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

FOR

ORCHARD TRAIL HOMEOWNERS' ASSOCIATION

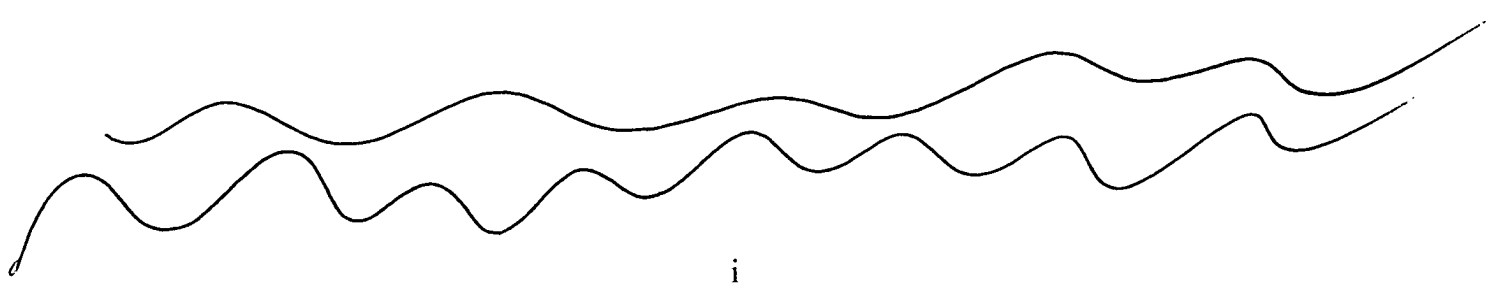
BY

MSTC, LLC

4565 E. Galbraith Road
Suite A
Cincinnati, Ohio 45236

DEVELOPER

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DECLARATION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR ORCHARD TRAIL HOMEOWNERS' ASSOCIATION ("Declaration") is made this March 23, 2017, by MSTC, LLC, an Ohio limited liability company ("Developer"), whose address is 4565 E. Galbraith Road, Suite A, Cincinnati, Ohio 45236, under the following circumstances:

A. Developer is the owner of certain real property known as Orchard Trail Subdivision located on Orchard Club Drive, Sycamore Township, Hamilton 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 **Orchard Trail Homeowners' Association, Inc.** ("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. **Articles of Incorporation.** "Articles of Incorporation" means the articles of incorporation of the Association filed with the Ohio Secretary of State, a copy of which is attached as *Exhibit C* to this Declaration.

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

1.3. **Association.** "Association" means Orchard Trail Homeowners' Association, Inc.; an Ohio non-profit 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.

1.4. **Board.** "Board" means the Board of Directors of the Association.

1.5. **By-Laws.** "By-Laws" means the By-Laws adopted by the Association, a copy of which is attached as *Exhibit B* to this Declaration.

1.6. **Common Expenses.** "Common Expenses" means those costs and expenses incurred by the Association as described and defined in Section 3.3 of this Declaration.

1.7. **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:

1.7.1 areas designated as "Open Space," "Common Area," "Bike Path," "Pocket Park," "Parking Area," or the like in this Declaration or on the recorded plat(s) of the Property or on the site plan attached hereto as *Exhibit D*, or as easement areas in favor of the Association or the Property generally, together with all improvements and amenities associated with each such area, including, for example, landscaping, woods/natural areas, irrigation systems, identification and directional signs, and all utilities (electricity, water, sewer, etc.) necessary for the maintenance and operation of these areas, facilities, and amenities;

1.7.2 areas designated as maintenance easements in favor of the Association, as shown on *Exhibit D* attached hereto or otherwise, including landscaping, driveways, parking areas and other exterior areas and improvements on the Lots located within the maintenance easement areas;

1.7.3 stormwater detention areas or retention areas located on the Property (in areas designated as Open Space, Common Area, or as private drainage easements) or located off-site but serving the Property through recorded easements, including the pond, pipes, headwalls, ditches, culverts, landscaping and other facilities located in those areas, to the extent not provided and maintained by public authorities; and

1.7.4 drainage lines and facilities located within areas designated as private drainage easements on the recorded plat(s) of the Property, including all storm drains, inlets, pipes, headwalls, culverts, outlets and associated improvements and landscaping.

1.8. **Default.** "Default" means any violation or breach of, or any failure to comply with, this Declaration or the By-Laws, and the Rules and Regulations or other standards or regulations adopted pursuant to this Declaration.

1.9. **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.

1.10. Development Period. "Development Period" means the period commencing on the date this Declaration is recorded and terminating on the date which is the earlier of (a) the date ten (10) years after the date of recordation of the Declaration or (b) the date when Developer has sold the last Lot that may be created within the Property.

1.11. Director. "Director" means any person elected or appointed to the Board of Directors pursuant to the By-Laws.

1.12. Lot. "Lot" means any sub-divided 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. It is intended that the Property as originally configured will include 30 Lots.

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

1.14. 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.

1.15. Property and Subdivision. "Property" means that real property located in Sycamore Township, Hamilton County, Ohio, more particularly described on *Exhibit A* to this Declaration. The Property is sometimes also referred to as the "Subdivision."

1.16. Structure. "Structure" means any improvement on a Lot or on the Common Elements forming a construction for occupancy or use including, but not limited to, any building, garage, porch, shed, greenhouse, bathhouse, coop, cage, covered or uncovered patio, swimming pool, fence, tennis court, wall, signboard, house trailer, play set or swing set, play structure, driveway, walkway, basketball pole, deck, 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 (6") or alters the natural flow of waters from, upon or across any Lot or the Common Property.

1.17. Turnover Date. "Turnover Date" means the date upon which the Developer turns control of the Association, through an Owner-elected Board consisting of Owners, to the Owners. Such date coincides with the termination of the Development Period and is the earlier of (a) the date ten (10) years after the date of recordation of the Declaration or (b) the date when Developer has sold the last Lot that may be created within the Property.

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 By-Laws. All provisions of the By-Laws and the Articles of Incorporation of the Association are incorporated into this Declaration by reference and made a part hereof.

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, "**Assessments**") provided in this Section 3. The Assessments (and late charges and costs of collection, 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 a Lot to a bona fide purchaser for value, the Annual Assessment shall commence on all Lots, including those Lots owned by the Developer.

3.3. Purpose of Annual Assessment. The Annual Assessments are established for the benefit and use of the Association and shall be used in covering all of the costs (the "**Common Expenses**") 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 labor, materials, equipment, supplies, utilities, insurance premiums for the insurance of the Common Property, the cost of establishing reserves as provided in Section 3.13, 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, the By-Laws, or the Articles of Incorporation. 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.

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 By-Laws.

The amount of the Annual Assessment to be charged to the Lots shall be determined by dividing the amount of Common Expenses 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 Developer may require the grantee to pay an Initial Assessment in an amount up to Five Hundred Dollars (\$500.00). 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. Special 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, their invitees or licensees, 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 a Special Individual Assessment against all Lots owned by the Owner responsible for that cost. To the extent that Optional Additional Services are provided to the Owner of a Lot as provided in Section 6.6, the fee or charge established by the Association in providing these additional services shall also be assessed as a Special Individual Assessment to the Owner of that Lot. This Declaration may also provide for other circumstances in which Special Individual Assessments may be charged.

3.8. Payment. The Annual Assessment shall be payable in a monthly installments not more than ten (10) days after the due date established by the Board. The Board may, at its option, allow for payment of the Annual Assessment in annual or quarterly installments. Any other Assessments shall be due not more than ten (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 Board may accelerate the remaining installments 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 ten percent (10%) of the overdue amounts.

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 late penalty, costs and reasonable attorney 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 Hamilton County, Ohio in any legally recordable form, including an affidavit as provided in Section 5301.252 of the Ohio Revised Code. The transfer of ownership of a Lot shall not affect the ability of the Association to perfect its lien against that Lot with respect to amounts unpaid prior to the transfer of ownership. Nonpayment of any Assessment or an installment of an Assessment shall be deemed and is declared to be a condition or event that creates an interest in real estate. Each lien shall expire five (5) years after the filing of a notice of lien, unless preserved by the filing of a new notice of lien or the commencement of foreclosure proceedings. The lien shall be prior to all other liens and encumbrances whatsoever, except real estate taxes and Assessments, liens of record in favor of the United States of America, the State of Ohio, or other governmental instrumentalities to the extent made superior by applicable law, and all bona fide recorded first mortgages.

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 (including appointment of a receiver, foreclosure sale and deficiency judgment) and subject to the same procedures as in the case of foreclosure of a real property mortgage. In any enforcement proceeding, the amount that may be recovered by the Association shall include all costs of the proceeding and, to the extent permitted by law, reasonable attorneys' fees. 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 liable for the share of the Assessments chargeable to the acquired Lot that became due prior to the acquisition of title to that Lot.

3.13. Reserves. The Board may establish and maintain reserves in amounts it determines appropriate from time to time for the replacement of major amenities comprising the Common Elements. The Board shall also have the right but not the obligation to establish reserves for contingencies and working capital in such amounts as it may determine from time to time in its discretion. The Board shall have sole discretion as to the expenditure of any reserve funds.

SECTION 4. COVENANTS AND RESTRICTIONS ON USE AND OCCUPANCY

4.1. Purpose/Use Restrictions. In order to promote the health 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 Single Family Residence. All Lots shall be used for single family residence purposes only, and no Lot may be further subdivided. The word "family" as used herein means a person or a group of persons living as a single housekeeping unit. In the event that the applicable zoning code, rules, or regulations are more restrictive than the preceding three sentences with respect to any criteria set forth in those sentences, then in that event, but only in that event, those more restrictive zoning provisions shall prevail over the less restrictive criteria set forth above.

4.1.2 Related Uses. To the extent permitted by law, an Owner may use a portion of a residence for his or her home office or studio (other than a music studio) as long as those activities do not interfere with the quiet enjoyment or comfort of any other Owner or Occupant and as long as those activities do not increase the normal flow of traffic or individuals in and out of the Property or in and out of that Owner's residence. Except as permitted by the preceding sentence, no industry, business, trade, occupation or profession of any kind, whether commercial, religious, educational or otherwise designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Property.

4.1.3 Structures. No Structure shall be maintained on any Lot except in accordance with the provisions of Section 6 and no Structure shall be constructed, remodeled, altered, repaired, reconstructed, and/or restored on any Lot except in accordance with the provisions of Section 8. Nothing contained in this Section shall be construed to prohibit an Owner from requesting Board permission to construct a Structure in the rear yard portion of a Lot, thereby modifying the maintenance easement on that Lot (as contemplated by Section 7.3). However, Owners wishing to construct a Structure in the rear yard portion of the Lot, thereby modifying the maintenance easement on that Lot, are required to obtain prior approval from the City of Montgomery.

4.1.4 Exterior Surfaces; Signs. Owners shall not cause or permit anything to be hung or displayed on the outside walls or windows of a residence or other Structure on a Lot, and no signs shall be affixed to or placed upon the exterior of a Structure, or upon any other area of a Structure that is visible from the street, or upon any other part of a Lot, without the prior consent of the Board, except for one (1) professionally prepared real estate sign advertising the property for sale. Without limiting the foregoing, signs addressing social, political, business and personal issues, except those specifically permitted by clauses (a) and (b) of the preceding sentence, are prohibited. Further, Owners shall not permit any curtains, shades or other window coverings to be hung inside or outside any windows that will show any colors other than those approved by the Board. Notwithstanding anything to the contrary herein, Developer and its agents shall have the unrestricted right to place "For Sale" or "For Rent" signs on any unsold or unoccupied Lots, the Common Property, or other Structures on the Property, and to use unsold Lots or Structures as

models, for promotional purposes and/or as offices in connection with the construction sale, management, maintenance, repair, remodeling and/or rental of Lots.

4.1.5 Parking. No inoperative or unlicensed vehicles may be parked on the Property, including the streets. No part of the Property, except enclosed garages, if any, shall be used for parking any trailer, truck, boat or anything other than operative automobiles, motorcycles, bicycles, scooters or other vehicles permitted under this Section. The word "trailer" shall include any trailer coach, house trailer, boat trailer, mobile home, automobile trailer, camp car, camper, recreational vehicle or any other similar vehicle. The word "truck" shall include every type of motor vehicle other than (a) passenger cars and (b) pickup trucks, sport utility vehicles and vans that are used as a primary source of transportation by an Owner or Occupant of a Lot and that are not identified and used as a commercial vehicle. Vehicles being used for the purpose of construction, delivery to or repair work upon any Lot shall be permitted to park on the Property during the time(s) that services are being provided. Short-term visitor parking (less than one [1] week) of prohibited vehicles is permitted. The Association shall have the right to tow away vehicles parked in violation of these provisions after twenty-four (24) hours' notice to the affected Owner or Occupant or by placing a twenty-four (24) hour notice of intent to tow on the vehicle itself. The costs of towing shall be borne by the Owner, Occupant or other person responsible for the vehicle.

4.1.6 Hazardous Use and Waste. Nothing shall be done or kept on any Lot or on the Common Elements that is unusually hazardous in relation to ordinary residential uses, or that increases the rate of insurance on the buildings or their contents, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his or her Lot or on the Common Property that will result in the cancellation of insurance on the buildings or their contents, or will be in violation of any law. No waste shall be permitted on the Common Elements.

4.1.7 Animals and Pets. The maintenance, keeping, boarding, or raising of animals, livestock or poultry of any kind, regardless of number, is prohibited on any Lot, except that this shall not prohibit the keeping of household pets such as dogs, cats, caged birds or aquarium fish or other domestic pets provided they are not kept, bred, or maintained for commercial purposes, and provided they are kept according to the Rules and Regulations of the Association. Any pet causing or creating a nuisance or unreasonable disturbance or that is kept in violation of this Declaration or the Rules and Regulations promulgated by the Board shall be permanently removed from the Property upon seven (7) days written notice from the Board. No pet shall be allowed to run unattended. No device or apparatus to which a line, wire or rope is connected for the restraint of animals or pets shall be constructed or permitted upon any part of a Lot or the Common Elements.

4.1.8 Nuisances. No activity that may be considered noxious or offensive by reason of odor, sound, appearance, or sight shall be conducted on any Lot or any part of the

Common Elements, nor shall anything be done on any Lot either willfully or negligently, that may be or become an annoyance or nuisance to the other Owners or Occupants.

4.1.9 Trash. Trash, garbage, or other waste shall not be kept upon any part of the Property except in sanitary containers and screened from visibility from the streets of the Property; however, on trash pick-up days, trash, garbage, and other waste may be placed in sanitary containers curbside for up to twelve hours prior to the scheduled pick-up time and twelve hours after the pick-up time.

4.1.10 Satellite Dishes. Owners shall be permitted to place over-the-air reception devices (such devices and their supporting apparatus being referred to herein as "satellite dishes") on their Lots upon compliance with the following criteria: (i) any satellite dish must be one meter or less in diameter, (ii) the preferred location of any satellite dish shall be in the rear yard, not visible from the street, unless the placement in the rear yard would unreasonably delay or prevent, or unreasonably increase the cost of installation, maintenance or use of such satellite dish or preclude the reception or transmission of an acceptable quality signal; (iii) installation of equipment that is merely duplicative and not necessary for the reception of video programming is prohibited; (iv) where the satellite dish is located on or immediately adjacent to the residence, the satellite dish shall be painted to blend with the color of the residence, unless painting the satellite dish would result in voiding the manufacturer's warranty, would unreasonably delay or prevent, or unreasonably increase the cost of installation, maintenance or use of such satellite dish or preclude the reception or transmission of an acceptable quality signal; (v) where the satellite dish is not attached to or immediately adjacent to the residence, the Owner shall take reasonable measures to screen or camouflage the satellite dish from view by the installation of shrubbery or other screening measures that do not unreasonably delay or prevent or unreasonably increase the cost of installation, maintenance or use of such satellite dish or preclude reception or transmission of an acceptable quality signal; and (vi) satellite dishes shall not be placed on any part of the Common Elements.

4.1.11 Swimming Pools. No swimming pools shall be permitted on any Lot.

4.1.12 Fences. No fence or any portion thereof may be installed on any Lot unless approved by the Board pursuant to Section 8.

4.1.13 Mailboxes, Numerals, and Letters. If a standard mailbox or numerals for house numbers are established by the Developer, all residences shall include the standard items. If standards are not established, the design, size, shape and color of mailboxes, the numerals and letters on the mailboxes, and the numerals and letters identifying residences on the Lots shall be subject to approval as to design, style, location, color and size by the Board.

4.1.14 Basketball Goals. Basketball goals shall not be permitted on the front or side of any Structure (either as an attachment to the Structure or on a freestanding pole in the front or side yard).

4.1.15 Swingsets and Play Equipment. Swingsets, play structures, treehouses, jungle gyms, and other outdoor play equipment that is affixed to a Lot shall be considered a Structure requiring the Board's approval pursuant to Section 4.1.3.

4.1.16 Laundry on Parcels. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any Lot or on the Common Elements.

4.1.17 Decks. Decks, if approved by the Board pursuant to Section 8, shall not extend into side yards (i.e., beyond the artificial line extending from the side plane of each house).

4.1.18 Rental of Lots. The rental of Lots is subject to the following provisions:

(A) No more than twenty-five percent (25%) of the Lots may be rented at any one time.

(B) All new lease agreements must be in writing. All lease agreements shall provide that: (1) the tenant is subject to this Declaration, the Association's By-Laws, and the rules and regulations promulgated by the Board; and (2) the failure to abide by the Declaration, By-Laws, and rules and regulations shall be a default under the lease. If any lease agreement shall not so provide, then, by a means of this covenant on the Property and Lots, such provisions shall be deemed automatically included in the lease agreement. The Board of Directors shall have the power to remedy a default of the lease agreement as provided by Ohio law.

(C) All lease terms must be for a minimum of six months.

(D) The Board of Directors shall be empowered to ensure that a proposed lease agreement conforms to these restrictions and does not violate the Declaration, By-Laws, or the Association's rules and regulations. All proposed leases must be approved by the Association prior to being signed. When providing a proposed lease to the Board Directors, the rental amount and private information about the tenant may be redacted. A copy of any lease agreement must be given to the Board of Directors immediately after it is executed.

(E) The Association may request the names of tenants, tenants' family members, and roommates who will occupy the Lot.

(F) Rental or use of a Lot or part of a Lot may not be used for transient or hotel purposes, which is defined as: (1) rental for any period less than thirty days; (2) rental under which occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; and (3) rental of a portion of the residence to roomers or boarders who are neither related to nor employed by the Owner.

(G) All Owners, their tenants, and all persons lawfully in possession and control of any part of a Lot shall comply with all covenants, conditions, and restrictions set forth

in a deed to which they are subject and as set forth and/or in the Declaration, By-Laws, or the rules and regulations of the Association. Violations of those covenants, conditions, or restrictions shall be grounds for the Association or any Owner to commence a civil action for damages, injunctive relief, or both, and an award of court costs and reasonable attorney's fees in both types of action.

(H) Except as otherwise provided in the Declaration or By-Laws, the Association may initiate eviction proceedings, pursuant to Ohio Revised Code §§5321 and 1923, to evict a tenant for a violation of the Declaration, By-Laws, and/or the Association's rules and regulations. The action shall be brought by the Association, as the Owner's agent, in the name of the Owner. In addition to any procedures required by Ohio Revised Code §§ 5321 and 1923, the Association shall give the Owner at least ten days written notice of the intended eviction action. The costs of any eviction action brought under this provision, including reasonable attorney's fees, shall be charged to the Owner as a special assessment against the offending Lot and shall be a lien against that Lot.

(I) The Board shall have the power to make and enforce reasonable rules and regulations and to assess fines, in accordance with the Declaration, the By-Laws, and Ohio law, for violations of the provisions of this Section. Any transaction that does not comply with the provisions of this Section shall be void unless subsequently approved by the Board of Directors in writing. Any fines levied against a lessee and not paid by said lessee shall constitute a lien against the Lot.

4.1.19 Impairment of Structural Integrity of Building. Nothing shall be done on any Lot that will impair the structural integrity of any Structure on that Lot or an adjoining Lot.

4.1.20 Use of Common Elements. The Common Elements shall be used only in accordance with the purposes for which they are intended and no Owner or Occupant shall hinder or encroach upon the lawful rights of other Owners or Occupants to use the Common Elements. This restriction includes, but is not limited to, the following:

(A) Except as provided in this Declaration, there shall be no obstruction of the Common Elements, nor shall anything be stored in the Common Elements, without the prior consent of the Association.

(B) In using the Common Elements, no Owner or Occupant shall violate any provisions of this Declaration, the By-Laws, or the Rules and Regulations.

(C) Nothing shall be altered, constructed in or removed from the Common Elements except as otherwise provided in this Declaration or with the prior consent of the Association.

(D) The Common Elements shall be kept free of rubbish, debris and other unsightly materials.

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 Property 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 Defaults may be enforced against Owners and Occupants pursuant to the provisions of Section 11.

SECTION 5. COMMON ELEMENTS

5.1. Rights of Enjoyment in Common Property. Each Owner shall have a right and nonexclusive easement for the use and enjoyment of the Common Elements. This right and easement shall be appurtenant to, and shall pass with, the title to his or her Lot. Each Owner shall have a perpetual right of ingress and egress across the Common Elements to that Owner's Lot, which shall be appurtenant to the ownership of the 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 Certain easement areas identified as Common Elements are intended for use by the Association in performing maintenance functions, but are not intended to grant to Owners and Occupants the right to enter onto the Lots of other Owners and Occupants. In particular each Lot is subject to a maintenance easement that allows the Association to maintain the exterior landscaping on each Lot (per Section 7.3 of this Declaration) and to provide snow removal only for the driveway and parking areas located on each Lot. The maintenance easements should not be construed as granting rights of entry onto the Lots by other Owners or Occupants, but only by the Association and the persons the Association authorizes to conduct these maintenance activities.

5.1.2 The right of the Board, with the approval by (a) Seventy-five Percent (75%) of the votes cast by Members (as defined in the By-Laws) who are voting in person or by proxy at a meeting of the Association at which a quorum is present in person or by proxy, and (b) so long as it is the Owner of at least one (1) Lot, 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 Unit Owners' rights of ingress and egress across the Common Elements.

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

5.1.4 All other easements, restrictions, and rights to which the Property is subject, including, but not limited to, any easements grant 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 Five Thousand Dollars (\$5,000.00), adjusted by the annual Consumer Price Index after the year 2016, unless the addition or improvement has been authorized by Sixty Percent (60%) of the votes cast by Members who are voting in person or by proxy at a meeting of the Association at which a quorum is present in person or by proxy. This Section shall not limit Developer's right, at its cost, to perform the initial construction of the capital improvements constituting the Common Elements and to construct and annex to the Elements additional Lots and Common Elements in accordance with Section 13. 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 approval of the Owners under this Section.

5.4. Maintenance and Management of Common Elements. Except as provided in Section 6, the Association shall provide for the 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 (1) 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.

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 maintenance, repair, and replacement of the Common Elements. In addition, the Association shall provide and pay the cost of mowing and trimming of grass on the Lots and snow removal on the driveways and parking areas located on the Lots. The Association also shall have 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.

6.3. Owner Responsibilities. Each Owner shall maintain, repair and replace, and keep in good condition and repair, at his or her expense, 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). Owners are also responsible for all landscaping other than grass mowing and trimming on their Lots.

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 a Special Individual Assessment against that Owner and the Owner's Lot, pursuant to Section 3.7 above.

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. 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 a Special 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, then 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 a maintenance easement in favor of the Association for access arising from necessity of maintenance of the exterior of the Lots (exclusive of the residence buildings), specifically consisting of the yard of the Lots and the snow removal on the driveway and parking areas at the front of the Lots. Owners shall not be permitted to build Structures within the maintenance easement areas on the front and side yard areas of the Lots. However, Owners shall be permitted to construct Structures in the rear yard areas of the Lots (subject to compliance with Section 8 of this Declaration). Any such Structures constructed by an Owner shall be maintained solely by that Owner and the maintenance easement on the Lot shall be deemed reduced by the area on which the Structure is located. As further specified in Section 4.1.3, Structures in the rear yard areas of Lots must be permitted by the City of Montgomery.

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 or other land in the vicinity owned by Developer, 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. 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.

7.6. 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.

SECTION 8. REVIEW OF ALTERATION PLANS

8.1. Design Standards.

8.1.1 Purposes. In order to establish and assure the continued existence of the Property pursuant to the uniform plan for the development of the Property by Developer, the Board shall adopt and may amend design standards (the "Design Standards") for the Property and all Structures in furtherance of the following purposes;

- (A) the continued existence on the Property of a community consisting of well-planned residential, open space and service areas, Structures, and Common Elements;
- (B) the promotion of the health and welfare of all Owners and Occupants;
- (C) the preservation, beautification and maintenance of the Property and all structures as a community of high quality;
- (D) the creation and preservation of adequate open space for the use and enjoyment of all Owners and Occupants;
- (E) the preservation and promotion of environmental quality; and

(F) the assurance of adequate water, sewage and drainage facilities, and other utilities and services.

8.1.2 Subject Matter. The Design Standards may establish requirements relating to land use, architectural features, site planning, lighting, landscaping and signage. The Design Standards may include, but are not limited to, provisions as to the following subject matters:

- (A) the specification of materials, design, architectural style, color schemes and other details affecting the exterior appearance of Structures;
- (B) the reservation of utility, visual and other easements;
- (C) the installation, location and maintenance of utility lines and facilities, including water, gas, electricity, sanitary and storm sewage, telephone, cable television, and other communication systems;
- (D) the control of slopes to prevent erosion or sliding problems;
- (E) the planting and preservation of trees and other natural resources;
- (F) the size, minimum cost and location of Structures on the Lots;
- (G) the size, material and location of driveways and parking facilities;
- (H) the size and location of fences and walks; and
- (I) the character, location and direction of exterior lighting and street hardware.

8.2. Design Review Committee. There shall be a design review committee composed of three (3) members who shall be appointed by the Board (the "Design Review Committee"). Until the Turnover Date, the members of the Design Review Committee need not be Directors, Owners, or Occupants and may be outside professionals appointed by the Developer in its sole discretion. After the Turnover Date, the members of the Design Review Committee must be an Owner or Occupant. In the event the Board fails to appoint members to the Design Review Committee, the Board shall constitute the Design Review Committee. Each member of the Design Review Committee shall serve at the pleasure of the Board. Any action taken by a majority of the members of the Design Review Committee, whether at a meeting or (if in writing signed by such a majority) without a meeting, shall constitute the official action of the Design Review Committee and shall be binding on the Association. The Design Review Committee shall act in connection with granting any approvals contemplated in Section 4 of this Declaration and for reviewing Plans and Specifications, as set forth in this Section 8.

8.3. Submission of Plan and Specifications. No Structure on any Lot shall be constructed, remodeled, altered, repaired, reconstructed, and/or restored in any way that materially changes the exterior appearance, unless plans and specifications shall have been submitted to and approved by the Design Review Committee. Those plans and specifications shall be in such form and shall contain such information as the Design Review Committee may reasonably require.

Prior to submission of plans and specifications for any Structure proposed for any Lot the Design Review Committee may require, and any applicant may submit for tentative approval by the Design Review Committee, schematic or preliminary plans and specifications. The Design Review Committee shall either (i) approve the plans and specifications, (ii) disapprove them, or (iii) approve them with conditions or qualifications.

8.4. Approval of Plans and Specifications. The Design Review Committee shall approve plans and specifications (whether schematic, preliminary, or detailed) submitted to it with respect to any Lot if it finds that they (a) comply with the requirements of this Section, and (b) conform to any Design Standards promulgated by the Board. Upon final approval, a copy of the plans and specifications shall be deposited for permanent record with the Design Review Committee. After the receipt of final approval by the applicant, the Design Review Committee shall not revoke its approval. Approval by the Design Review Committee of plans and specifications with respect to any Lot shall not impair the Design Review Committee's right subsequently to approve a requested amendment of such plans and specifications (in accordance with the requirements of this Section). Any improvement approved by the Design Review Committee shall be constructed in a timely manner and in conformity with the time specifications of Section 8.6 of this Declaration.

8.5. Disapproval of Plans and Specifications. If plans and specifications (whether schematic, preliminary or detailed) submitted to the Design Review Committee with respect to any Lot do not comply with the Design Standards or the requirements of this Section as to the information required to be included in the plan and specification, the Design Review Committee shall either disapprove the plans and specifications or approve them subject to such conditions and qualifications as the Design Review Committee may deem necessary to achieve compliance.

8.6. Failure to Act. If the Design Review Committee fails to act upon any plans and specifications submitted to it within sixty days after a satisfactory submission complying with the requirements of Section 8.3, those plans and specifications shall be deemed to have been approved as submitted, and no further action by the Design Review Committee shall be required. This sixty-day period may be extended with the consent of the applicant. If construction, remodeling, alteration, repair, reconstruction, and/or restoration of a Structure is not commenced on the Lot on or before six months from the date of approval of plans and specifications and completed within a reasonable time after the construction is begun, then any approval shall be automatically cancelled and a new submission shall be required.

8.7. Violations. If any Structure situated upon any Lot shall have been constructed, remodeled, altered, reconstructed, repaired, and/or restored other than in accordance with the approved plans and specifications, the Board shall declare in Default the Owner of the Lot. However, the Board may, upon such conditions as it may determine, waive any such Default if it finds that such Default does not substantially conflict with the policies of the Board.

8.8. Right of Entry. The Board and the Design Review Committee, through their authorized officers, employees, and agents, shall have the right to enter upon any Lot at all reasonable times for the purpose of ascertaining whether such Lot or the construction, remodeling, alteration, repair, reconstruction, or restoration of any Structure is in compliance with the provisions of this Section.

8.9. Fees. The Design Review Committee may charge reasonable fees for the processing of plans and specifications. Such fees may cover the cost of such processing, including inspection costs. The fees shall be payable at the time of submission of the item for approval and shall be paid to the Design Review Committee.

8.10. Disapproval of Plans. If the Design Review Committee disapproves plans and specifications submitted to it, the party submitting the disapproved plans and specifications may, within ten (10) days after the date of disapproval, appeal the Design Review Committee's decision to the Board. The Board, by the majority vote, may overrule the Design Review Committee's decision to disapprove the appealing party's plans and specifications if the Board determines that the Design Review Committee's disapproval was arbitrary or unreasonable. The Board's decision on any appeal shall be final and shall be rendered within thirty days after the date the appeal is filed.

The provisions of this Section 8 do not apply to the initial construction by Developer.

SECTION 9. DAMAGE OR DESTRUCTION AND INSURANCE

9.1. Fire and Extended Coverage Insurance. The Association may maintain insurance coverage on any Structures 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 as the Property. The Association shall not be responsible for, and each Owner shall separately obtain, appropriate casualty insurance for the Structures on that Owner's Lot.

9.2. Liability Insurance. The Association may insure itself, the Owners and their Occupants, and/or 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 and maintenance of the Lots as provided in this Declaration, in such amount and upon such terms and conditions as the Board may determine. 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 ten days written notice to the Association before the insurer may cancel or substantially modify the policy. The Association may also be required to maintain liability insurance (or include under its general policy) for boulevard/island areas maintained by the Association by agreement with the applicable authority, for the benefit of the public and the public authority.

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

9.4. 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.

9.5. Damage or Destruction and Restoration of Buildings.

9.5.1 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 Association shall undertake the repair, restoration or reconstruction, in which case the insurance proceeds may be applied by the Association for that purpose. When the proceeds of insurance are sufficient to substantially restore the damage, the Board shall effect the repairs, restoration or reconstruction unless, by vote of the Members meeting the same criteria as are set forth in Section 5.3 for the approval of capital improvements, the Members authorize the Board not to effect the repairs, restoration or reconstruction.

9.5.2 Insufficient 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 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 may 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 may 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 10.
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, appoints the Association as his or her attorney in fact for this purpose.

If part or all of the Common Property 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 11.
ENFORCEMENT**

11.1. 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 thirty 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.

Costs incurred by the Association in exercising any of its rights with respect to any Lot, together with court costs, reasonable attorneys' fees and other costs of enforcement, shall be a binding personal obligation of the Owner and shall be payable on demand. If the Owner fails to pay costs within thirty 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.

11.2. 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.

11.3. 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.

11.4. 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 By-Laws. 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 or monetary fines for violations of this Declaration, the By-Laws or the Rules and Regulations, in such amounts as the Board may deem appropriate.

SECTION 12. DURATION, AMENDMENT AND TERMINATION

12.1. 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 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.

12.2. Amendment or Termination. Except as provided in this Declaration, any provision of this Declaration may be amended in whole or in part or terminated by the Members representing at least 75% of the voting power of the Association and (ii) so long as it is the Owner of at least one Lot, the Developer.

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 Members. 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 the Developer, if the Developer owns at least one Lot), and (b) the certificate of the President of the Association that the Members representing at least 75% of the total votes of the Association 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 minor or non-substantial changes; clarifying or modifying the use restrictions in Section 4.1; 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 13. MISCELLANEOUS

13.1. 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.

13.2. 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.

13.3. 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.

13.4. 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.

13.5. 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.

13.6. Availability of Documents. The Association shall make available to Owners, lenders, and to holders, insurers, or guarantors of any first mortgage on a Lot, current copies of the Declaration, the By-Laws and other Rules and Regulations concerning the Property. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

Signed as of the day and year first above written.

EXHIBIT "A"

Legal Description

Situate in Section 5, Town 4, Entire Range 1, between the Miamis, City of Montgomery, Sycamore Township, Hamilton County, Ohio, and being more particularly described as follows:

Being all of Lot Numbers 1 through 30 of Orchard Trail Subdivision, as recorded in Plat Book 456, Page 40 of the Hamilton County, Ohio Records.

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DESCRIPTION ACCEPTABLE
 HAMILTON COUNTY ENGINEER
 Tax Map - 3/27/17 AC
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EXHIBIT B**BY-LAWS OF
ORCHARD TRAIL HOMEOWNERS' ASSOCIATION, INC.****ARTICLE I
GENERAL**

SECTION 1. Name and Nature of the Association. The name of the Association shall be Orchard Trail Homeowners' Association, Inc., an Ohio nonprofit corporation.

SECTION 2. Membership. Each Lot Owner, upon acquisition of title to a Lot, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such Member of his or her Lot Ownership, at which time the new Owner of such Lot shall automatically become a Member of the Association.

SECTION 3. Definitions. The terms used in these By-Laws shall have the same meanings as set forth in the Declaration, unless the context shall prohibit.

**ARTICLE II
MEETINGS OF MEMBERS**

SECTION 1. Annual Meeting. The annual meeting of the Lot Owners of this Association, for the election of members of the Board of Directors, the consideration of reports to be laid before such meeting, and for the transaction of such other business as may properly come before such meeting, shall be held in the third calendar quarter of each year on a date and at an hour and place established by the Board of Directors with proper notice, as required herein, to all Lot Owners.

SECTION 2. Special Meetings. Special meetings of the Lot Owners shall be held whenever called by the President, by a majority of the Board of Directors, or at the request of those Lot Owners entitled to exercise not less than 25% of the voting power of all Lot Owners. Upon delivery of a request in writing to the President or Secretary by persons entitled to call a meeting of the Lot Owners, it shall be the duty of the President or Secretary to give proper notice to the Lot Owners in accordance with these By-Laws, but if such proper request be refused, then the person(s) making such request may call a meeting by giving such proper notice to all Lot Owners as required herein. The notice of special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at special meetings except for that which is stated in the notice.

SECTION 3. Place of Meetings. All meetings of Lot Owners shall be held in Hamilton County, Ohio at such places as may be specified by the Board of Directors or the person(s) calling the meeting.

SECTION 4. Notice of Meeting. A written or printed notice of every meeting of Lot Owners, whether annual or special, shall state the time, place and the purpose or purposes for which the meeting is called, and shall be given by the President or Secretary by personal delivery, by first class U.S. mail,

postage prepaid, by email, or otherwise duly served, delivered or post marked not less than three (3) nor more than twenty (20) days prior to said meeting to each Lot Owner unless an emergency situation exists, in which case such notice shall be given to Lot Owners as soon as is possible, unless such notice is waived by the Lot Owners. If mailed, such notice shall be addressed to the Lot Owners at their respective addresses appearing upon the records of the Association. The Lot Owners shall meet for such purpose at the time and place specified.

SECTION 5. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after the holding of such meeting. Attendance of any Member at any meeting without protest, prior to or at the commencement of the meeting, of the lack of proper notice shall be deemed to be a waiver by him or her of the notice of the meeting.

SECTION 6. Quorum. At any meeting of Lot Owners, those Members present in person or by proxy shall constitute a quorum for such meeting. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of the Members, if any action taken is approved by at least a majority of the required quorum for that meeting. Notice of adjournment of a meeting need not be given if the time and place to which it is adjourned are fixed and announced at such meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted.

SECTION 7. Proxies. A vote allocated to a Lot may be cast pursuant to a written proxy duly executed by an Owner and filed with the Secretary at the meeting. If a Lot is owned by more than one (1) person, each Owner of the Lot may vote or register protest to the casting of votes by the Owners of a Lot through a duly executed proxy. An Owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. Except as hereinafter provided, a proxy shall terminate one (1) year after its date, unless it specifies a shorter time. If a first mortgagee has been designated a proxy under the terms of a first mortgage covering the Lot, its presentation to the Board of a copy of the mortgage shall be notice of the proxy designation, and if the mortgage so states, of the irrevocability of that designation. Written notice to the Board or notice in a meeting of a revocation of a proxy designation shall not affect any vote or act previously taken. Each proxy shall automatically cease upon conveyance of the Lot.

SECTION 8. Voting Rights. Each Lot shall have one (1) vote. If only one of several Owners of a Lot is present at a meeting of the Association, that Owner is entitled to cast the vote allocated to that Lot. If more than one of the Owners is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any one of the Owners casts a vote allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot. The Association may adopt rules regarding deadlocks. No votes allocated to a Lot owned by the Association may be cast.

Unless expressly reserved and the Association is notified of such reservation, a land contract vendee as defined in Chapter 5313 of the Revised Code shall be deemed the proxy of a land contract vendor for purposes of this section.

SECTION 9. Conduct of Meeting. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in the minute book all resolutions adopted, as well as a record of all transactions occurring at the meeting. The order of business of any meeting of Lot Owners shall be determined by the presiding officer unless otherwise determined by a vote of those Lot Owners entitled to exercise not less than a majority of the voting power of the Lot Owners present in person or represented by proxy at the meeting.

SECTION 10. Action Without a Meeting. Any action which may be authorized or taken at a meeting of Lot Owners may be authorized or taken without a meeting in a writing or writings signed by all of the Lot Owners, which writings or writing shall be filed with or entered upon the records of the Association by the Secretary of the Association.

SECTION 11. Election of Board Members. At all elections of members of the Board of Directors, the candidates receiving the greatest percentage of the votes cast shall be elected to the Board.

SECTION 12. Majority. The act of a majority of the Members present in person or by proxy at any meeting at which there is a quorum present shall be an act of the Board except as otherwise provided by law, the Declaration, or these By-Laws. As used in these By-Laws, the term "majority" shall mean those votes, Owners, Members or other group, as the context may indicate, totaling more than 50% of the total number.

ARTICLE III BOARD OF DIRECTORS

SECTION 1. Governing Body. Except as otherwise provided by law, the Articles of Incorporation ("Articles"), the Declaration, or these By-Laws, all of the authority of the Association shall be exercised by or under the direction of the Board of Directors.

SECTION 2. Number and Qualification of Directors. The Board of Directors of the Association shall consist of three (3) persons. Until the first annual meeting, the initial Board shall consist of three (3) Directors appointed by the Developer who shall serve until their respective successors are appointed and qualified. Developer-appointed Directors need not be Members of the Association. The Developer shall transfer control of the Board to the Lot Owners at the first annual meeting after the earlier of the following events: (i) the expiration of the Development Period as defined by the Declaration, or (ii) the Developer voluntarily resigns in writing its membership rights. At that meeting, all Developer-appointed Directors shall be deemed removed from office and the Members, including the Developer if it is then a Lot Owner, shall elect a Director to fill each vacancy on the Board.

After turnover, all Directors must be Owners of Lots. The spouse of an Owner is qualified to act as a Director if both the Owner and the spouse occupy the Lot. No person and his or her spouse may serve on the Board at the same time. If an Owner is not an individual, any principal, member of a limited liability company, partner, director, officer, director or employee of the Owner may be elected to the Board.

The Board shall manage and conduct the business and affairs of this Association and exercise the powers and duties set forth in the Articles and By-Laws, until their successors are elected and qualified.

SECTION 3. Election of Directors. Members of the Board shall be elected by the Lot Owners in person or by proxy at each annual meeting or at a special meeting called for the purpose of electing them. At a meeting of Members of the Association at which Directors are to be elected, only persons nominated as candidates shall be eligible for election as Directors, and the candidates receiving the greatest number of votes shall be elected. The Board may adopt rules regarding nominations and procedure for elections. Election to the Board shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, such voting power as they are entitled to exercise under the provisions of the Declaration.

SECTION 4. Term of Office; Resignations. Each Director shall hold office for a term of two (2) years and until his or her successor is elected, or until his or her earlier resignation, removal from office, or death. It is intended by these By-Laws that the terms of the Directors shall be staggered, with two (2) Directors being elected in odd-numbered years and one (1) Director being elected in even-numbered years. The terms of the Directors elected immediately following the termination of Declarant control shall be adjusted to carry out this intent.

Any Director may resign at any time by oral statement to that effect made at a meeting of the Board of Directors or in writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or at such other time as the Director may specify. In the event of death or resignation of a Director, his or her successor shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of the predecessor.

If the remaining members cannot agree upon a person to fill such vacancy within ten (10) days after such vacancy is created, such remaining members shall call a special meeting of Lot Owners to fill such vacancy, such meeting to be held within thirty days after such vacancy is created.

SECTION 5. Compensation. Members of the Board of Directors shall serve without compensation, except that they may be reimbursed for actual expenses incurred on behalf of the Association.

SECTION 6. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the members of the Board of Directors may be removed, with or without cause, by the affirmative vote of 75% of the Owners, and a successor may then and there be elected to fill the vacancy thus created. A Director whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting and the purposes thereof and shall be given an opportunity to be heard at the meeting. Additionally, any Director who has three (3) unexcused absences from Board meetings or who is delinquent in the payment of an Assessment for more than twenty (20) days may be removed by a majority vote of the Directors at a meeting, a quorum being present.

SECTION 7. Organizational Meetings. The first meeting of the members of the Board of Directors following each annual meeting of the Members shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

SECTION 8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter.

SECTION 9. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or Secretary of the Association, or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered.

SECTION 10. Notice of Meetings; Waiver. Notice of the time and place of each meeting of the Directors, whether regular or special, shall be given to each Director by one of the following methods: (a) personal delivery of notice; (b) written notice by first class mail, postage prepaid; (c) telephone communication, either directly to the Director or to a person at the Director's home or place of business who would reasonably be expected to communicate such notice promptly to the Director; or (d) electronic mail. All such notices shall be given or sent to the Director's home or email address or telephone number as shown on the records of the Association. Notice sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or email shall be given at least seventy-two (72) hours before the time set for the meeting.

Waiver of notice of meetings of the Directors shall be deemed the equivalent of proper notice. Any Director may, in writing, waive notice of any meeting of the Board, either before or after the holding of such meeting. Such writing shall be entered into the minutes of the meeting. Attendance of any Director at any meeting without protest, prior to or at the commencement of the meeting, of the lack of proper notice shall be deemed to be a waiver by him or her of notice of the meeting.

SECTION 11. Quorum of the Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of the Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. Notice of adjournment of a meeting need not be given if the time and place to which it is adjourned are fixed and announced at such meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted.

SECTION 12. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep the minutes of the meeting and record in the minute book all resolutions adopted, as well as a record of all transactions occurring at the meeting.

SECTION 13. Method of Meeting. The Board may hold a meeting by any method of communication, including electronic or telephonic communication, provided that each member of the Board can hear or read in real time and participate and respond to every other member of the Board.

SECTION 14. Executive Session. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters,

litigation in which the Association is or may become involved, or orders of business of similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

SECTION 15. Action Without A Meeting. Any action which may be authorized or taken at a meeting of the Board of Directors may be authorized or taken without a meeting with the affirmative vote or approval and in writing or writings signed by all the Directors. Any such writing shall be entered into the minute book of the Association. An explanation of the action taken shall be posted at a prominent place or places within the Property within three (3) days after written consents of all the Board members have been obtained. For purposes of this Section, an electronic mail received from a Board Member shall constitute a "writing".

SECTION 16. Managing Agent. The Board of Directors may employ or engage the services of a manager or a managing agent and such other persons, firms or corporations as it deems necessary or advisable in order to perform the duties imposed upon it and may pay to such manager, managing agent, persons, firms or corporations such compensation as it shall determine. The Board may delegate to any such manager, managing agent, persons, firms or corporations such administrative or ministerial duties as it deems appropriate.

SECTION 17. Majority. The act of a majority of the Board members present at any meeting at which there is a quorum present shall be an act of the Board except as otherwise provided by law, the Declaration, or these By-Laws.

SECTION 18. Owners' Participation in Meetings. Owners may attend Board meetings but may not participate in any discussion or deliberation of the Board of Directors unless the Board expressly authorizes that Owner to attend or participate. Owners do not have the right to attend any executive session of the Board of Directors.

SECTION 19. Duties.

A. The Association, through its Board of Directors, shall do both of the following:

1. 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 Owners, exercising not less than a majority of the voting power of the Association, waive the reserve requirement annually.

2. Collect Assessments for Common Expenses from Owners in accordance with the Declaration.

B. The Association, through its Board of Directors, may do any of the following:

1. 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;

2. 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 (2) or more Owners and relates to matters affecting the Property;

3. Enter into contracts and incur liabilities relating to the operation of the Property;

4. Enforce all provisions of the Declaration, By-Laws, covenants, conditions, restrictions, and Amended Articles governing the Lots and Common Area;

5. Adopt and enforce Rules that regulate the maintenance, repair, replacement, modification, and appearance of Common Area, and any other rules as the Declaration provides;

6. Acquire, encumber, and convey or otherwise transfer real and personal property, subject to Section 5312.10 of the Ohio Revised Code;

7. Hold in the name of the Association the real property and personal property;

8. Grant easements, leases, licenses, and concessions through or over the Common Area;

9. Levy and collect fees or other charges for the use, rental, or operation of the Common Area or for services provided to Owners;

10. Pursuant to Section 5312.11 of the Ohio Revised Code, levy the following Charges and Assessments:

a. Interest and charges for the late payment of Assessments;

b. Returned check charges;

c. Enforcement Assessments for violations of the Declaration, the By-Laws, and the Rules of the Association;

d. Charges for damage to the Common Area or other Property.

11. Adopt and amend Rules that regulate the collection of delinquent Assessments and the application of payments of delinquent Assessments;

12. Impose reasonable charges for preparing, recording, or copying the Declaration, By-Laws, amendments to the Declaration and By-Laws, resale certificates, or statements of unpaid Assessments;

13. Authorize entry to any portion of the Property by designated individuals when conditions exist that involve an imminent risk of damage or harm to Common Area, another Dwelling Unit, or to the health or safety of the occupants of that Dwelling Unit or another Dwelling Unit;

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

15. 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;

16. Purchase insurance and fidelity bonds the Directors consider appropriate and necessary;

17. Invest excess funds in investments that meet standards for fiduciary investments under the laws of Ohio;

18. Exercise powers that are any of the following:

- a. Conferred by the Declaration or By-Laws;
- b. Permitted to be exercised in Ohio by a nonprofit corporation;
- c. Necessary and proper for the government and operation of the Association.

ARTICLE IV OFFICERS

SECTION 1. Officers. The officers of the Association shall be a President, Vice President, and Secretary/Treasurer. Any two or more offices may be held by the same person, excepting the offices of President and Secretary.

SECTION 2. Duties.

A. President. It shall be the duty of the President to preside at all meetings of Lot Owners and the Board of Directors, to exercise general supervision over the affairs of the Association, and in general to perform all the duties usually incident to such office or which may be required by the Lot Owners or Board of Directors.

B. Secretary/Treasurer. The Office of Secretary and Treasurer may be held by one individual. The person(s) acting as Secretary and/or Treasurer has/have the duties outlined below for each office.

The secretarial duties require the Secretary/Treasurer to keep or cause to be kept under the his/her supervision an accurate record of the acts and proceedings of the Lot Owners and the Board of Directors and maintain records of the names and addresses of the Lot Owners and to perform all the duties usually incident to such office or which may be required by the Lot Owners or Board of Directors. On the expiration of his/her term of office, the Secretary/Treasurer shall deliver all books, papers, and property of the Association in his/her hands to his successor or to the President within fourteen (14) days of such expiration. Minutes of all meetings are to be completed within seven (7) days of each meeting. The Secretary/Treasurer shall also provide, as requested, a copy of the Declaration and its Exhibits and the Rules to each Owner, which shall occur upon a transfer of ownership or any modification of said documents.

The treasurer duties require the Secretary/Treasurer to receive and safely keep all monies, securities, and other intangible property belonging to the Association, or evidence thereof, and disburse the same under the direction of the Board of Directors; shall keep or cause to be kept under his/her supervision correct and complete books and records of account, specifying the receipts and expenditures relating to the Common Areas and other Common receipts and Expenses, together with records showing the allocation, distribution and collection of the common profits, losses and expenses among and from the Lot Owners; shall hold the same open for inspection and examination by the Board of Directors and Lot Owners, and present abstracts of the same at quarterly and at annual meetings of Lot Owners or at any other meeting, or agreed upon time, when no less than three (3) days notice is given; and shall give bond in such sum with such surety or sureties as the Board of Directors may require for the faithful performance of his/her duties. On the expiration of his/her term of office, the Secretary/Treasurer shall deliver, within fourteen (14) days of such expiration, all monies and other property of the Association in his/her hands to his/her successor or to the President; and shall perform any other duties which may be required of him/her by the Lot Owners or Board of Directors, including but not limited to filing all necessary tax documents and returns with proper agencies or bodies.

ARTICLE V COMMITTEES

SECTION 1. General. Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by law and operate in accordance with the terms of the resolution of the Board designating such committee or with rules adopted by the Board and to the full extent permitted by law.

SECTION 2. Architectural Control Committee. The Board of Directors may appoint a Design Review Committee which shall be responsible for plan approval in accordance with Article VIII, Section 8.2 of the Declaration. Pursuant to the terms set forth in the Declaration, the Committee shall develop and promulgate architectural standards and guidelines with respect to those matters that are within the Association's authority to regulate.

ARTICLE VI
DETERMINATION AND PAYMENT OF ASSESSMENTS

SECTION 1. Adoption of Budget. It shall be the duty of the Board to prepare and adopt an operating budget covering the estimated Common Expenses of the Association for the coming fiscal year. The budget shall also include a capital contribution or reserve in accordance with a capital budget separately prepared in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments. After adoption of the operating budget, the Board shall cause the summary of the operating budget, the reserve budget, and the Assessments to be levied against each Lot for the following year to be delivered to each Owner on or before November 1 of each year. Along with the reserve budget, the Board shall give the Owners the right to waive the reserve funding requirement under Article V, Section 6 of the Declaration by providing a waiver to the Owners for their consideration. If a majority of the Owners return the waiver to the Board and elect to waive the reserve requirement, the Board shall amend the reserve budget to a lesser amount which may not be sufficient to repair and replace major capital items in the normal course of operations without the necessity of special assessments. The final budget, whether if amended or not, shall be delivered at least thirty (30) days prior to the start of the fiscal year. The budget and Assessments shall take effect on the first day of the fiscal year.

SECTION 2. Capital Budget and Contribution. The Board shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect to both amount and timing by Annual Assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and Assessment, as provided in Section 1 of this Article. A copy of the capital budget shall be distributed to each Owner in the same manner as the operating budget.

SECTION 3. Failure to Adopt Budget. The failure or delay of the Board to adopt a budget as provided herein shall not constitute a waiver or release of the obligation of an Owner to pay the Assessments. In such event, the Assessments based upon the budget last adopted shall continue until such time as the Board adopts a new budget.

SECTION 4. Computation of Assessments. The Assessments for Common Expenses for each Lot shall be determined in accordance with the operating budget and the capital contribution budget as they apply to the various Lots.

SECTION 5. Payment, Delinquency and Acceleration. Unless otherwise determined by the Board, all Annual Assessments shall be payable annually. Any monthly installment of an Assessment shall become delinquent if not paid on the due date as established by the Board. With respect to each installment of any type of Assessment not paid within ten (10) days after its due date, the Board may, at its election, require the Owner to pay a reasonable late charge, together with interest. If any installment of an Annual Assessment is not paid within thirty (30) days after its due date, the Board may, at its election, declare all of the unpaid balance of the Annual Assessment for the then current fiscal year, attributable to that Lot, to be immediately due and payable without further demand and may enforce collection of the full Annual Assessment and all charges thereon in any manner

authorized by law, the Declaration and these By-Laws.

SECTION 6. Remedies for Default. If an Owner is in default of payment of an Assessment, the Board may authorize collection through any lawful means, including foreclosure of the lien. Interest and all costs of such collection, including but not limited to court costs, lien fees, and reasonable attorney fees shall be included in the amount due from the Owner and may be collected. The Board may authorize the Association to bid its interest at any foreclosure sale and to acquire, hold, lease, mortgage and convey any Lot.

ARTICLE VII MISCELLANEOUS

SECTION 1. Fiscal Year. The Association may adopt any fiscal year as determined by the Board.

SECTION 2. Conflicts. If there are conflicts or inconsistencies between the provisions of Ohio law, the Articles, the Declaration, and these By-Laws, the provisions of Ohio law, the Declaration, the Articles and these By-Laws (in that order) shall prevail.

SECTION 3. Books and Records.

A. Required Records. The Association shall keep all of the following:

1. 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;
2. Records showing the allocation, distribution, and collection of the common profits, losses, and expenses among and from the Unit Owners;
3. Minutes of the meetings of the Association and the Board; and
4. Records of the names and addresses of the Unit Owners and their respective interests.

B. Inspection by Members. The records of the Association, the Board, and any committee shall be made available for inspection and copying by any Member or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at such place within Cincinnati, Hamilton County, Ohio, as the Board shall prescribe.

C. Rules for Inspection. The Board shall establish reasonable rules with respect to:

1. notice to be given to the custodian of the records by the Members desiring to make the inspection;
2. hours and days of the week when such inspection may be made; and
3. payment of the cost of reproducing copies requested by a Member.

D. Withholding of Books and Records. Communications, books and records may be withheld from examination or copying by Members to the extent that the records concern:

1. information that pertains to condominium property-related personnel matters;
2. communications with legal counsel or attorney work product that pertains to pending litigation or other condominium property-related matters;
3. 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 which is subject to those requirements;
4. information that relates to matters involving enforcement of Association documents or rules and regulations;
5. disclosure of information in violation of law; or
6. meeting minutes or other records of a duly-called executive session.

E. Records of Unit Owners. Within thirty days after a Unit Owner obtains a condominium ownership interest, the Unit Owner shall provide the following information in writing to the Association through the Board:

1. The home address, home and business mailing addresses, and the home and business telephone numbers of the Unit Owner and all Occupants of the Unit;
2. The name, business address, and business telephone number of any person who manages the Owner's Unit as an agent of that Owner.

- 3. Within thirty days after a change in any information that this section requires, a Unit Owner shall notify the Association, through the Board, in writing of the change. When the Board requests, a Unit Owner shall verify or update the information.

SECTION 5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally, sent by first class mail, postage prepaid, or emailed:

if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the residence of such Owner; or

if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by the Board with written notice to the Owners.

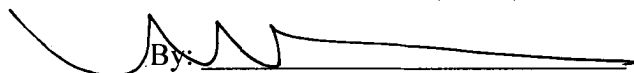
SECTION 6. Amendment. Except as otherwise provided by law or the Declaration, these By-Laws may be amended by a majority of the voting power of the Association.

SECTION 7. Financial Review. A review of the accounts of the Association shall be made annually in the manner as the Board of Directors may decide, provided, however, after having received the Board's report at the annual meeting, the Owners, by a vote of 75% of the Owners, may require the accounts of the Association to be audited as a Common Expense by a public accountant.

WHEREFORE, these By-Laws have been duly adopted by the Declarant of Orchard Trail Homeowners' Association, Inc.

Effective this 23 day of March, 2017.

MSTC, LLC
An Ohio limited liability company

By: 
Declarant