MISCELLANEOUS

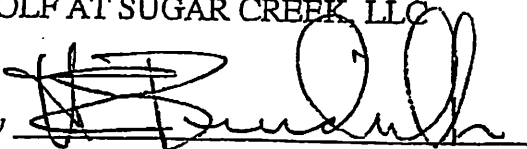
- 4.01. The parties expect that the terms and conditions of this MOU will become the basis of formal legal contracts to be authorized by Lima City Council and the Members of Sugar Creek, prior to the implementation of the project.
- 4.02. The parties agree that during the term of this MOU Sugar Creek will negotiate exclusively with the City for the services enumerated in this MOU.
- 4.03. The parties agree that during the term of this MOU, the fact and details of negotiations regarding the provision of water services to Sugar Creek by the City of Lima shall remain confidential except to the extent required by law.
- 4.04. Sugar Creek understands and agrees that every 5 years after the signing of a formal agreement between the City and Golf at Sugar Creek that the contract fee shall be reviewed and the contract fee adjusted so as to reflect the application of the City's then existing income tax rate (currently at 1-1/2%) to the median household adjusted gross income for Allen County, as determined or published by the State of Ohio Department of Development. The current contract fee is based upon the current city income tax rate of 1-1/2% times a median household adjusted gross income of \$40,000.00, and in no event shall the contract fee be based on any amount of median household adjusted gross income less than \$40,000.00 regardless of the amount published by the State. This review process shall continue on each 5 year anniversary of the contract as long as this contract is in existence or until such time as the development becomes annexed to the City of Lima, at which time the contract fee will terminate.

CITY OF LIMA, OHIO

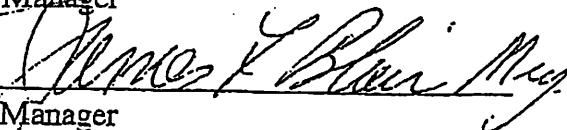
By 
David J. Berger, Mayor

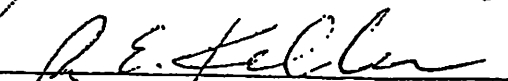
Dated 4/12/04

GOLF AT SUGAR CREEK, LLC

By 
Manager

Dated 4/26/04

By 
Manager

By 
Manager

APPROVED AS TO FORM:

