

TRANSFER NOT NECESSARY  
MATT NOLAN, AUDITOR  
WARREN COUNTY, OHIO

AUG 16 2019

MATT NOLAN  
AUDITOR, WARREN CO. OHIO



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LINDA ODA  
WARREN COUNTY RECORDER

2019-023178

DECLARATION  
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**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR SAWGRASS POINT OWNERS ASSOCIATION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR SAWGRASS POINTE OWNERS ASSOCIATION ("Declaration") is made this 8/16, 2019, by ASSOCIATE CONSTRUCTION, INC., an Ohio corporation ("Developer"), whose address is 31 Eagle Court, #A, Franklin, Ohio 45005, under the following circumstances:

A. Developer is the owner of certain real property located in the City of Springboro, Warren County, Ohio, more particularly described on Exhibit A attached to this Declaration (the "Property").

B. Developer desires to declare that the Property shall be held, sold and conveyed subject to the provisions of this Declaration.

C. Developer intends to form an Ohio non-profit corporation to be known as the Sawgrass Pointe Owners Association (the "Association"), which shall be responsible for the administration and enforcement of the provisions of this Declaration.

NOW, THEREFORE, for the purposes of establishing and assuring a uniform plan for the development of the Property, and enhancing and protecting the value, desirability and attractiveness of the Property, Developer declares that the Property shall be held, occupied, sold and conveyed subject to this Declaration.

**SECTION 1. DEFINITIONS**

In addition to any definitions contained elsewhere in this Declaration, the following terms used in this Declaration shall have the meanings set forth in this Section 1.

1.1 Assessments. "Assessments" means the charges established by Section 3 of this Declaration.

1.2 Association. "Association" means Sawgrass Pointe Owners Association, an Ohio nonprofit corporation, which will own, operate and maintain the Common Elements, and any successor organization that owns, operates and/or maintains the Common Elements. Except as the context otherwise requires, "Association" shall mean the Board acting on behalf of the Association.

1.3 Board. "Board" means the Board of Directors of the Association.

1.4 Bylaws. "Bylaws" means the Bylaws adopted by the Association, a copy of which is attached as Exhibit B to this Declaration.

1.5 Common Elements. "Common Elements" means all real and personal property owned, under easement, leased or managed by the Association for the common use and enjoyment of the Owners of the Property. This real and personal property includes, but is not limited to, any of the following types of areas, facilities and amenities now or in the future located on or serving the Property:

(a) all of Lot 24, including the detention area and any identification and directional signs, streetscape, street trees, lighting, irrigation and associated utilities for the entrance to the Property and other improvements on that Lot;

(b) drainage easements and facilities serving the Property generally and located within easements including pipes, drains, culverts and associated facilities, and including mainline sump drains that run along back of curb, but excluding (i) storm sewers and any other drainage facilities to the extent responsibility is assumed by the City of Springboro and (ii) items located on and exclusively serving a single Lot; and

(c) the retaining wall constructed in the public street adjacent to Lot 21 (and extending east within Kesling Dr.).

During the Development Period, Developer shall have the right to identify additional Common Elements located within easements or other areas in which rights are held by the Association.

1.6 Common Expenses. "Common Expenses" means those costs and expenses incurred by the Association in the administration, governance or maintenance of the Association, including, but not limited to, all costs of the administration, operation, maintenance, repair and replacement of the Common Elements or as described and defined in Section 3.3 of this Declaration.

1.7 Default. "Default" means any violation or breach of, or any failure to comply with, this Declaration or the Bylaws, the Rules and Regulations or other standards or regulations adopted pursuant to this Declaration.

1.8 Developer. "Developer" means the Developer named on the first page of this Declaration, its successors and assigns. However, the rights and obligations of Developer under this Declaration shall inure to the benefit of and be binding against only those to whom such rights and obligations are expressly assigned and assumed.

1.9 Development Period. "Development Period" means the period commencing on the date this Declaration is recorded and terminating on the date when Developer has sold and conveyed all of the Lots.

1.10 Director. "Director" means any person elected or appointed to the Board of Directors pursuant to the Bylaws.



1.11 Lot. "Lot" means any parcel of the Property upon which a single-family residence has been or may be constructed. Unless the context otherwise requires, the term "Lot" shall be deemed to include both the parcel of land and the residence and other improvements on that land.

1.12 Occupant. "Occupant" means any Owner, tenant, family member or other person lawfully occupying any Lot.

1.13 Owner. "Owner" means, with respect to any Lot, the owner of record from time to time, whether one or more persons or entities, of an interest in fee simple, but shall not include the Association. This term shall include Developer with respect to Lots owned by Developer.

1.14 Property. "Property" means that real property located in the City of Springboro, Warren County, Ohio, more particularly described on Exhibit A to this Declaration.

1.15 Structure. "Structure" means: any improvement on a Lot or on the Common Elements; any thing or object (other than trees, shrubbery, landscaping and hedges that are less than two feet high) the placement of which may affect the appearance of any Lot or the Common Elements, including, but not limited to, any building, garage, porch, shed, greenhouse, bathhouse, coop, cage, covered or uncovered patio, swimming pool, fence, curbing, paving, tennis court, wall, signboard or any other temporary or permanent improvement; and any excavation, fill, ditch, dam or other thing or device that changes the grade of any land by more than six inches or alters the natural flow of waters from, upon or across any Lot or the Common Elements.

## SECTION 2. MEMBERSHIP, VOTING RIGHTS, DIRECTORS, ETC.

The Association shall be governed by its Directors, who shall be appointed or elected by the members of the Association in accordance with the voting rights and the other rights and proceedings set forth in the Bylaws. The Association shall be established no later than the date upon which the first lot is conveyed to a bona fide purchaser for value. All provisions of the Bylaws of the Association are incorporated into this Declaration by reference.

## SECTION 3. ASSESSMENTS

3.1 Covenant of Payment; Creation of Lien. Each Owner of a Lot, by acceptance of a deed or other instrument of conveyance for that Lot, agrees to pay to the Association the annual assessments, special assessments and individual assessments (collectively, the "Assessments") provided in this Section 3. The Assessments (including, without limitation, late charges, costs of collection and other charges as provided below) shall be a charge and lien on each Lot and shall also be the personal obligation of the Owner of each Lot, to the extent and for the period provided in this Section 3.

3.2 Annual Assessment. The Association shall be entitled to collect from all Owners an annual assessment for Common Expenses and other purposes described in Section 3.3. The annual assessment will not commence until one or more Lots have been sold to a bona fide purchaser for value. Until the first Lot is sold to a bona fide purchaser for value, the charges that would normally be paid by the Association will be paid by the Developer. Subsequently, upon the initial sale of each Lot to a bona fide purchaser for value, the annual assessment shall commence on that Lot. With respect to Lots owned by Developer, Developer shall not be required to pay Assessments, but instead shall fund any shortfalls in



the payment of the Common Expenses (i.e., the difference between the total amount of the Common Elements and the amount funded by Assessments to Owners other than Developer).

3.3 Purpose of Annual Assessment. The annual assessment is established for the benefit and use of the Association and shall be used in covering all of the costs of the operation, maintenance, and repair of Common Elements and the performance of all other duties and obligations to be performed by the Association under this Declaration. The Common Expenses may include, but are not limited to, the costs of employees' wages, materials, equipment, supplies, insurance premiums for the insurance of the Common Elements, rental fees for any Common Elements leased to the Association, the cost of reasonable reserves for contingencies, replacements and working capital, taxes and assessments on the Common Elements, management fees, legal and accounting fees, and all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration or the Bylaws. The annual assessment may also be used in covering the cost of any capital addition or capital improvement that is authorized by the Board and, if applicable, approved by the members of the Association in accordance with Section 5.3.

3.4 Operating Shortfalls. If in any year the Common Expenses exceed the income from the annual assessment, the amount of any operating deficit may, at the Board's sole option, be charged to the Owners by means of a special assessment, or charged against any reserve funds held by the Association. No consent of the members of the Association shall be required with respect to this special assessment. During any period of time that Developer is not paying Assessments with respect to Lots owned by Developer, Developer shall fund the operating deficits in lieu of the Association establishing special assessments payable by the other Owners.

3.5 Amount of Annual Assessment. The amount of the annual assessment shall be determined by the Board based on the estimated budget prepared in accordance with the Bylaws. The amount of the annual assessment to be charged to the Lots shall be determined by dividing the amount shown on the budget by the total number of Lots subjected to this Declaration at the time of preparation of the budget, all as determined by the Board in its discretion. The annual assessment shall also be charged to Owners of Lots subjected to the Declaration after the preparation of the estimated budget.

3.6 Initial Assessment. Upon the initial conveyance of a Lot by Developer to a bona fide purchaser for value, the grantee shall pay an initial assessment in the amount of \$250.00. The initial assessment shall be used as the initial working capital of the Association and not in lieu of any installments of the annual assessment. The initial assessment is nonrefundable. No initial assessment shall be due on any Lot purchased from an Owner other than the Developer. The initial assessment may be waived at the Board's sole discretion.

3.7 Individual Assessment. If any portion of the Property that the Association is obligated to maintain, repair and/or replace is damaged due to the willful or negligent act or omission of an Owner or an Occupant claiming under that Owner, the Board shall have the right to undertake the necessary maintenance, repair or replacement. The cost so incurred by the Board shall be assessed as an individual assessment against all Lots owned by the Owner responsible for that cost. To the extent that special services are provided to the Owner of a Lot as provided in Section 6.7, the fee or charge established by the Association in providing these special services shall also be assessed as an individual assessment to the Owner of that Lot. This Declaration or the Bylaws may also provide for other circumstances in which individual assessments may be charged, including, but not limited to, all individual lot assessments permitted by Section 5312.11 of the Ohio Revised Code, such as enforcement assessments, individual



assessments for utility services, and expenses incurred by the Board in collecting those expenses; costs of maintenance, repair or replacement incurred due to the willful or negligent acts of an Owner or Occupant of a Lot or their family, tenants, guests or invitees, including, but not limited to, attorney's fees, court costs and other expenses; costs associated with the enforcement of the Declaration or the Rules and Regulations, including, but not limited to, attorney's fees, court costs, and other expenses; and costs for charges otherwise permitted by the Declaration or Bylaws, all of which shall be considered Assessments for purposes of this Declaration.

3.8 Payment. Unless otherwise determined by the Board, the annual assessment shall be payable in annual installments not more than 10 days after the due dates established by the Board. Any other Assessments shall be due not more than 10 days after the due date established by the Board. The Board shall have the power at any time to adopt such billing, collection and payment procedures as it shall deem appropriate. If an Owner is in Default in payment of any installment of the annual assessment, the Board may accelerate the remaining installment of the annual assessment for the year during which the Default occurs by giving notice to the Owner. The Board may also establish penalties for late payments of Assessments. The penalties shall not exceed 10% of the overdue amounts (or, if less, the maximum legal rate).

3.9 Personal Obligation. Any Assessments becoming due and payable during the period that an Owner owns a Lot, together with any related penalties and costs of collection, shall constitute the personal obligation of that Owner and shall remain the personal obligation of that Owner until paid. This personal obligation shall not pass to an Owner's successor in title unless expressly assumed by the successor in title. If the obligation is so assumed by a successor in title, the successor and the former Owner shall be jointly and severally liable for payment of the amounts assumed.

3.10 Perfection and Priority of Liens. If an Assessment on any Lot is not paid within the period established under Section 3.8, the amount unpaid together with any related interest, administrative late fees, enforcement costs, collection costs, attorney's fees and paralegal fees, shall constitute a lien on that Lot in favor of the Association. The Association may perfect the lien by recording a notice of lien with the Recorder of Warren County, Ohio, subscribed by the president or other designated representative of the Association pursuant to authorization of the Board. The lien is a continuing lien upon the Lot against which each Assessment is made, subject to automatic subsequent adjustments reflecting any additional unpaid interest, administrative late fees, enforcement assessments, collection costs, attorney's fees, paralegal fees, and court costs. The lien is valid for a period of five (5) years from the date of filing, unless it is sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages or unless it is discharged by final judgment or order of a court in an action brought to discharge the lien. The lien is prior to any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments of political subdivisions and liens of first mortgages that have been filed for record prior to the recording of the lien.

3.11 Enforcement of Lien. Any lien established under this Declaration may be enforced by the Association in the same manner and to the same extent as in the case of foreclosure of a real property mortgage. The Association is entitled to the appointment of the receiver to collect rental payments due on the property. In any foreclosure sale, the Association may become the purchaser.

3.12 Purchaser at Foreclosure Sale. Any purchaser of a Lot at a foreclosure sale shall automatically become a member of the Association and shall be subject to all of the provisions of this Declaration. When the purchaser of a Lot acquires title to the Lot as a result of foreclosure of the first



mortgage, the acquirer of title shall not be solely liable for the share of the Assessments chargeable to the acquired Lot that became due prior to the acquisition of title to that Lot. Instead, any unpaid share of the Assessments that became due and payable prior to the date of acquisition shall be deemed to be part of the Assessments collectible from all of the Lots, including that of the acquirer.

3.13 Separate City Assessments. Notwithstanding anything contained in this Declaration to the contrary, the City of Springboro, Ohio in its sole discretion, shall have the right, but not the obligation, to maintain, repair and/or replace any of the Common Elements in need of maintenance, repair and or replacement, if the Association fails to do so. In the event the City of Springboro maintains, repairs and/or replaces a Common Element, the City shall have the right to levy a special assessment against the Association, or directly to each benefitting Lot Owner, for the actual costs incurred for the undertaking of such maintenance, repair and/or replacement. The Developer, and each Owner by acceptance of a deed or other instrument of conveyance for a Lot, expressly assents and consents to such special assessment by the City. The City and its employees and contractors shall have a perpetual right of entry for the purpose of maintenance, repair and replacement of such Common Elements described herein, as well as the right to maintain drainage areas and facilities, sump drains, and other facilities that are the responsibility of individual Owners as provided in Sections 6.3 and 6.6, in which case the City's special assessment shall be charged to the affected Lot as an individual assessment. The provision of this Section shall not be subject to any termination, amendment or modification without the written consent of the City of Springboro.

#### SECTION 4. COVENANTS AND RESTRICTIONS ON USE AND OCCUPANCY

4.1 Purposes. In order to promote the health, safety and welfare of all Owners and Occupants and to preserve, beautify and maintain the Property and all Structures as a subdivision of high quality, and to preserve and promote environmental quality, the following covenants, restrictions and limitations as to use and occupancy of the Property are declared and established.

4.1.1 Use; Subdivision. No Lot shall be used except for residential purposes at any time. No Lot shall be divided to create additional building sites. This shall not limit a residence to one Lot.

4.1.2 Height. Dwellings shall not exceed two (2) stories, not including basements, attic spaces, and garage spaces. No garage shall exceed the height of the accompanying house.

4.1.3 Roof Pitch. Roof pitch on all residences and garages shall not be less than 6/12.

4.1.4 Setbacks. No building shall be placed nearer to the Lot lines than the setback lines shown on the plat of the Property.

4.1.5 Living Area. The living area of any residence shall not be less than 1,500 square feet in a single story, two (2) story, or a split-level residence, not including the basement, attic areas, porches, or garage.

4.1.6 Minimum Landscaping Requirement. Each Lot shall be landscaped and planted within three (3) months of occupancy with at least one (1) hardwood shade tree and ten (10) other bushes or shrubs, excluding flowers.



4.1.7 Vehicles. Boats, campers, RV's, trailers, tractors, or other similar vehicles shall not be parked in the driveway. They must be parked on a concrete pad on the side of home except that not more than one (1) recreational vehicle may be parked for a period not to exceed twenty-four (24) hours for loading and unloading purposes. No worn out, discarded, inoperative or unlicensed vehicles, machinery or part thereof shall be stored on any Lot and no part hereof shall be used for vehicle junk piles or waste material. There shall be no parking on the streets in this subdivision.

4.1.8 Trash. All rubbish shall be deposited only in covered, sanitary containers. No trash receptacles of any sort shall be located on any Lot as to be visible from the street (except on pickup day).

4.1.9 Fences. No fence shall exceed six (6) feet in height nor be closer to the front of the lot than the front of the residence, excluding porches and garages.

4.1.10 Clothes Lines. No clothes lines are permitted in any yard or other visible area on the outside of any residence in this subdivision.

4.1.11 Lot Maintenance. All Lots purchased for later construction must be kept properly mowed and groomed. No unused building material, junk, or rubbish shall be left exposed on any Lot except during actual construction operations.

4.1.12 Restoration of Damage. Any building that is partially destroyed by fire, storm or other means must be restored, removed or replaced within six (6) months.

4.1.13 Playground Equipment. All playground equipment (swing sets, etc.) shall be submitted for approval to the Association, which may adopt Rules and Regulations governing such equipment, if permitted.

4.1.14 Swimming Pools and Sheds. There shall be no above ground swimming pools. There shall be no auxiliary storage building exceeding one hundred (100) square feet and the storage building must be of appearance and design and materials similar to the construction of the residence on the same Lot and shall not be greater than ten (10) feet in overall height. There shall be no metal sheds. No Lot shall have more than one (1) storage shed.

4.1.15 Pets. There shall be no animals, poultry, or livestock kept on any Lot except two (2) household pets (1 dog and 1 cat). No animals shall be kept, boarded, or maintained as such, for use in commercial purposes.

4.1.16 Satellite Dishes. Small dish network satellite dishes are allowed on the side and rear of the home. If the satellite dish needs to be mounted on the front of the home, then, subject to applicable law, approval must be received through the Association prior to installation.

4.1.17 Walkways. All walkways to street or to driveway must be at least four (4) feet in width.

4.1.18 Obstructions. All utility easements, as dedicated on the face of the plat, shall be kept free of permanent structures, trees, shrubbery, fences, or other installations thereon, whether



temporary or permanent, and the removal thereof by a utility company shall in no way obligate the utility company in damages or to restore the obstruction in its' original form.

4.1.19 Sidewalks. All sidewalks must be constructed within five (5) years from the date of recording of the plat.

4.1.20 Zoning Compliance. No Lot in this subdivision may be used or built on until a zoning permit is obtained from the City Zoning Enforcement Officer.

4.1.21 Occupancy. No building or house constructed on any lot in this subdivision shall be used or occupied until the street and utility improvements, as provided in the plans and specifications on file with the Planning and Zoning Commission, have been installed.

4.1.22 Certain City Requirements. No building or house constructed on any Lot in this subdivision shall be used or occupied until a Certificate of Occupancy has been obtained from the City Zoning Enforcement Officer. No Lot in this subdivision shall be split, subdivided, or combined with another lot without the review and approval of the Planning and Zoning Commission. All Lots in this subdivision shall be served by public sanitary sewers and city water.

4.1.23 Landscaping Materials. All yards shall be finished with sod or seed. No Lot shall have decorative rock or gravel for the whole yard. Rock is allowed for mulch beds and landscaping areas only.

4.2 Failure to Comply. Failure to comply with any of the requirements of this Section 4 shall constitute a Default. A Default by any Occupant or other person residing in, occupying or visiting a Lot or Common Elements at the request or with the implied or express permission of the Owner or any other Occupant of the Lot, or committed by any agent, employee, business invitee or contractor of the Owner or Occupant of a Lot, shall be attributed to that Owner and Lot.

## SECTION 5. COMMON ELEMENTS

5.1 Rights of Enjoyment in Common Elements. Each Owner shall have a right and nonexclusive easement for the use and enjoyment of the Common Elements for their intended purposes. This right and easement shall be appurtenant to, and shall pass with, the title to his or her Lot. Each Occupant shall have a nontransferable right to use and enjoy the Common Elements, which right shall terminate when that person ceases to have the status of an Occupant. These rights and privileges shall be subject, however, to the following:

5.1.1 The right of the Board, with the approval by (a) 75% of the votes cast by Owners who are voting in person or by proxy at a meeting of the Association at which a quorum is present, and (b) during the Development Period, the Developer, to borrow money for the purpose of constructing, equipping, improving and maintaining the Common Elements and for such purposes to mortgage the Common Elements, provided that any mortgage shall be subject to the Owners' rights of ingress and egress across the Common Elements.

5.1.2 The right of the Board to adopt, enforce and amend reasonable Rules and Regulations pertaining to the use of the Common Elements.



5.1.3 All other easements, restrictions, and rights to which the Property is subject, including, but not limited to, any easements granted or reserved pursuant to Section 7.

5.2 Subordination to Mortgage or Other Lien. Except as set forth in Section 5.1.1, the rights and privileges provided in this Section shall be subordinate to any mortgage or other lien given by the Association for the purposes of acquiring, improving or maintaining the Common Elements.

5.3 Additional Common Elements Constructed by the Association. The Association shall not construct any capital addition or capital improvement to the Common Elements or any Lot if the cost to the Association of the addition or improvement exceeds \$10,000.00 unless the addition or improvement has been authorized by (a) 75% of the votes cast by Owners who are voting in person or by proxy at a meeting of the Association at which a quorum is present, and (b) the Developer, if the addition or improvement is to be made during the Development Period. Notwithstanding the foregoing, capital expenditures for repairs or replacements of Common Elements and/or other Structures that the Association is required to maintain shall not be subject to membership approval if the expenditures are included in the budget of the Association and are to be paid from reserve funds held by the Board for those purposes.

5.4 Maintenance and Management of Common Elements. Except as provided in Section 6, the Association shall provide for the reasonable maintenance, repair and management of all Common Elements. The Association may fulfill this responsibility and any other duties and obligations of the Association under this Declaration by contracting with any professional management company (including Developer or an affiliate of Developer) upon such terms and conditions as shall be agreed upon by the Board and the manager. Any contract with Developer or an affiliate of Developer shall be terminable by the Association within one year after the expiration of the Development Period.

5.5 Payment by First Mortgagees of Obligations and Reimbursement for Same. If the Association (a) defaults with regard to payment of taxes or other obligations which become a charge against the Common Elements, or (b) fails to pay premiums for insurance in accordance with Section 9, and does not in good faith contest liability for payment of the same, any first mortgagee of a Lot may, after giving prior written notice of its intent to do so to the Association, pay those amounts. The first mortgagee shall then be entitled to immediate reimbursement from the Association of the amount so paid.

5.6 Use of Common Elements by Developer. In addition to the rights described in Section 5.1, Developer and its affiliates shall have the right during the Development Period to use the Common Elements, free of charge, for promotional, construction, management, maintenance, repair, remodeling, rental and sales purposes.

5.7 Conveyance of Common Elements to Association. No later than the expiration of the Development Period, Developer shall transfer ownership of the Common Elements to the Association by deed or other instrument of conveyance, free from liens except as permitted by this Declaration.

## SECTION 6. MAINTENANCE

6.1 Adoption of Standards. In furtherance of the purposes outlined in Section 8.1, the Board may adopt maintenance standards pertaining to the maintenance, repair and appearance of all Lots, and the exterior of all Structures. The maintenance standards shall be adopted in the same manner and be enforceable in the same manner as the Rules and Regulations. If any provision of any applicable building



inspection, housing inspection or similar maintenance statute, ordinance, resolution, regulation or order of the State of Ohio, or any other governmental instrumentality, is more stringent with regard to a Lot than a comparable provision of the maintenance standards, the more stringent provision shall be deemed incorporated in the maintenance standards. The Association shall comply with the maintenance standards with respect to the Common Elements, and the costs of the Association in meeting the maintenance standards and its responsibilities pursuant to Section 6.2 below, shall be Common Expenses of the Association.

6.2 Association Responsibilities. Except as otherwise provided below, the Association shall be responsible for (a) maintenance, repair and replacement of the Common Elements; (b) cutting, spraying, trimming and maintaining all landscaping, shrubs and trees located on the Common Elements; and (c) snow and ice removal and treatment of driveways and sidewalks on the Common Elements. Notwithstanding the foregoing, the Association shall not be required to mow, trim or provide similar types of maintenance of drainage and utility easement areas that are located upon the Lots; that responsibility shall be borne by the Owners of the affected Lots, as provided in Section 6.3. However, the Board's right of entry as provided in Section 6.6 shall include the right to enter upon any Lot to provide needed maintenance for any drainage or utility easement area, or any other swales or similar areas that have an impact on the neighbor drainage pattern, as conditions dictate in order to address drainage issues affecting other areas of the Property. In addition, the Association's responsibility shall include the maintenance of any pipes, culverts, headwalls and other drainage facilities within a drainage easement unless such responsibility has been assumed by a public authority having jurisdiction. Except for the maintenance of drainage or utility easement areas provided by the Association due to the failure of an Owner to fulfill its responsibilities set forth in Section 6.3, the costs incurred by the Association pursuant to this Section 6.2 shall be a Common Expense.

6.3 Owner Responsibilities. Each Owner shall maintain, repair and replace, and keep in good condition and repair, at his or her expense, all portions of that Owner's Lot, including the residence and all other Structures on the Lot. The Owner's maintenance responsibilities include the exterior and structural portions of all Structures on the Lot, all internal and external installations of the Lot such as appliances, heating, plumbing, electrical and air conditioning fixtures or installations, and also any portion of any other utility service facilities exclusively serving the Lot (whether located on the Lot or on the Common Elements). The cost of mowing, trimming and providing similar maintenance of drainage and utility easement areas located upon a Lot shall be borne by the Owner of that Lot. Owners are responsible for sump drains located on and serving the Owner's Lot. Each Owner is responsible for maintaining any post light on or adjacent to the Lot, and also for mowing and maintaining any lawn or landscaped area located in the right-of-way of the public street immediately adjoining the Owner's Lot.

6.4 Repairs Due to Negligence, Etc. Each Owner agrees to repair and/or replace at his or her own expense any damage to that Owner's Lot or to any other portions of the Property caused by the negligent or wrongful acts of that Owner or any Occupant or other person claiming under that Owner. The Association may perform those repairs and/or replacements and assess the cost as an individual assessment against that Owner and the Owner's Lot.

6.5 Periodic Inspection. Periodically, as needed, the Association shall inspect each Lot to determine whether the Lot and any other Structures comply with the maintenance requirements in this Declaration.



6.6 Right of Entry. The Board, through its authorized officers, employees and agents, shall have the right to enter upon any Lot at all reasonable times and upon reasonable advance notice for the purpose of making inspections or repairs, maintenance and replacements as required by this Section. To the extent that an Owner fails to make a repair or replacement that is the Owner's responsibility under this Section 6, the Association shall have the right to enter upon the Owner's Lot and provide the necessary maintenance, repairs and replacements, and assess the costs so incurred as an individual assessment against that Owner and the Owner's Lot. The same rights shall apply to the City of Springboro as referenced in Section 3.13.

6.7 Optional Additional Services. The Association may, from time to time, establish special services available to Owners (at the Owner's option) for an additional charge. The costs incurred by the Association in providing these additional services will be assessed as an individual assessment against that Owner and the Owner's Lot.

## SECTION 7. EASEMENTS

7.1 Platted Easements. Easements for installation, maintenance and location of utilities and drainage facilities may be reserved on the recorded plat for the Property. Owners and Occupants shall not (i) obstruct or interfere with any easements or the natural flow of surface water, which shall, at all times, be kept free from obstruction, or (ii) alter the location or grade of open storm water drainage ways.

7.2 Encroachments. If, by reason of the construction, reconstruction, repair, settlement, shifting or other movement of any of the Structures or by reason of the partial or total destruction and rebuilding of the Structures, any part of the Common Elements encroaches upon any part of a Lot or any part of a Structure on a Lot encroaches upon any part of the Common Elements or on another Lot; or, if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving one Lot encroach upon any part of any other Lot, valid easements for the maintenance of such encroachments are established. These easements shall exist for the benefit of the affected Lot(s) and the Common Elements, as the case may be, so long as the encroachments exist. However, in no event shall a valid easement for any encroachment be created in favor of any Owner if the encroachment occurred due to the willful conduct of that Owner.

7.3 Maintenance Easements. Each Lot shall be subject to easements for access arising from necessity of maintenance or operation of the Property pursuant to the provisions of this Declaration. The Owner of each Lot shall have the permanent right and easement to and through the Common Elements for the use of water, sewer, power, television and other utilities now or in the future existing within the Common Elements.

7.4 Reservation of Construction, Sewer, and Utility Easements. Developer reserves easements across the Common Elements for the construction, installation, and maintenance of utilities, drainage facilities, and storm and sanitary sewers, and to cut and grade slopes in and along parcel boundaries at streets built within the Property.

7.5 Easements for Certain Utilities. The Association may grant easements through the Common Elements for utility purposes for the benefit of the Property, including, but not limited to, the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and on any portion of the Common Elements; and each Owner grants the Association an irrevocable power of attorney to execute,



acknowledge and record, for and in the name of the Owner, such instruments as may be necessary to effectuate the foregoing.

7.6 Easements to Run With Land. All easements and rights described in this Declaration are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Developer, the Association, and any Owner, purchaser, Occupant, mortgagee and other person now in the future having an interest in any part of the Property [or, to the extent applicable, the Additional Property].

## SECTION 8. DAMAGE OR DESTRUCTION AND INSURANCE

8.1 Fire and Extended Coverage Insurance. The Association shall at all times maintain insurance coverage on all Structures and other improvements now or at any time in the future constituting a part of the Common Elements, including fixtures and equipment to the extent they are part of the Common Elements, all against loss or damage by fire, lightning, cost of demolition, cost of debris removal, vandalism, malicious mischief, windstorm, sprinkler leakage (if applicable) and such other risks as are customarily covered with respect to projects similar in construction, location, and use. The Association shall not be responsible for, and each Owner shall separately obtain, appropriate casualty insurance for the Structures on that Owner's Lot.

8.2 Liability Insurance. The Association shall insure itself, all Owners and their Occupants, and all persons lawfully in possession of or in control of any part of the Property, against liability for bodily injury, disease, illness, or death and for injury to or destruction of property occurring in connection with the operation, maintenance, or use of the Common Elements. The policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Lots. The policy shall provide for at least 10 days written notice to the Association before the insurer may cancel or substantially modify the policy.

8.3 Directors and Officers Liability Insurance. To the extent reasonably available and applicable, the Association shall maintain directors and officers liability insurance for the benefit of the Directors and officers of the Board in such amounts and on such terms and conditions as the Board deems appropriate.

8.4 Other Association Insurance. The Board may purchase and maintain fidelity bonds for directors, officers, employees and managers, and such other insurance as the Board may determine.

8.5 Insurance Premiums. Insurance premiums for the policies of the Association referred to above and for such other policies as the Association shall determine to be desirable shall be Common Expenses paid from the annual assessment established in Section 3.

8.6 Damage or Destruction and Restoration of Buildings.

8.6.1 Sufficient Insurance. If any part or all of a Structure that is insured by the Association shall suffer damage or destruction from any cause or peril insured against, and the proceeds of any policy carried by the Association shall be sufficient as determined by the Board to pay the cost of repair restoration or reconstruction, then the repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied by the Association for that purpose.



8.6.2 Insufficient Insurance. If any part or all of a Structure that is part of the Common Elements shall suffer damage or destruction from any cause or peril that is not insured against, or, if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless otherwise provided in this Declaration, the repair, restoration or reconstruction of the improvements shall be undertaken by the Association and shall be considered a capital improvement. Without limiting the right of the Association to charge the cost to any responsible Owner, as provided elsewhere in this Declaration, the costs incurred by the Association shall be assessed to the Owners as a special assessment. No membership vote under Section 5.3 shall be required with respect to this capital improvement or the resulting special assessment.

## SECTION 9. CONDEMNATION

The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Elements. Each Owner, by acceptance of delivery of a deed for a Lot, irrevocably appoints the Association as his or her attorney in fact for this purpose.

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

## SECTION 10. ENFORCEMENT

10.1 Curing Defaults; Lien. If any Default occurs with respect to any Lot under the provisions of this Declaration, the Board shall give written notice to the Owner, with a copy of the notice to any Occupant in Default and a copy to any first mortgagee of the Lot who has requested copies of default notices, setting forth in reasonable detail the nature of the Default and the specific action(s) required to remedy the Default, except that no notice of Default shall be required before the Board takes any of the actions set forth in Section 3 for nonpayment of Assessments. If the Owner or Occupant shall fail to take the specific action(s) within 30 days after the mailing of the notice, the Board may, but shall not be required to, exercise any or all of its rights in this Declaration or otherwise available at law or in equity. The Board may exercise without notice any of its rights with respect to any Default if it determines that an emergency exists requiring immediate action.

Notwithstanding the foregoing, prior to imposing a charge for damages or an enforcement assessment, the Board shall give the Owner a written notice and opportunity to cure pursuant to Section 5312.11 of the Ohio Revised Code including a description of the property damage or violation; the amount of the proposed charge or assessment; a statement that the Owner has the right to a hearing before the Board to contest the proposed charge or assessment; a statement setting forth the procedures to request a hearing; and a reasonable date by which the Owner must cure a continuing violation to avoid the proposed charge or assessment, if such an opportunity to cure is applicable. To request a hearing, the Owner shall deliver a written notice to the Board not later than the tenth (10th) day after receiving the notice described in this paragraph. If the Owner fails to make a timely request for a hearing, the right to a hearing is waived, and the Board may immediately impose a charge for damages or an enforcement assessment. If an Owner requests a hearing, at least seven (7) days prior to the hearing the Board shall provide the Owner with a written notice that includes the date, time and location of the hearing. The Board shall not levy a charge or assessment before holding any hearing requested pursuant to this Section. Within thirty (30) days following a hearing at which the Board imposes a charge or assessment, the



Association shall deliver a written notice of the charge or assessment to the Owner. Any written notice that this Section requires shall be delivered to the Owner or any Occupant of the dwelling unit by personal delivery, by certified mail, return receipt requested, or by regular mail.

Costs incurred by the Association in exercising any of its rights with respect to any Lot, together with court costs, reasonable attorneys' fees, other costs of enforcement, and other charges permitted by Ohio Revised Code Section 5312.11, shall be a binding personal obligation of the Owner and shall be payable on demand. If the Owner fails to pay costs within 30 days after demand, the Association may file a notice of lien in the same manner and which shall have the same priority as the liens for Assessments provided in Section 3.

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

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

10.4 Rules and Regulations. The Board may adopt and enforce, and from time to time amend, reasonable rules and regulations (the "Rules and Regulations") regarding the administration, interpretation, and enforcement of this Declaration and the Bylaws. Each Rule and Regulation shall be consistent with and designed to further the purposes outlined in this Declaration. The Rules and Regulations may include, if the Board so elects, establishment of monetary fines for violations of this Declaration, the Bylaws or the Rules and Regulations, in such amounts as the Board may deem appropriate.

## SECTION 11. DURATION, AMENDMENT AND TERMINATION

11.1 Duration. This Declaration shall be deemed to create covenants running with the land and shall bind the Property and shall inure to the benefit of and be binding upon Developer, the Board, the Association, and each Owner, Occupant and their legal representatives, heirs, successors and assigns, and shall continue in full force and effect for twenty (20) years from the date on which this Declaration is recorded. Thereafter this Declaration shall be automatically renewed for successive ten-year periods unless amended or terminated as provided in this Section.

11.2 Amendment or Termination. Before the end of the Development Period, and except as otherwise provided in this Declaration, any provision of this Declaration may be amended or terminated in whole or in part by a recorded instrument executed by Developer and approved by Developer and the Owners of at least 75% of all Lots.



After the Development Period, and except as provided in this Declaration, any provision of this Declaration may be amended in whole or in part or terminated by a recorded instrument approved by the Owners of at least 75% of all Lots.

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

Notwithstanding the above, this Declaration may be amended at any time during the Development Period, without the vote of Owners, by a written instrument executed by the Developer for any of the following purposes: eliminating or correcting any typographical or other inadvertent errors; eliminating or resolving any ambiguity; making nominal changes; clarifying Developer's original intent; and/or making any changes necessary or desirable to meet the requirements of any institutional lender, the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Mortgage Corporation, or any other agency that may insure or purchase loans on a Lot. No amendment for these purposes shall materially adversely affect any Owner's interest in his or her Lot, the Association or the Common Elements without that Owner's written consent. Each Owner and his or her mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering a Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration by Developer as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Developer, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by the Developer to be necessary or proper to effectuate the provisions of this paragraph.

## SECTION 12. MISCELLANEOUS

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

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

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

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

12.5 Gender. Throughout this Declaration, where the context so requires, the masculine gender shall be deemed to include the feminine and neuter, and the singular shall include the plural, and vice versa.







## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

File No.: 20184329

Situate in the Township of Clearcreek, City of Springboro, County of Warren, State of Ohio, being part of Section 13, Town 2, Range 5 MRS, more particularly described as follows:

Beginning at a point in the centerline of market Street and on the West line of Royal Oaks Park, Section 12 as recorded in Plat Book 5, Page 30; thence South  $1^{\circ} 20' 27''$  East, a distance of 414.92 feet to an iron pin at the Northeast corner of a 10.370 acre tract conveyed to Earnest and Irene Melampy, said iron pin also being the True Place of Beginning; thence South  $1^{\circ} 20' 27''$  East, along the East line of said Melampy lands, a distance of 827.29 feet to an iron pin; thence North  $87^{\circ} 24' 25''$  West, along a South line of said Melampy lands, a distance of 337.11 feet to an iron pin; thence South  $88^{\circ} 54' 16''$  West, along a South line of said Melampy lands, a distance of 60.19 feet to a point; thence North  $1^{\circ} 20' 27''$  West, passing an iron witness pin at 67.81 feet a total distance of 344.79 feet to an iron pin; thence South  $88^{\circ} 54' 16''$  West, a distance of 151.10 feet to an iron pin on the West line of said Melampy lands; thence North  $1^{\circ} 20' 27''$  West, along the West line of said Melampy lands, a distance of 458.47 feet to an iron pin at the Northwest corner of said Melampy lands; thence North  $88^{\circ} 39' 33''$  East, along the North line of said Melampy lands, a distance of 547.60 feet to the place of beginning. Containing 9.000 acres, more or less.

Survey made by Miami Engineering.

#### SAVE AND EXCEPT:

Situate in the Township of Clearcreek, City of Springboro, County of Warren, State of Ohio, being part of Section 13, Town 2, Range 5 MRS and being part of a 9.000 Acre Tract as conveyed to Robert C. Blake and Linda A. Blake as recorded in Deed Book 504, Page 344 of the Warren County, Ohio Deed Records, being more particularly described as follows:

Starting at a found rebar at the Southwest corner of said 9.000 Acre Tract, thence, with the West line of said tract N.  $01^{\circ} 20' 27''$  W. a distance of 157.99 feet to a found rebar at the Southeast corner of Lot 42, of Spring Park, Section One, recorded in Plat Book 9, Page 11, being the True Place of Beginning;

Thence, with West line of said 9.000 Acre Tract, N.  $01^{\circ} 20' 27''$  W. a distance of 75.00 feet to the Northeast corner of said Lot 42, witness a found rebar North 0.30 feet;

Thence, along a new division line, N.  $88^{\circ} 39' 33''$  E. a distance of 61.15 feet to a set iron pin and corner;

Thence, along a new division line, S.  $01^{\circ} 20' 27''$  E. a distance of 75.00 feet to a set iron pin and corner;

Thence, along a new division line, S.  $88^{\circ} 39' 33''$  W. a distance of 61.15 feet to the Place of Beginning. Containing 0.1053 acres, more or less.

The above description is the result of a survey prepared by William R. Yoakam, WYCO Engineering & Surveying, Inc., Ohio Registered Surveyor No. 5557.

#### SAVE AND EXCEPT:

Situate in the Township of Clearcreek, City of Springboro, County of Warren, State of Ohio, being part of Section 13, Town 2, Range 5 MRS and being part of a 9.000 Acre Tract as conveyed to Robert C. Blake and Linda A. Blake as recorded in Deed Book 504, Page 344 of the Warren County, Ohio Deed Records, being more particularly described as follows:

Starting at a found rebar at the Southwest corner of said 9.000 Acre Tract; thence, with the West line of said tract N.  $01^{\circ} 20' 27''$  W. a distance of 82.99 feet to a found rebar at the Southeast corner of Lot 73, of Spring Park, Section Two, recorded in Plat Book 9, Page 60, being the True Place of Beginning;

Thence, with West line of said 9.000 Acre Tract, N.  $01^{\circ} 20' 27''$  W. a distance of 75.00 feet to a found rebar and the Northeast corner of said Lot 73;

Thence, along a new division line, N.  $88^{\circ} 39' 33''$  E. a distance of 61.15 feet to a set iron pin and corner;

Thence, along a new division line, S.  $01^{\circ} 20' 27''$  E. a distance of 75.00 feet to a set iron pin and corner;

Thence, along a new division line, S.  $88^{\circ} 39' 33''$  W. a distance of 61.15 feet to the Place of Beginning. Containing 0.1053 acres, more or less.



The above description is the result of a survey prepared by William R. Yoakam, WYCO Engineering & Surveying, Inc., Ohio Registered Surveyor No. 5557.

SAVE AND EXCEPT:

Situate in the Township of Clearcreek, City of Springboro, County of Warren, State of Ohio, being part of Section 13, Town 2, Range 5, MRS and being part of a 9.000 Acre Tract as conveyed to Robert C. Blake and Linda A. Blake as recorded in Deed Book 504, Page 344 of the Warren County, Ohio Deed Records, being more particularly described as follows;

Beginning at a found rebar at the Southwest corner of said 9.000 Acre Tract; thence, with the West line of said tract N. 01° 20' 27" W. a distance of 82.99 feet to a found rebar at the Northeast corner of Lot 74, of Spring Park, Section Two, recorded in Plat Book 9, Page 60, passing a found rebar at 7.99 feet, at the Southeast corner of said Lot 74;

Thence, along a new division line, N. 88° 39' 33" E. a distance of 61.15 feet to a set iron pin and corner;

Thence, along a new division line, S. 01° 20' 27" E. a distance of 83.25 feet to a set iron pin and corner;

Thence, with the South line of said 9.000 Acre Tract S. 88° 54' 16" W. a distance of 61.15 feet to the Place of Beginning. Containing 0.1167 Acres, more or less.

The above description is the result of a survey prepared by William R. Yoakam, WYCO Engineering & Surveying, Inc., Ohio Registered Surveyor No. 5557.

Leaving a remainder of 8.6727 acres, more or less.

Sidwell # 04-13-126-024





## EXHIBIT B

### BYLAWS FOR SAWGRASS POINTE OWNERS ASSOCIATION

#### SECTION 1. DECLARATION; APPLICABILITY; OFFICE

1.1 Declaration. Sawgrass Pointe Owners Association, an Ohio nonprofit corporation, is the Association to which reference is made in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, dated \_\_\_\_\_, 2019, recorded at Official Record Book \_\_\_\_\_, Page \_\_\_\_\_, Warren County, Ohio, Records (that Declaration, as it may be amended from time to time, the "Declaration"). The terms, provisions, conditions and restrictions of the Declaration, as they relate to the Association and the members, (as defined below) Board of Directors, officers and committees, are incorporated by reference with the same force and effect as if fully set out in these Bylaws.

1.2 Applicability. These Bylaws are binding on all present or future Owners or Occupants (each as defined in the Declaration) of the Property (as defined in the Declaration) or other persons using any improvements or facilities located on the Property in any manner. Upon the acquisition, rental, use or other act of occupancy of any Lot (as defined in the Declaration), or any other portion of the Property by any person, these Bylaws shall be deemed accepted and ratified by that person.

1.3 Office. The principal office of the Association shall be at such place within reasonable proximity to the Property as the Board of Directors may designate.

#### SECTION 2. DEFINITIONS

All terms used at any place in these Bylaws that begin with capital letters, other than words that would normally be capitalized, unless the context otherwise requires, shall have the meanings set forth in the Declaration.

#### SECTION 3. MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. The members of the Association shall include, and shall be limited to, the Owners (including Developer).

##### 3.2 Voting Rights.

(a) Except as provided in the next paragraph, each member shall be entitled to vote, with regard to matters submitted to the members for a vote, a number of votes equal to the number of Lots owned by that member at the time of the vote. If co-Owners of a particular Lot cannot mutually agree on how their vote shall be cast, no vote shall be cast with respect to that Lot.

(b) During the Development Period, Developer shall be entitled to three votes for each Lot owned by Developer. After the Development Period, Developer's voting rights shall be the same as other Owners.

3.3 Revocation of Voting Rights. Any member who has been issued a notice of Default pursuant to Section 11.1 of the Declaration, or who has had his or her right or privilege of use and enjoyment of the Common Elements suspended pursuant to Section 5.1 of the Declaration, or who is



otherwise in Default, shall not be in good standing and shall not be entitled to vote during any period in which the Default or suspension continues.

3.4 Actions by Members. Unless otherwise prescribed by law, the Declaration or these Bylaws, the affirmative vote of a majority of the votes present at a meeting at which a quorum is present shall be necessary for the authorization or taking of any action voted upon by the members.

#### SECTION 4. MEETINGS OF MEMBERS; QUORUM; PROXIES

4.1 Time and Place of Meeting. Meetings of the members shall be held at the principal office of the Association, unless the Directors determine that a meeting shall be held at some other place and cause the notice of meeting to so state. The date and time of all meetings shall be as specified by the Board in its notice of the meeting.

4.2 Annual Meeting. The annual meeting of members for the purpose of electing Directors and for the transaction of such other business as may properly come before the meeting shall be held on such date in the month of December of each year or at such other date as may be determined by the Directors. The Board shall have the discretion not to hold annual meetings during the Development Period.

4.3 Special Meetings. The Secretary of the Association shall call a special meeting of the members (i) when directed by the President of the Association, (ii) upon the resolution of a majority of the Board of Directors, (iii) upon the presentation to the Secretary of the Association of a petition signed by members holding at least fifty percent (50%) of the total votes of the Association, and (iv) within 30 days after the end of the Development Period as provided in Section 5.3.

4.4 Quorum; Adjournment. Members present in person or by proxy holding at least twenty-five (25%) percent of the total votes of the members of the Association shall constitute a quorum for any annual meeting or special meeting. Whether or not a quorum is present, the members entitled to exercise a majority of voting power represented at a meeting may adjourn that meeting without notice other than by announcement at the meeting.

4.5 Notice of Meeting; Waiver. Written notice of each meeting of members shall be given not less than 7 days nor more than 60 days before it is to be held. Each notice shall specify the date, time and place of the meeting, and, in the case of a special meeting, shall specify the purposes of the meeting. The notice shall be delivered personally or mailed postage prepaid to all members of record. Any member may waive notice of a meeting by doing so in writing before or after the meeting. Attendance at a meeting, either in person or by proxy, shall constitute a waiver of notice and of any and all objections to the place or time of such meeting or the manner in which it has been called or convened, unless a member attends the meeting solely for the purpose of stating, at the beginning of such meeting, any objection or objections relating to such meeting.

4.6 Action by Association Without Meeting. Any action that may be taken at a meeting of the members may be taken without a meeting if written approval and consent, setting forth the action authorized, shall be signed by members having a majority of the total votes of the Association. This written consent shall be filed with or entered upon the books of the Association.



4.7 Proxies. Members may vote or act in person or by proxy. The person designated a proxy need not be a member. A member shall designate a proxy by written notice to the Board of Directors and, except as otherwise provided in these Bylaws, may revoke the designation at any time upon written notice to Board. A proxy shall be revoked automatically upon the member's conveyance of all Lots owned by him or her. If a first mortgagee has been designated a proxy under the terms of a first mortgage covering a Lot, the presentation to the Board of a copy of the mortgage containing the proxy designation shall be notice of that designation, and, if the mortgage so states, of the irrevocability of that designation. Written notice to the Board or notice in a meeting of the revocation of a proxy designation shall not affect any vote or act previously taken. Each proxy shall have the power of substitution.

## SECTION 5. BOARD OF DIRECTORS; POWERS; NUMBER; MEETINGS

5.1 General Powers. Except where the law, the Declaration, the Articles of Incorporation or the Bylaws require that action be otherwise authorized or taken, all of the authority of the Association shall be exercised by or under the direction of the Board of Directors.

5.2 Number of Directors. Until changed by amendment to these Bylaws, there shall be three Directors of the Association.

5.3 Election; Term of Office; Qualifications. The initial Board of Directors shall be appointed by Developer. During the Development Period, Developer shall have the right to appoint, remove and replace Directors in Developer's sole discretion. Within 30 days after the end of the Development Period, the Secretary of the Association shall call a special meeting of the members of the Association. The term of the Developer-appointed Board of Directors shall expire as of the date of that special meeting and three new Directors shall be elected. One Director shall be elected for a term of one year and until his or her successor is elected and qualified, one Director shall be elected for a term of two years and until his or her successor is elected and qualified and the third Director shall be elected for a term of three years and until his or her successor is elected and qualified. Thereafter, all successor Directors shall be elected for a term of three years. Each of the new Directors shall be a member, a spouse of a member, or a principal, member of a limited liability company, partner, director, officer, trustee or employee of an Owner that is not an individual.

5.4 Procedure for Election. At each annual meeting after the Development Period, the members shall elect a Director to succeed to the office of the Director whose term is scheduled to expire at that meeting.

5.5 Removal or Resignation. Any Director may be removed at any time, with or without cause, by the affirmative vote of members holding at least 67% of the total votes of the Association, and, with cause, by the Board of Directors, and in either case a successor shall be elected by the Board of Directors to fill the unexpired portion of such Director's term. Any Director may resign at any time by giving written notice to the Board of Directors. The resignation shall take effect on the date of receipt of the notice or at any later time specified in the notice, and, unless otherwise specified, the acceptance of the resignation shall not be necessary to make it effective.

5.6 Fees and Compensation. No fee or compensation shall be paid by the Association to Directors for their services as Directors.



5.7 Meetings. The annual meeting of the Board of Directors shall be held without notice at the same place and immediately after the annual meeting of the members. The annual meeting shall be held for the purpose of electing officers and transacting any other business. Special meetings of the Board of Directors may be called by the President of the Association or a majority of the Directors on at least 3 days notice to each Director, given personally or by mail, telephone, telecopy, or email, which notice shall state the time and place of the meeting. The Board may hold a meeting by any method of communication, including electronic or telephone communication, provided that each member of the Board can hear or read in real time and participate in and respond to every other member of the Board. No Owner other than a Director may attend or participate in any discussion or deliberation of a meeting of the Board unless the Board expressly authorizes that Owner to attend or participate.

5.8 Waiver of Notice. Any Director may waive notice of a meeting by doing so in writing before or after the meeting. Attendance at a meeting of the Board of Directors shall constitute a waiver of notice and of any and all objections to the place or time of such meeting or the manner in which it has been called or convened, unless a Director attends the meeting solely for the purpose of stating, at the beginning of such meeting, any objections or objections relating to the meeting.

5.9 Board of Directors Quorum. At all meetings of the Board of Directors, a majority of the Directors then in office shall constitute a quorum for the transaction of business.

5.10 Action Taken by Directors. Except as otherwise provided in the Declaration, these Bylaws or by law, every act or decision by a majority of the Directors present in person at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

5.11 Action by Unanimous Written Consent Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if written consent, setting forth the action so taken, is signed by all members of the Board of Directors and that written consent is filed with or entered upon the books of the Association.

5.12 Powers. The Board shall exercise all powers and authority, under law, and under the provisions of the Declaration and these Bylaws, that are not specifically and exclusively reserved to the Owners by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

(a) Hire and fire managing agents, attorneys, accountants, and other independent professionals and employees that the Board determines are necessary or desirable in the management of the Property and the Association;

(b) Commence, defend, intervene in, settle, or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board of Directors, or the Property, or that involves two or more Owners and relates to matters affecting the Property;

(c) Enter into contracts and incur liabilities relating to the operation of the Property;

(d) Enforce all provisions of the Declaration, Bylaws, covenants, conditions, restrictions and Articles of Incorporation governing the Lots, Common Elements, and Limited Common Elements (if any).



(e) Adopt and enforce rules that regulate the maintenance, repair, replacement, modification, and appearance of the Common Elements, and any other rules the Declaration provides;

(f) Acquire, encumber, and convey or otherwise transfer real and personal property, subject to Section 5312.10 of the Revised Code;

(g) Hold in the name of the Association the real property and personal property;

(h) Grant easements, leases, licenses, and concessions through or over the Common Elements;

(i) Levy and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Owners;

(j) Pursuant to Section 5312.11 of the Revised Code, levy the following charges and assessments: interest and charges for the late payment of assessments; returned check charges; enforcement assessments for violations of the Declaration, the Bylaws, and the Rules and Regulations of the Association; and charges for damage to the Common Elements or other property;

(k) Adopt and amend Rules and Regulations that regulate the collection of delinquent assessments and the application of payments of delinquent assessments;

(l) Impose reasonable charges for preparing, recording, or copying the Declaration, Bylaws, amendments to the Declaration and Bylaws, resale certificates, or statements of unpaid assessments;

(m) Authorize entry into any portion of the Property by designated individuals when conditions exist that involve an imminent risk of damage or harm to Common Elements, another dwelling Unit, or to the health or safety of the Occupants of that dwelling unit or another dwelling Unit;

(n) Subject to division (A)(1) of Section 5312.09 of the Revised Code, borrow money and assign the right to common assessments or other future income to a lender as security for a loan to the Association;

(o) Suspend the voting privileges and use of recreational facilities of an Owner who is delinquent in the payment of assessments for more than thirty days;

(p) Purchase insurance and fidelity bonds the Directors consider appropriate or necessary;

(q) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law; and

(r) Exercise powers that are:

(i) Conferred by the Declaration or the Bylaws;

(ii) Necessary to incorporate the Association as a nonprofit corporation;



- (iii) Permitted to be exercised in this state by a nonprofit corporation;
- (iv) Necessary and proper for the government and operation of the Association.

5.13 Duties. It shall be the duty of the Board to:

(a) Cause to be kept a complete record of all its acts and corporate affairs, including the following:

(i) Correct and complete books and records of account that specify the receipts and expenditures relating to the Common Elements and other common receipts and expenses;

(ii) Records showing the collection of common expenses from the Owners;

(iii) Minutes of the meetings of the Association and the Board of Directors;

(iv) Records of the names and addresses of the Owners.

(b) Annually adopt and amend an estimated budget for revenues and expenditures. Any budget shall include reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, unless the reserve requirement is waived annually by the Owners exercising not less than a majority of the voting power of the Association;

(c) Collect assessments for common expenses from Owners in accordance with Section 5312.10 of the Revised Code;

## SECTION 6. COMMITTEES

The Board of Directors may appoint three or more Directors to constitute one or more other committees of the Association. The resolution establishing each committee shall specify a designation by which it shall be known and shall fix its powers and authority. The Board of Directors may delegate to any committee any of the authority of the Board of Directors, however conferred.

Each committee shall serve at the pleasure of the Board of Directors, shall act only in the intervals between meetings of the Board of Directors, and shall be subject to the control and direction of the Board of Directors. All actions by any committee shall be subject to revision and alteration by the Board of Directors.

Any committee may act by a majority of its members at a meeting or by a writing or writings signed by all of its members.

## SECTION 7. OFFICERS

7.1 Enumeration and Election of Officers. The officers of the Association shall be a President, a Secretary, a Treasurer and such other officers as the Board of Directors may from time to time by resolution create. The Board of Directors shall elect the officers of the Association at each annual



meeting. All officers shall be members of the Board of Directors. Directors may hold more than one office. The Board of Directors may remove any officer at any time, with or without cause, by a vote of the majority of Directors at a meeting at which a quorum is present. The Board of Directors may fill any vacancy in any office occurring from whatever cause.

7.2 Compensation. No fee or compensation shall be paid by the Association to any officer for his or her services as an officer.

7.3 Duties of Officers. The duties of the officers of the Association shall be as set forth below:

(a) President. The President shall preside at all meetings of the Board of Directors and members and shall sign any contracts, notes, deeds or other papers requiring the President's signature, and shall have such other duties as may from time to time be required of the President by the Board of Directors.

(b) Secretary. The Secretary shall keep minutes of all the proceedings of the Board of Directors and the members, make proper record of the same and furnish copies of such minutes to the President prior to the next meeting of the Board of Directors or the members, as the case may be; sign all bonds, contracts, notes, deeds and other papers executed by the Association requiring such signature; give notice of meetings of Directors and members; keep such books as may be required by the Board of Directors; and perform such other and further duties as may from time to time be required by the Board of Directors.

(c) Treasurer. The Treasurer shall have general supervision of all finances. The Treasurer shall receive and have in charge all money, bills, notes, deeds, leases, mortgages, insurance policies and similar property belonging to the Association and shall do with the same such as may, from time to time, be required by the Board of Directors. The Treasurer shall cause to be kept adequate and correct accounts of the business transactions of the Association and on the expiration of his or her term of office shall turn over to the succeeding Treasurer or to the Board of Directors the property, books, papers and money of the Association.

## SECTION 8. ASSESSMENTS

8.1 Budget; Annual Assessments. Not later than December 1 of each year, the Board of Directors shall estimate the amount of the Common Expenses of the Association for the next calendar year and prepare a budget based upon those estimates and the requirements of Section 5.13. Based upon the estimated budget, the Board of Directors shall fix the amount of the annual assessment for each Lot, taking into account the rate of assessment provided in Section 3.5 of the Declaration. The annual assessment shall be payable in the manner provided in Section 3.8 of the Declaration.

8.2 Special Assessments. The Board of Directors may levy, in any year, special assessments for the purposes described in the Declaration, subject to obtaining the vote of the members as may be required. Special assessments shall be due and payable on the dates fixed by the Board of Directors, and shall be payable in a single installment unless the Board of Directors permits payment in more than one installment.



8.3 Individual Assessments. The Association may assess an individual Lot for any of the following:

(a) Enforcement assessments and individual assessments for utility service that are imposed or levied in accordance with the Declaration, as well as expenses the Board incurs in collecting those assessments;

(b) Costs of maintenance, repair, or replacement incurred due to the willful or negligent act of an Owner or Occupant of a Lot or their family, tenants, guests, or invitees, including, but not limited to, attorney's or fees, court costs, and other expenses;

(c) Costs associated with the enforcement of the Declaration or the rules and regulations of the Association, including, but not limited to, attorney's fees, court costs, and other expenses; and

(d) Costs or charges otherwise omitted by the Declaration or these Bylaws.

Prior to imposing a charge for damages or an enforcement assessment pursuant to this Section, the Board shall give the Owner a written notice that includes all of the following:

(i) A description of the property damage or violation;

(ii) The amount of the proposed charge or assessment;

(iii) A statement that the Owner has a right to a hearing before the Board to contest the proposed charge or assessment;

(iv) A statement setting for the procedures to request a hearing; and

(v) A reasonable date by which the Owner must cure a continuing violation to avoid the proposed charge or assessment, if such an opportunity to cure is applicable.

To request a hearing, the Owner shall deliver a written notice to the Board not later than the 10th day after receiving the notice required by this Section. If the Owner fails to make a timely request for a hearing, the right to that hearing is waived, and the Board may immediately impose a charge for damages or an enforcement assessment pursuant to this Section. If Owner requests a hearing, at least 7 days prior to the hearing the Board shall provide the Owner with a written notice that includes the date, time and location of the hearing. The Board shall not levy a charge or assessment before any hearing requested pursuant to this Section. Within 30 days following a hearing at which the Board imposes a charge or assessment, the Association shall deliver a written notice of the charge of assessment to the Owner. Any written notice that this Section requires shall be delivered to the Owner or any Occupant of the Owner's Lot by personal delivery, by certified mail, return receipt requested, or by regular mail.

8.4 Status of Amounts Collected. The amounts collected through annual and special assessments shall be held and expended for the purposes designated in the Declaration and these Bylaws. Any amount assessed against a Lot that is allocated to reserves shall be a contribution to capital, and shall be designated for that purpose on the Association's books and on any assessment notice. The Board of Directors may collect, hold, disburse or categorize the amounts allocated to the reserve fund in any manner necessary to insure their noninclusion in the Association's taxable income under the Internal Revenue Code, Treasury Regulations and/or rulings of the Internal Revenue Service.



8.5 Board Inaction. The Board of Director's failure or delay to prepare an annual estimated budget or to give timely notice of an assessment shall not release any Owner from the obligation to pay the assessment whenever the amount of the assessment has been determined and written notice has been given. In the absence of any notice to the contrary, the Owner shall continue to pay the monthly installment of the assessment at the existing rate established for the previous year until notice of the assessment for the next year shall have been mailed or delivered to the Owner.

#### SECTION 9. ANNUAL AUDIT

The Board of Directors may cause the books of the Association to be audited once a year by an independent certified public accountant at the Association's expense. Copies of any such audit shall be made available upon request to any Owner and any holder, insurer or guarantor of a first mortgage.

#### SECTION 10. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND VOLUNTEERS

To the extent permitted by law, the Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed civil, criminal, administrative or investigative action, suit or proceeding, other than an action by or in the right of the Association, by reason of the fact that he or she is or was a Director, officer, employee, agent or volunteer of the Association, or is or was serving at the request of the Association as a Director, officer, employee, agent or volunteer of another corporation, domestic or foreign, nonprofit or for profit, or a partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe his or her conduct was unlawful.

The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she is or was a Director, officer, employee, agent or volunteer of the Association, or is or was serving at the request of the Association as a Director, officer, employee, agent or volunteer of another corporation, domestic or foreign, nonprofit or for profit, or a partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense or settlement of the action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of any claim, issue or matter as to which the person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Association unless, and only to the extent that, the court of common pleas or the court in which the action or suit was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the court of common pleas or such other court deems proper.

Any indemnification under this Section 10, unless ordered by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee, agent or volunteer is proper in the circumstances because he or she had met the applicable standard of conduct set forth above. This determination shall be made (a) by a majority



vote of a quorum consisting of Directors of the Association who were not and are not parties to or threatened with the action, suit or proceeding, or (b) whether or not a quorum is obtainable, and if a majority of a quorum of disinterested Directors so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the Association or any person to be indemnified within the past five years, or (c) by the members, or (d) by the court of common pleas or the court in which the action, suit or proceeding was brought. Any determination made by the disinterested Directors or by independent legal counsel as described above shall be promptly communicated to the person who threatened or brought the action or suit by or in the right of the Association and within ten days after receipt of such notification, that person shall have the right to petition the court of common pleas or the court in which the action or suit was brought to review the reasonableness of this determination.

The indemnification provided by this Section 10 shall not be deemed exclusive of any other rights to which the person seeking indemnification may be entitled under the Articles of Incorporation, these Bylaws or any agreement, vote of members or disinterested Directors, or otherwise, both as to actions in his or her official capacity and as to actions in another capacity while holding office, and shall continue as to a person who has ceased to be a Director, officer, employee, agent, or volunteer and shall inure to the benefit of the heirs, executors and administrators of that person.

#### SECTION 11. CONFLICTS; AMENDMENTS

11.1 Conflicts. If there are conflicts or inconsistencies between the provisions of Ohio law, the Articles of Incorporation of the Association or the Declaration and these Bylaws, the provisions of Ohio law, the Articles of Incorporation, the Declaration and these Bylaws, in that order, shall prevail.

11.2 Amendment. These Bylaws may be amended at any meeting of the members duly called and held for that purpose. During the Development Period, the amendment must be adopted by Developer and members holding at least seventy-five percent (75%) of the total votes of the Association; at all other times, the amendment must be adopted by the members holding at least seventy-five percent (75%) of the total votes of the Association.

#### SECTION 12. RECORDING

12.1 Recording. These Bylaws shall be recorded in the office of the county recorder in the county in which the Property is located. The Association shall file and record any amendment to these Bylaws in the same office within 60 days after the adoption of the amendment.

#### SECTION 13. BOOKS AND RECORDS

13.1 Books and Records of the Association. Until otherwise prohibited by this Section, any Owner may examine and copy the books, records, minutes and financial statements of the Association required by Section 5312.06(C) of the Revised Code, during normal business hours or under other reasonable circumstances upon request to the Association. The rights set forth in this Section 13.1 shall be subject to reasonable standards set forth in Rules and Regulations the Board promulgates, which may include, but are not limited to, standards governing the type of documents that are subject to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents. Without limiting the foregoing, unless



approved by the Board, an Owner may not examine or copy any of the following from books, records, and minutes:

- (i) Information that pertains to Property-related personnel matters;
- (ii) Communications with legal counsel or attorney work product pertaining to potential, threatened or pending litigation, or other Property-related matters;
- (iii) Information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;
- (iv) Information related to the enforcement of the Declaration, Bylaws, or Rules and Regulations of the Association against other Owners;
- (v) Information the disclosure of which is prohibited by state or federal law.

Adopted this 8/16, 2019.

ASSOCIATE CONSTRUCTION, INC.,  
an Ohio corporation

By: \_\_\_\_\_

Name: Rob Morris  
Title: v/p

DEVELOPER