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DECLARATION OF RESTRICTIONS
As To
CALLAWAY GREEN
A Subdivision in the City of Sylvania
Lucas County, Ohio

THIS DECLARATION OF RESTRICTIONS is made and adopted by McGOWAN-CALLAWAY LIMITED PARTNERSHIP, an Ohio limited partnership with offices at 7 Main Street Circle, Sylvania, Ohio 43560 ("Developer") and by CALLAWAY GREEN ASSOCIATION, an Ohio non-profit corporation (the "Association") with offices at 7 Main Street Circle, Sylvania, Ohio 43560.

WITNESSETH:

Developer is the owner of all of the residential lots shown on the plat of Callaway Green which plat has been recorded in Volume 36 of Plats, pages 27 to 88, Lucas County, Ohio Records. The premises constituting Callaway Green is described on Exhibit A attached hereto and incorporated herein by reference.

The Association has been formed to be the owner of that portion of Callaway Green designated as common area on the recorded plat of Callaway Green, such common area to be used for roadway, utility and recreational purposes and as open space. The members of the Association are the owners of all of the residential lots in Callaway Green.

Developer and the Association desire to establish a general plan for the development of Callaway Green (sometimes hereinafter referred to as the "Subdivision") and to establish restrictions upon the manner of use, improvement and enjoyment of the residential lots in Callaway Green which will make such residential lots more attractive for residential purposes and will protect present and future owners of such lots in the enjoyment of their use for residential purposes.

NOW, THEREFORE, Developer and the Association in consideration of the enhancement in the value of the lots in Callaway Green by reason of the adoption of the restrictions hereinafter set forth, do for themselves, their successors and assigns hereby declare, covenant and stipulate that all lots and common area shown on the recorded plat of Callaway Green shall hereafter be conveyed by Developer and its successors and assigns subject to the foregoing recitals and to the following restrictions, covenants and conditions:

ARTICLE I
USE OF LAND

1.1. Residential Lots. The lots located and shown on the recorded plat of Callaway Green shall be referred to herein as "residential lots." No structure shall be erected, placed or maintained on any residential lot other than one (1) single-family dwelling of not less than 1200 sq. ft. of living area (measured from the outside of exterior walls and excluding basements and garages) having a private entrance and a private attached garage of not less than two (2) car capacity, and such accessory buildings and uses as are approved by the Architectural Control Committee as provided under Article II hereof. With respect to each structure erected or maintained in the subdivision, all utility services shall be underground.

1.2. Description of Residential Lots. The sixteen (16) residential lots located and shown on the recorded plat of Callaway Green consist of eight (8) pairs of two (2) lots each which adjoin each other. The lots are numbered one (1) through sixteen (16). On each pair of adjoining lots there may be constructed either two (2) detached residential structures, each structure being a single family
dwellings, or in the alternative one (1) residential structure which shall be either a single family dwelling or a two (2) family dwelling occupying both lots.

1.3. Construction on Residential Lots; Option to Purchase. The owner of one (1) of the lots in each pair of lots who has erected a single family dwelling on such lot shall have an option to purchase the second adjoining lot if the owner of such second adjoining lot (other than Developer) does not erect a single family dwelling thereon for a period of one (1) year after completion of the dwelling on the first lot or after acquiring title to the second lot, whichever last occurs.

(a) The option price shall be an amount equal to the purchase price paid for such second adjoining lot by the owner of such lot plus interest thereon at the rate of ten percent (10%) per annum compounded annually from the date such second lot was purchased by the owner of such lot to the date such option is exercised.

(b) In the event the owner of the lot on which a residential dwelling has been erected does not exercise such option to purchase the second adjoining lot within a period of thirty (30) days after expiration of the one (1) year term set forth above, then the Developer shall have an option to purchase said lot at the same option price to be exercised in the same manner at any time during the next succeeding thirty (30) days after expiration of the first option period set forth above. In the event notice of intent to exercise such option is not furnished to the owner of the second adjoining lot within the period set forth above, such options shall terminate.

(c) Upon completion of a dwelling on one (1) lot in a pair of lots, the Secretary of the Association shall furnish the owners of each lot comprising the pair of lots a certificate from the Association setting forth the term of the one (1) year period after completion of the dwelling on the first lot, which term shall commence on the first day of the calendar month immediately following the date on which such certificate is furnished to the owners of such lots.

(d) The certificate of such one (1) year term and any notice of intent to exercise such option shall be personally delivered or mailed by certified mail, return receipt requested to the then real estate tax mailing address of the owner of the lot in question as the same appears in the records of Lucas County, Ohio and shall be effective from the date such certificate or notice of intent, as the case may be, is delivered or deposited with the U.S. Postal Service, postage pre-paid addressed to such owner.

(e) In the event the option to purchase is exercised as set forth above, closing of the purchase and sale of such second adjoining lot shall take place within thirty (30) days after notice of exercise of such option as set forth above. The seller shall furnish a current guaranteed certificate of title showing good and merchantable title and shall convey the lot by a properly executed Warranty Deed with waiver of dower, if applicable. The title conveyed shall be free and clear of all liens and encumbrances except: (i) taxes and assessments due and payable after date of closing, which shall be prorated in accordance with the payment date method used in the City of Toledo, Ohio; and (ii) the easements and restrictions applicable to all residential lots in the Subdivision.

1.4. Common Area and Streets. The real estate included in the subdivision and designated on the recorded plat as common area and utility, drainage, storm water detention area, access, driveway, or private place and roadway easements shall be used exclusively for roadway, drainage and utility purposes, for noncommercial recreational purposes and for open space.
1.5. Use Restrictions. No building or structure on any residential lot and no portion of any residential lot shall be used for any purpose other than residential purposes. The adoption by the Association of rules and regulations governing the rental of dwellings, no dwelling may be rented by the owner to others, in whole or in part, except in accordance with such rules and regulations, except for the completion of leases entered into prior to the adoption of such rules and regulations. No portion of any residential lot or structure may be used or permitted to be used for any business or commercial purposes other than as a home office if permitted by applicable zoning ordinances. No noxious, offensive or unreasonably disturbing activities shall be carried on on any part of the Subdivision, nor shall anything be done within the Subdivision which may be or become an annoyance or nuisance. No clothing, bedclothes, laundry or similar articles or other items or materials shall be hung out or exposed from any residence or on any part of any residential lot or on any part of the common areas of the Subdivision. No well for gas, water, oil or any other substance shall at any time be erected, placed or maintained on any of the residential lots other than a well for water for underground sprinkler systems which shall first have been approved by the Architectural Control Committee as provided under Article II hereof. No lot shall be used for the storage of automobiles, motor homes, boats, trailers, scrap, scrap iron, water, paper, glass or any reclamation products or material except that during the period while a structure is being erected upon any residential lot, building materials to be used in the construction of such structure may be stored thereon, or with the written consent of the Association, on an adjacent portion of the common area, provided however, that any building material not incorporated into the structure within ninety (90) days after its delivery to such residential lot shall be removed therefrom.

1.6. Completion of Structures; No Occupancy of Incomplete Dwellings or Other Shelters. All structures must be completed by an owner within one (1) year following the commencement of construction. No sod, dirt or gravel other than that incidental to construction of approved structures shall be removed from residential lots without the approval of the Architectural Control Committee as provided under Article II hereof. No dwelling erected in the Subdivision shall be used as a residence until it has been completed in accordance with the detailed plans and specifications approved thereby the Architectural Control Committee as provided under Article II hereof. No trailer, basement, tent, shack, garage, barn, mobile home or other temporary shelter or housing device shall be maintained or used as a residence, temporarily or permanently, in the Subdivision.

1.7. Pets. Dogs and cats suitably maintained and housed within a dwelling, may be kept on any residential lot, provided the total number of such pets does not exceed two (2). Such pets shall be kept subject to rules and regulations adopted by the Association. No other animals may be kept on any residential lot unless specifically approved by the Association and then subject to such rules and regulations as the Association may adopt from time to time. No animal may be kept, bred or maintained for any commercial purpose. No dog runs, dog houses or the like may be placed or constructed on any residential lot. "household pets will be permitted on the common area of the Subdivision only if on a leash. Any pet causing or creating a nuisance or unreasonable disturbance shall be subject to permanent removal and exclusion from the Subdivision in accordance with rules and regulations adopted by the Association.

1.8. Signs; Model Homes. No signs of any character shall be erected, placed, posted or otherwise displayed on or about any residential lot without the written permission of the Association. The Association shall have the right to prohibit, restrict, and control the size, construction, material, wording, location and height of all signs. Notwithstanding the foregoing provisions of this Section:

(a) Until such time as Developer has conveyed to others all residential lots in the Subdivision, Developer shall be permitted to construct and use sales and construction offices and model homes on one (1) or more of the residential lots in the Subdivision and to
maintain large temporary signs on McCord Road advertising the sale of residential lots and residences in the Subdivision;

(b) Developer and builders who have purchased residential lots in the Subdivision for the resale to others before or after the construction of dwellings thereon shall be permitted to erect temporary "for sale" signs not exceeding 20 square feet per side and, as to builders, approved as to design and color by Developer; and

(c) The owner of a residence and lot may place one "for sale" sign of not more than ten (10) square feet per side on the lot being sold or in the common area immediately adjacent to the lot between the residence and the street. Such sign shall be subject to the approval of the Association as provided above.

1.9. Storage of Personal Property. Any truck, boat, bus, tent, mobile home, trailer or other similar housing device, if stored on any residential lot in the Subdivision, shall be suitably housed within an attached garage.

1.10. Disposal of Rubbish, etc. All rubbish, debris and garbage shall be stored and maintained in containers entirely within a structure or enclosed behind an approved wall with a minimum height of four feet and with an approved access gate; subject, however, to any zoning ordinances regulating the size or location of walls of this type. Additional regulations for the storage, maintenance and disposal of rubbish, debris, leaves and garbage may from time to time be established by the Association.

ARTICLE II
ARCHITECTURAL CONTROL

2.1. Submission and Approval of Plans and Specifications. The plans and specifications for all buildings and other improvements and structures (including, but not limited to, signs, fences, walls, decks, patios, driveways, hedges, garages, basements and other enclosures) to be constructed within the Subdivision shall be submitted for examination to the Architectural Control Committee (hereinafter described) and written approval of the Architectural Control Committee to such plans and specifications shall be obtained before any such building, structure or improvement shall be constructed or placed upon any residential lot and before any addition, change or alteration may be made to any building or other structure situated on a residential lot. The Architectural Control Committee shall approve, reject or approve with modifications all submissions within twenty (20) days after submission of the plans and specifications required hereunder to the Committee. Failure to so respond within such period shall be deemed to be disapproval of the submission. The plans and specifications to be submitted shall show the size, location, type, architectural design, quality, use, construction materials and color scheme of the proposed building or structure, improvement or alteration, the grading plan for the building site, the finished grade elevation thereof, and the finish of the exposed surface of the common wall along the lot line dividing each pair of residential lots. Such plans and specifications shall be prepared by a competent architect or draftsman and shall be furnished to the Architectural Control Committee in sufficient numbers so that the Committee may retain a true copy thereof in its records. In approving plans and specifications, the Architectural Control Committee may require that the exposed surface of common walls be suitably finished by the owner thereof if construction of the adjoining residence is not commenced within a reasonable time after completion of the common wall, as determined by the Committee.

2.2. Membership of Architectural Control Committee. The Architectural Control Committee shall be composed of three (3) members, all of whom shall be appointed by the Developer.
until such time as the Developer shall have sold and conveyed all of the residential lots in the Subdivision to others and residences shall have been erected on all of the residential lots in the Subdivision. Thereafter the Association shall have the right to appoint the members of the Architectural Control Committee. The Developer hereby expressly reserves to itself, and to its successors and assigns: (i) the right and privilege to assign its appointment rights under the Section 2.2 to any successor to its interests as Developer of the Subdivision; and, (ii) the right and privilege to relinquish to the Association its said appointment rights. Such assignment or relinquishment shall become effective from and after the time a written instrument evidencing such assignment or relinquishment signed by the Developer or by its successors or assigns shall be filed for record with the Lucas County, Ohio Recorder. Upon relinquishing its rights of membership or appointment, Developer shall have no further rights or obligations with respect to the Architectural Control Committee and all rights of appointment shall thereafter accrue to and be held by the Association.

2.3 Architecutural Standards, Harmonious Plan. In requiring the submission of detailed plans and specifications as herein set forth, Developer intends to assure the development of Callaway Green as an architecturally harmonious, artistic and desirable residential subdivision following a common landscape theme, with individual residences to be constructed in such architectural styles, of such materials, in such colors, and located in such manner as to, in the judgment of the Architectural Control Committee, complement one another and promote the harmony and desirability of the Subdivision taken as a whole. In approving or withholding its approval of any plans and specifications, the Architectural Control Committee shall have the right to consider the suitability of the proposed building or structure and of the materials of which it is to be built to the building site upon which it is to be erected and the appropriateness and harmony of the contemplated improvements in relation to improvements on adjacent residential lots and in relation to the general plan for the development of Callaway Green as well as the artistic and architectural merits of the proposed building or structure, its effect on the view and outlook from neighboring residential lots, the extent to which its location and configuration preserves the natural attributes, including the trees thereon, of the residential lot, and such other matters as may be deemed to be in the interest of the owners of residential lots in Callaway Green as a whole. Any determination made by the Architectural Control Committee, in good faith, shall be binding on all parties in interest.

2.4 Location of Structures; Extensions into Common Areas. All dwellings and accessory structures in the Subdivision shall be erected wholly within the residential lot lines and no closer to any of the roadways than the lot lines of the residential lots as shown on the recorded plat. If approved by the Architectural Control Committee and subject to applicable laws and regulations, roof overhangs, gutters, bay windows, chimneys, patios, open porches, decks, walkways, driveways, fences, decorative walls of wood, masonry or metal composition, privacy screens and shrubbery may extend into the common area immediately adjacent to dwellings which have been erected wholly within the residential lot lines. In addition, the Architectural Control Committee may permit, subject to applicable laws and regulations, the owners of residential lots which have been improved with residences having patios or decks to plant and maintain formal yards and plantings in the common areas adjacent to such patios or decks; provided, however, that: (i) the area of such yards and plantings shall not exceed that which is reasonably necessary in the judgment of the Architectural Control Committee, to aesthetically complement the adjacent residence; (ii) the yard and plantings shall be installed and maintained in accordance with a landscape plan approved by the Architectural Control Committee solely at the expense of the benefited owner; and (iii) the Association shall have the right to terminate such usage and remove any plantings if the owner does not replace such plantings as required and does not maintain such laws and plantings in first-class condition.

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2.5. Maximum Height. Subject to applicable laws and regulations, no structure constructed or erected within the subdivision shall be greater than two and one-half (2-1/2) stories above grade at the main (first) floor level, unless approved by the Architectural Control Committee.

2.6. Landscaping. Developer or the Architectural Control Committee may establish a master plan for the landscaping of the Subdivision, which master plan shall serve as a model or guide in the preparation of all individual landscaping plans for residential lots. True copies of any such master landscaping plan shall be filed with the Association and with the Architectural Control Committee. Prior to commencement of construction on any residential lot, an individual landscaping plan for such lot shall be submitted to and approved by the Architectural Control Committee. All landscaping shall be installed and completed within two (2) months following the date of occupancy of a residence unless occupancy occurs after October 1 and before March 1, in which case such landscaping shall be installed and completed not later than the following April 30. Unless otherwise directed by the Association, all such landscaping shall be maintained and repaired by the owner of such residence.

2.7. Trees. Subject to the provisions for yards and plantings under Section 2.6 above, Developer and the Association shall preserve, to the extent possible and consistent with the development of Callaway Green, the trees and natural attributes of the common areas. No trees greater than six inches in diameter at four feet above grade shall be removed in connection with the development of any residential lot except as approved by the Architectural Control Committee and as shown on the approved site plan for the construction.

2.8. Establishment of Grades. Developer shall have the sole and exclusive right to establish grades, slopes and swales on the common area and on all residential lots and to fix the grade at which any building or structure shall be erected or placed thereon, so that the same may conform to a general plan for the development and use of Callaway Green.

2.9. Construction in Violation of Approved Plan. In all instances where plans and specifications are required to be submitted to and approved by the Architectural Control Committee, if subsequent to receiving such approval there shall be any variance from the approved plans and specifications in the actual construction or location of the improvement or subsequent to completion of construction, including any change in exterior colors or materials, without the written consent of the Architectural Control Committee, such variance shall be deemed a violation of these restrictions.

2.10. Voting by Architectural Control Committee; Non-Liability for Determinations. Determinations by the Architectural Control Committee shall be made by a majority of the members present at any meeting. Unless waived by all members of the committee, not less than two days notice of a meeting shall be given each member in writing or by telephone at his residence address. Two members of the Architectural Control Committee shall constitute a quorum. Although the Architectural Control Committee and Developer are granted by this Declaration of Restrictions certain discretion and rights of approval, disapproval and interpretation, the owners of residential lots in Callaway Green, as further consideration for the conveyance to them of such lots, do, for themselves, their heirs, personal representatives, successors and assigns, and their successors in the ownership of such lots, by their acceptance of the conveyance of such lots, release and forever discharge the Architectural Control Committee and Developer from any claims they may have against either the Architectural Control Committee or Developer arising out of their exercise of such discretion and such rights of approval, disapproval and interpretation and/or for their failure to exercise such discretion, rights of approval, disapproval and interpretation.
ARTICLE III
PARTY WALLS; UTILITY EASEMENTS
OVER RESIDENTIAL LOTS; DRIVEWAY EASEMENTS

3.1. General Rules of Law to Apply to Party Walls. To the extent not inconsistent with the provisions of this Article III and unless the owners of adjoining residential lots should otherwise agree, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to each party wall or party fence which is built or maintained at anytime within Callaway Green pursuant to plans and specifications approved by the Architectural Control Committee. In the event that any portion of any structure, including any foundation, footer, overhang, fireplace, party wall, decorative wall, or fence, which has been constructed on or along a lot line in accordance with plans and specifications approved by the Architectural Control Committee shall protrude not more than twelve inches (12") onto or over an adjoining residential lot, such protrusion shall not be deemed to be an encroachment upon the adjoining lot or lots, but the rights and obligations of the adjoining lot owners with respect thereto shall be governed by this Article III and no lot owner shall maintain any action for the removal of such protrusion. In the event there is a protrusion as described in the immediately preceding sentence, it shall be deemed that there shall be a perpetual easement in favor of the encroaching party, so long as such use shall be maintained, for: (i) continuing maintenance and use of such protrusion, including the right to extend, remodel and reconstruct the same; and (ii) lateral support of such protrusion by the subsoil of and minerals in and under the servient parcel; provided, however, that the foregoing easement shall not be construed to prevent the owner of any residential lot from making excavations on his lot for construction, reconstruction, enlargement, maintenance or repair of his dwelling so long as he shall protect the rights granted the adjoining owner hereunder in making such excavations. The foregoing shall also apply to any replacements of the original structure, party wall, decorative wall or fence. The foregoing rights, once established, shall not be subject to amendment or change by way of amendment of this Declaration of Restrictions. This section shall apply only to party walls which have been properly located under plans and specifications approved by the Architectural Control Committee in advance of construction and shall not be deemed to validate or to waive the right of any residential lot owner to require the removal of any encroachment which has not been so approved by the Architectural Control Committee.

3.2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or party fence shall be shared by the residential lot owners who make use of the wall or fence in proportion to such use.

3.3. Destruction by Fire or Other Casualty. If a party wall or party fence is destroyed or damaged by fire or other casualty, any lot owner who has used the wall or fence may restore it, and if the adjoining residential lot owner thereafter makes use of the wall or fence, he shall contribute to the cost of restoration thereof in proportion to such use without prejudice however, to the right of the residential lot owner who restores the wall or fence to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

3.4. Right to Contribution Runs with Land. The right of any lot owner to contribution from any other lot owner under this Article III shall be appurtenant to the land and shall pass to such lot owner's successors in title.

3.5. Arbitration. In the event any dispute shall arise concerning a party wall or party fence under the provisions of this Article III, the owners of the lots affected shall be deemed to have agreed to submit the dispute to arbitration under Chapter 2711 of the Ohio Revised Code and the decision of the arbitrators shall be binding upon the parties. Upon demand by either party the dispute shall be presented to three arbitrators. Each party shall choose one arbitrator, the arbitrators so
chosen shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. The place of arbitration shall be Lucas County, Ohio. Each party shall pay all costs of his arbitrator. The costs of the third arbitrator and of the arbitration proceeding shall be borne equally by the parties.

3.6. Utility Easements Across Lots and Through Dwellings. In establishing the easements for and location of utility lines over the common area of the Subdivision Developer may determine it to be an aesthetic benefit to and in the best interest of the Subdivision to locate such utility lines and the surface improvements serving such lines (such as electrical transformers and meters) in the common area lying between pairs of residential lots to minimize the number of such installations which will be visible in the Subdivision. In such event, the utility lines serving one residential lot in a pair of lots may extend over the adjacent residential lot and/or through the dwelling located on such adjacent residential lot. Where such situation should occur, there is hereby created an easement for such lines over the servient lot and, to the extent necessary, through any dwelling located thereon for the benefit of the benefited lot and the dwelling located thereon with right of access, upon reasonable notice, to maintain, replace and repair such lines at the sole cost of the benefited lot and in such manner as will cause the least disturbance to the servient lot.

3.7. Driveway Easements. The plat of Callaway Green establishes driveway and access easements from each residential lot to the private roadway shown thereon, thereby providing access from each residential lot to the public roadways over such easements and over the private roadways located within the Subdivision. In addition to the easements thereby created on the plat, Developer hereby reserves the right, and by this reservation shall have the right, to grant to the owners of the residential lots in the Subdivision easements to construct and use driveways over that part of the common area designated as a driveway area in the plans and specifications for the construction of a dwelling on each residential lot which are approved by the Architectural Control Committee. Such easements shall be for the exclusive benefit of the residential lots to which such driveways give access except to the extent that the driveways so approved are combined driveways serving more than one residential lot. The easement so granted with respect to that portion of any driveway giving access to more than one residential lot shall be a non-exclusive easement for the benefit only of those residential lots to which access is given, the owners thereof and their invitees. Such non-exclusive easement areas shall at all times remain clear and unobstructed by the persons having the right to use them. The cost of maintenance, repair and replacement of all driveways shall be borne by the owners of the residential lots holding easement rights over them. Such costs with respect to non-exclusive easement areas shall be borne in equal shares by the owners having the non-exclusive right and easement to use them.

ARTICLE IV
CALLAWAY GREEN ASSOCIATION

4.1. Membership in Association. All owners of residential lots in Callaway Green, and all persons who hereafter acquire title to a residential lot in the Subdivision, shall automatically become members of the Association and shall be entitled to all the rights and privileges of such membership and subject to all of the duties and obligations thereof as set forth in the recorded plat, this Declaration of Restrictions, and the Articles of Incorporation and Code of Regulations of the Association.

4.2. Rights of Members. Each member of the Association, in common with all other members, shall have the right to use the roadways, the common area and the utility easements in the Subdivision for all purposes incident to the use and occupancy of the member's residential lot as a place of residence and shall have a nonexclusive easement together with the other owners of
residential lots to the use and enjoyment of the roadways, the common area and the utility easements. All members of the Association shall use the roadways, the common area and the utility easements in such manner as will not restrict, impede or interfere with the use thereof by other members, and their respective families, guests, invitees, and servants, except to the extent that the Architectural Control Committee has approved the extension into the common areas immediately adjacent to dwellings erected on a residential lot of roof overhangs, gutters, bay windows, chimneys, patios, open porches, decks, walkways, driveways, fences, decorative walls, privacy screens or shrubbery.

4.3. Association Rights. The Association shall have the power and right:

(a) to acquire title from Developer to all roadways, common area, buffer lots and utility easements which may be designated for the common use and enjoyment of residential lot owners in the recorded plat of Callaway Green and to manage, maintain, improve and repair such roadways, common area, buffer lots and utility easements;

(b) to enforce all provisions herein and in the recorded plat of Callaway Green;

(c) to adopt rules and regulations of general application governing the maintenance and rental of dwellings and the roadways, common area and utility easements on the recorded plat of the Subdivision;

(d) in the event an owner of any residential lot fails to repair and maintain the exterior of the residence on that lot or the landscaping on or adjacent to that lot in first-class condition within forty-five (45) days after delivery of notice from the Association to his residence or to such other address as to which such owner shall have designated to the Association in writing specifying the remedy required (if such notice is not hand delivered it shall be sent by certified mail, postage paid, return receipt requested) then the Association, upon the affirmative vote of a majority of its Trustees, shall have the right to enter upon said residential lot and to repair and maintain the exterior of such residence or the adjacent landscaping with the cost of any such repair or maintenance being added to and becoming a part of the Association’s assessment against said residential lot; and

(e) to carry out all other purposes for which it was organized or which it may hereafter be authorized to undertake.

4.4. Ownership of Common Area. Notwithstanding the provisions of paragraph 4.1 of this Article IV and any designation of "common area" on the recorded plat of Callaway Green, neither the Association nor any owner of any residential lot shall have any ownership interest in or any right to control the use or development of any such common area unless and until Developer shall convey such common area to or for the benefit of the Association. Thereafter, the owners of the residential lots in the Subdivision shall have only those rights with respect to the common area as are granted them hereunder and under the Articles of Incorporation and Code of Regulations of the Association. Developer, by its execution and recording of these restrictions and the platting of Callaway Green does not represent or warrant that it will, and shall not be obligated to, convey any such common area to or for the benefit of the Association prior to the conveyance of the first residential lot by Developer to a third party.
ARTICLE V

ASSESSMENT OF OWNERS

5.1. **Annual Assessment.** For the year commencing January 1, 1996, and each calendar year thereafter, each and every residential lot and residential lot owner in Callaway Green shall be subject to an annual assessment in such amount as may be annually determined by the Association through its Board of Trustees. The assessment for each calendar year shall be determined by the Association prior to the end of the preceding calendar year and shall be paid to the Association in not more than four (4) quarterly equal installments. The number of installments over which the annual assessment is payable and the due dates of such payments shall be determined from time to time by the Board of Trustees. The assessment for any residential lot owned by Developer shall be one-half (1/2) of the amount applicable to all other residential lots.

5.2. **Special Assessments.** In the event a majority of the Board of Trustees determines that the Association has an urgent need for funds which may not be satisfied through the payment of the installments of the annual assessment, a majority of the Board of Trustees may authorize the levying of a special assessment. The Board shall establish the amount and due date of the special assessment which shall not be sooner than twenty (20) days following notice to the members that such assessment has been levied. Any special assessment shall be subject to the provisions of Section 5.3. Special assessments against a particular lot or group of lots in the Subdivision for matters affecting only such lots may be levied only by written agreement between the Association and the owners of the lots so affected.

5.3. **Assessment Lien; Enforcement of Payment.** The annual assessment shall become a lien against each residential lot on the first day of the year for which it is due and special assessments shall become a lien on the date notice of the special assessment is given to the member. Annual and special assessments shall also be the personal obligation of the owner (and the joint and several obligation of all owners if more than one) of each residential lot at the time when the assessment becomes a lien. Members who fail to pay any annual or special assessment or any installment thereof within twenty (20) days of the due date shall be subject to a finance charge on the delinquent amount at the maximum rate permitted by law. If default continues in any payment of the annual or special assessment or any installment thereof for a period of sixty (60) days after its due date, a "Notice of Lien" in substantially the following form may be filed and recorded in the lien records in the office of the Recorder of Lucas County, Ohio:

**Notice of Lien**

Notice is hereby given that Callaway Green Association claims a lien for unpaid annual assessments for the year(s) _______ in the amount of $_______ and special assessments in the amount of $_______ against the following described premises:

(Insert legal description)

The records of the Association indicate that _______ is (are) the present owner(s) of such premises.

**CALLAWAY GREEN ASSOCIATION**

By __________________________

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STATE OF OHIO  

COUNTY OF  

The foregoing instrument was acknowledged before me this ___ day of ___, 19__ by ___ of CALLAWAY GREEN ASSOCIATION, an Ohio non-profit corporation, on behalf of the corporation.

Notary Public

In the event any installment of any assessment is not paid when due, the Association may, when and as often as delinquencies occur, proceed by process of law to collect the amount then due by foreclosure of the above-described lien or otherwise and in such event the Association shall also be entitled to recover and have and enforce against each residential lot a lien for its costs and expenses of collection and foreclosure in that behalf, including attorney fees. No owner may waive or otherwise escape liability for any assessments provided for herein by non-use of the common areas or any facilities located thereon or by abandonment of his residential lot. The lien of assessments provided for herein shall be subordinate to the lien of any first mortgage encumbering a residential lot. Sale or transfer of any residential lot shall not affect the assessment lien; provided, however, that the sale or transfer of any residential lot pursuant to foreclosure of a first mortgage which was recorded prior to the notice of lien shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer but shall not extinguish the personal liability of the owner(s) of such lot for such assessment. No sale or transfer shall relieve a residential lot from liability for any assessments thereafter becoming due or from the lien thereof.

5.4. Application of Assessments. The annual assessments shall be levied against all residential lots in Callaway Green except for any lots owned or leased by the Association for the common use and enjoyment of the owners of residential lots in the Subdivision. The assessments may be applied toward the payment of the following costs and expenses:

(a) Fire, casualty and liability insurance to protect the Association and its Trustees and members, for liability incident to the ownership and use of the roadways, the common area and the utility easement areas and, with respect to the Trustees, their actions as Trustees.

(b) Landscaping, gardening, snow and trash removal, utilities serving the common area and maintenance, improvement, repair and replacement of the roadways and the facilities and equipment located on the common area and the utility easement areas.

(c) Employment of security personnel and facilities for the benefit of all of the owners of residential lots in the Subdivision.

(d) Employment of services and personnel required for the maintenance or operation of the roadways, the common area and the utility easement areas and facilities located thereon, the operation of the Association, and the enforcement, if necessary, of the terms and conditions of this Declaration of Restrictions, the Articles of Incorporation and Code of Regulations of the Association, and any violations or infractions thereof, including legal and accounting services.

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(e) All real estate, personal property and other taxes levied against the Association or any of the common areas and utility easement areas and to discharge any lien or encumbrance for taxes or otherwise against the Association or its assets.

(f) Operation and maintenance of all underground utility lines owned by the Association, if any.

(g) Any other costs and expenses reasonably incurred by the Association in performing its obligations under these Restrictions or under the Articles of Incorporation or Code of Regulations of the Association.

(h) The establishment of reserves to pay the estimated future costs of any of the foregoing.

The Association shall exercise its discretion and judgment as to the amount of its funds to be expended in connection with each of the purposes for which its funds are collected, and its discretion in reference thereto shall be binding upon all interested parties.

5.5 Certificate of Payment. Upon demand of any residential lot owner and after payment of a reasonable charge therefor the secretary or treasurer of the Association shall promptly issue a certificate setting forth whether all assessments have been paid for such owner's residential lot, and, if not, the total amount of any unpaid assessments. Any such certificate stating that all assessments have been paid shall be conclusive evidence of such payment.

ARTICLE VI
EASEMENTS

6.1 Reservation of Easement Rights. Developer reserves to itself, and to its successors and assigns, the exclusive right to grant covenants, easements and rights of way for the construction, operation, maintenance and use of electric light, cablevision, telephone and telegraph poles, wires and conduits, including underground facilities, to serve the Subdivision, the residential lots therein, and any adjacent land to the Subdivision; for the private roadway within the Subdivision; and for drainage, sewers and any other facilities or utilities deemed convenient or necessary by Developer or its successors and assigns for the service of the Subdivision, the residential lots therein and adjacent land on, over, below, or under all of the areas designated as "Common Area," "Utility Easement," "Private Place and Easement for Roadway and Utility Purposes," "Storm Water Detention Area," "Easement for Access and Utility Construction" or with words of similar import, on the recorded plat of Callaway Green, and alongside upon all roadways now existing or hereafter established and abutting all the residential lots in the Subdivision. Developer also reserves to itself, and to its successors and assigns, the right to go upon or permit any public or quasi-public utility company to go upon the residential lots from time to time to install, maintain and remove such utility lines and to trim trees and shrubbery which may interfere with the successful and convenient operation of such equipment. No structures, or any part thereof, shall be erected or maintained over or upon any part of the areas designated as "Common Area," "Utility Easement," "Easement for Access and Utility Construction," "Storm Water Detention Area" or with words of similar import, upon the recorded plat of Callaway Green, except as expressly authorized under paragraph 2.4 hereof. The term "structures" as used in the preceding sentence shall include houses, garages, other buildings and swimming pools, but shall not include residential lot improvements such as driveways, paved parking areas, and fences. No owner of any residential lot shall have the right to reserve or grant any easements or rights of way upon or over any of the residential lots without the prior written consent of the Developer, its successors and assigns.
ARTICLE VII
DURATION OF RESTRICTIONS, AMENDMENTS

7.1. Term. These covenants and restrictions shall run with the land and shall be
binding upon Developer, the Association, and all persons claiming under or through Developer or the
Association until the first day of January, 2016, at which time these covenants and restrictions shall
be automatically extended for successive periods of ten (10) years.

7.2. Amendments-Termination. These covenants and restrictions may be amended prior
to January 1, 2016 and may be amended or terminated on or after January 1, 2016 with the written
approval of the then owners of not less than two-thirds (2/3) of the residential lots in Callaway Green,
which amendment or termination shall become effective from and after the filing with the Recorder
of Lucas County, Oho of an instrument stating such action signed by all approving residential lot
owners with the formalities required by law. In the event the Association shall be dissolved or
otherwise cease to exist, ownership of its property shall automatically thereupon be transferred to the
then owners of the residential lots in the Subdivision with each owner having an equal undivided
interest in the common areas for each residential lot owned, provided, however, that in no event and
under no circumstances shall there be any partition in the common areas and facilities through
judicial proceedings or otherwise unless approved by the owners of at least two-thirds (2/3) of the
residential lots in the Subdivision.

ARTICLE VIII
ENFORCEMENT OF RESTRICTIONS, OTHER GENERAL MATTERS

8.1. Violations Unlawful. Any violation or attempt to violate any of the covenants or
restrictions herein shall be unlawful. Developer, the Association, the Architectural Control Committee
or any person or persons owning any residential lot in the Subdivision may prosecute any proceedings
at law, or in equity, against the person or persons violating or attempting to violate any of these
covenants or restrictions to prevent or enjoin him or them from so doing, to cause the removal or
cessation of any violation, and to recover damages for such violation or attempted violation.

8.2. Saving Clause. The invalidation of any of the restrictions herein contained by
judgment or court order or amendment hereof by the act of the owners of residential lots in Callaway
Green shall not affect any of the other provisions contained in this Declaration of Restrictions, which
shall remain in full force and effect.

8.3. Transfers Subject to Restrictions. All transfers and conveyances of each and every
residential lot in Callaway Green shall be made subject to these restrictions.

8.4. Notices. Any notice required to be sent to any owner of a residential lot or any part
thereof or to Developer or to the Association or to the Architectural Control Committee shall be
deemed to have been properly sent when mailed, postpaid, to the last known address of the person
who appears as such owner or to the Developer or to the Association or to any member of the
Architectural Control Committee as such address appears on the applicable public record or on the
records of the Association or the Architectural Control Committee.

8.5. Developer's Rights Assignable; Interpretation of Restrictions. The rights, privileges
and powers granted by this Declaration of Restrictions to, and/or reserved by, Developer shall be
assignable at any time and shall inure to the benefit of the successors and assigns of Developer, and
any such assignment by Developer shall be in writing and shall be recorded in the office of Recorder
of Lucas County, Ohio. Developer shall have the right to enforce, construe and interpret these restrictions and its construction and interpretation, made in good faith, shall be final and binding as to all persons and property benefited by such restrictions. Developer reserves the right to relinquish its power to construe, interpret and enforce these restrictions by written instrument delivered to the Association whereupon all rights with respect thereto shall thereafter be exercised by the Association and all obligations of Developer hereunder shall terminate.

8.6. No Waiver of Violations. The failure to enforce any violation or breach of any of the provisions of this Declaration of Restrictions, no matter how frequent, shall not abrogate or invalidate any such provisions nor shall it constitute a waiver of any subsequent violation or breach.

8.7. Limitation of Warranties; Indemnification of Trustees, etc. of Association. By acceptance and recording of a deed to a residential lot in Callaway Green, each lot owner shall be deemed to have acknowledged and agreed that there are no representations or warranties, express or implied, by the Developer to the Association or any lot owner, or by the Association to any lot owner with respect to (i) the merchantability, fitness, or suitability of the residential lots for the construction of residences or any other purpose, (ii) any improvements to or for the benefit of the Subdivision whether constructed by or at the direction of Developer or under Developer's supervision, or (iii) any other aspect or feature of the Subdivision other than as expressly stated in writing (x) by the Developer to the lot owner; or, (y) in this Declaration of Restrictions; or, (z) in the Articles of Incorporation and Code of Regulations of the Association. The Articles of Incorporation of the Association provide that the Trustees, officers, employees and agents of the Association shall be indemnified by the Association to the fullest extent permitted by law for their actions taken on behalf of the Association, including their actions taken under this Declaration of Restrictions.

8.8. Waiver of Restrictions by Architectural Control Committee. Each residential lot owner, by acceptance of a deed to a residential lot, agrees and consents and shall be deemed to agree and consent for himself and for his heirs, personal representatives, successors and assigns, that if, in the opinion of the Architectural Control Committee, the shape, dimensions, number of structures, location of natural features such as trees, or topography of the residential lot upon which a building or improvement is proposed to be made, is such that a strict construction or enforcement of the requirements of the recorded plat or of any provision of these restrictions would work a hardship, the Architectural Control Committee may, in writing, grant waivers from these restrictions as to such residential lot so as to permit the erection of such building or the making of the proposed improvements.

8.9. Modification of Restrictions; Hardship. In the event of a material change in conditions or circumstances from those existing at the time these restrictions are adopted that would cause the enforcement of these restrictions to become a hardship upon any of the owners of residential lots, or which would cause such restrictions to cease being beneficial to the owners of such residential lots, Developer and/or any owner or owners of residential lots shall have the right to modify these restrictions so as to remove the hardship, or cause the restrictions to be beneficial to all residential lot owners, by filing for record with the Lucas County, Ohio Recorder an instrument adopting such modification to these restrictions and signed by the owner or owners of at least fifty percent (50%) of the residential lots in Callaway Green with the formalities required by law. The provisions of this paragraph shall not be construed as a limitation upon the right of the Architectural Control Committee to modify the provisions of these restrictions as provided in paragraph 8.8 or a modification of the procedure for amending these restrictions as provided in paragraph 7.2 under any other circumstances.
8.10. Paragraph Headings. The paragraph headings contained in this Declaration of Restrictions have been inserted for convenience of reference only and are not to be used in the construction and/or interpretation of these restrictions.

IN WITNESS WHEREOF, McGowan-Callaway Limited Partnership, the Developer, has caused this Declaration of Restrictions to be executed on its behalf on December 27, 1995, and Callaway Green Association, the Association, acting by and through its duly authorized officers, has caused this Declaration of Restrictions to be executed on its behalf on December 27, 1995.

McGOWAN-CALLAWAY LIMITED PARTNERSHIP

By McGowan Enterprises, Inc., General Partner

By Michael S. McGowan, President

Julie Stellwagon

CALLAWAY GREEN ASSOCIATION, an Ohio non-profit corporation

By Michael S. McGowan, President

Patricia A. Carpenter

Julie Stellwagon

Patricia A. Carpenter

Julie Stellwagon

Patricia A. Carpenter

Julie Stellwagon

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LEGAL DESCRIPTION

All that part of the North half (1/2) of the South half (1/2) of the Northeast quarter (1/4) of Section sixteen (16), Town nine (9) South, Range six (6) East, in the City of Sylvania, Lucas County, Ohio, said parcel of land being bounded and described as follows:

Beginning at the intersection of the East line of said Northeast quarter (1/4) of Section sixteen (16), with the south line of the said North half (1/2) of the South half (1/2) of the Northeast quarter (1/4) of Section sixteen (16); thence in a westerly direction along the said south line of the north half (1/2) of the south half (1/2) of the Northeast quarter (1/4) of Section sixteen (16), having a bearing of south eighty four (84) degrees, twelve (12) minutes, fifty six (56) seconds West a distance of seven hundred fifty and zero hundredths (750.00) feet to a monument located at the south east corner of Lot sixty nine (69) in Lincoln Woods Plat three, Recorded in Volume 63, page 1 Lucas County Plat Records; thence North one (01) degree, four (04) minutes, forty one (41) seconds West along the east line of said Lot sixty nine (69) in Lincoln Woods Plat three and the east line of Lots sixty six (66), sixty seven (67) and sixty eight (68) in Lincoln Woods Plat two recorded in Volume 61, Page 38, Lucas County Plat Records, and the East line of Lot twenty three (23) in Lincoln Woods Plat One recorded in Volume 60, Page 69, Lucas County Plat records, a distance of three hundred and zero hundredths (300.00) feet to a monument located at the southwest corner of Lot twenty four (24) in said Lincoln Woods Plat One; thence north eighty four (84) degrees, twelve (12) minutes, fifty six (56) seconds East along the south line of Lots twenty four (24) through thirty (30) inclusive, also the south plat line, in Lincoln Woods Plat One a distance of five hundred forty and zero hundredths (540.00) feet to the intersection of a line drawn westerly and parallel with the said East line of the Northeast (1/4) of Section sixteen (16), thence south one (01) degree and four (04) minutes, forty one (41) seconds East along said line drawn westerly of and parallel with the east line of the northeast quarter (1/4) of section sixteen (16), a distance of eighty three and zero hundredths (83.00) feet to the intersection of a line drawn southerly of and parallel to the south line of Lincoln Woods Plat One, thence north eighty four (84) degrees, twelve (12) minutes, fifty six (56) seconds east along said line drawn southerly of and parallel to the south line of Lincoln Woods Plat One, a distance of two hundred ten and zero hundredths (210.00) feet to the intersection of the east line of the northeast quarter (1/4) of section sixteen; thence south one (01) degree, four (04) minutes, forty one (41) seconds east along the east line of the northeast quarter (1/4) of Section sixteen (16), a distance of two hundred seventeen and zero hundredths (217.00) feet to the point of beginning.

Callaway lg1
STATE OF OHIO  
COUNTY OF LUCAS 

The foregoing instrument was acknowledged before me this 22nd day of December, 1995, by Michael S. McGowan, President of McGowan Enterprises, Inc., an Ohio corporation, on behalf of the corporation, as general partner of McGowan-Callaway Limited Partnership.

[Signature]
Notary Public

STATE OF OHIO  
COUNTY OF LUCAS 

The foregoing instrument was acknowledged before me this 22nd day of December, 1995, by Michael S. McGowan, President of Callaway Green Association, an Ohio corporation.

[Signature]
Notary Public

This Instrument Prepared By:
Michael S. McGowan, Esq.
Shumaker, Loop & Kendrick
1000 Jackson
Toledo, Ohio 43624

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RECEIVED & RECORDED

DEC 2 8 1995

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RECORER, LUCAS COUNTY, OHIO
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