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DECLARATION OF RESTRICTIONS AS TO FALLEN TIMBERS FAIRWAYS SUBDIVISION PLAT I

This Declaration, made and entered into by Fallen Timbers Development Corporation, an Ohio closely held corporation, hereinafter referred to as "Owner," the 3rd day of December, 1993.

WITNESSETH:

WHEREAS, Owner holds title in fee simple to a certain parcel of land, situated in Montrose Township, Lucas County, Ohio, hereinafter referred to as "Fallen Timbers Fairways Development Corporation," and described as follows:

Lots 1 through 49, inclusive, in Fallen Timbers Fairways Plat I, a subdivision in Montrose Township, Lucas County, Ohio, and

WHEREAS, Owner has caused a plat of the above described land to be prepared and recorded in volume 132 pages 50-52 of the Record of Plats, Lucas County, Ohio, which plat provides for:

The subdivision of said land into 49 lots numbered consecutively from 1 through 49, the dedication to public use of certain streets and ways therein; and

the reservation of certain easements therein for the installation and maintenance of public utility services, and

WHEREAS, Owner is the owner of other lands immediately adjacent and contiguous to the property; Owner intends to provide for the development thereon of one or more subdivisions which are in all respects similar to the subdivision of Fallen Timbers Fairways Plat I which will make the land in such subsequent plat(s) more attractive for residential purposes, and will protect present and future owners of such land in their use and enjoyment thereof for residential purposes.

WHEREAS, Owner may purchase other lands in the vicinity of the property which the Owner may desire to develop as an extension of and in conjunction with the development of the property and in accordance with the restrictions on the same; Owner intends to effectuate the development of the same; Owner reserves the right to extend the benefits and the restrictions created by this Declaration in any such lands which may thereafter be acquired by Owner and developed in conjunction with the development of Fallen Timbers Fairways Plat I and subsequent plat(s).

WHEREAS, Owner may from time to time by deed, conveyancing or otherwise, reserve to itself, as owner of the property, its fee simple estate in any of the lots described in this Declaration, or portions thereof, for any purpose and in such manner as it may deem fit, and may make such conveyancing subject to the condition that the same be conveyed in the same way and form as the Declaration herein described.

NOW, THEREFORE, in consideration of the premises and in consideration of the enhancement in value of the above described land, and to afford purchasers protection in the use and occupancy thereof, for the purpose for which the same are designed and to provide harmonious, artistic, and desirable residential districts, Owner hereby declares and stipulates that each lot in said Fallen Timbers Fairways Subdivision Plat I shall be conveyed, or if sold by Owner, the same shall be conveyed subject to the following covenants, conditions, agreements and restrictions, to-wit:

ARTICLE I
GENERAL PROVISIONS AND DEFINITIONS

1.1 The word "restrictions" or "restriction" as hereinafter used shall include all of the covenants, agreements, conditions, provisions, easements, restrictions and covenants herein after set forth.

1.2 The word "building" as used in this Declaration of Restrictions is intended to mean all detached buildings or structures of one story or more and all buildings in which dwellings are located.

1.3 The word "dwelling" as used in this Declaration of Restrictions is intended to mean a building designed and intended for use as a residence for human occupancy.

1.4 The word "lot" as used in this Declaration of Restrictions is intended to mean any parcel of land on which an owner shall have the right to erect a single-family residence.

1.5 No purchaser of any lot shall convey, transfer or sell any part of said lot as shown on said plat or divide any portion of the same.

1.6 No restrictions imposed hereby shall be abrogated or waived by any failure to enforce the provisions hereof, no matter how many violations or breaches may occur.

1.7 If, in the opinion of Fallen Timbers Development Corporation, the shape, dimensions, number of structures or typology of the lot on which a building, structure, or improvement is to be made, is such that a strict adherence to the provisions of this Declaration would be unfair to the Owner, Buyer, Developer, or such Sublicensees, such Sublicensees shall be permitted to make such modifications to these restrictions as are necessary to permit the erection of such structures of building within the limits of the proposed improvements.

ARTICLE II
USE OF LAND

2.1 Each residence dwelling on a residential lot shall be used and occupied solely and exclusively for private residence purposes by a single family and such family's servants. No lot shall be used for any purpose not presently permitted under the laws of the State of Ohio or any applicable zoning, building or other governmental ordinances, codes and regulations (the "Codes").
2.3 No structure shall be erected, placed or maintained on any residential lot other than one (1) single-family residence dwelling with the square footage, style, placement, color scheme, etc. including porches, decks and garages requiring approval of the Architectural Control Committee, as described in Section I. In addition, each dwelling shall include a private garage of not less than two (2) nor more than three (3) car capacity which shall be attached to the residential dwelling.

2.4 Subject to paragraph 10.7 hereof, nothing contained in this Declaration shall prevent the use of a parcel of land composed of more than a single residential lot for one (1) single-family residence dwelling.

2.5 No portion of any residential lot or structure thereon shall be used or permitted to be used for any business purpose whatsoever and no nuisance, offensive or unreasonably disturbing activity shall be conducted upon any part of the Property, nor shall anything be done thereon which may be or become an annoyance or nuisance or which may endanger the health, safety or welfare of the owners of residential lots in the subdivision.

2.6 No well for gas, oil or water shall be, at any time, whether intended for temporary or permanent purpose, erected, placed or allowed to remain upon said premises; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the quiet of adjoining land holders.

2.7 No trailer, boom, house, tent, truck, garage, barn, mobile home or other temporary shelter or housing device shall be maintained or used as a residence dwelling, temporarily or permanently, at the Property. No manufactured home or prefabricated structure of any kind shall be erected or placed on any residential lot, unless first approved as provided under Article III hereof. No residence shall be used or occupied as a residence until the interior and exterior thereof has been completed in accordance with the Plans approved therefor as provided under Article III hereof.

2.8 No truck, boat, bee, tent, mobile home, trailer, car, camper or other similar vehicle or housing device shall be stored at any time on a residential lot unless housed within a garage building. Roof mounted antennas and all other types of outside antennas are expressly prohibited on residential lots. No wash or laundry shall be hung or dried outside of any structure on any residential lot.

2.9 No residential lot shall be used for the storage of automobiles (other than vehicles for the personal use of owners of residential lots), trailers, scrap iron, wood, paper, glass or any recreation products or materials, provided, however, that during the period a structure is being erected upon any residential lot, building materials to be used in the construction of such structure may be stored thereon, subject to the condition that any building material not incorporated in said structure within thirty (30) days after its delivery to such residential lot shall be removed therefrom. All structures must be completed by the residential lot owner within one (1) year after the date of the beginning of the construction thereof. No pool or gravel, other than that incidental to construction of approved structures, shall be removed from any residential lot without the prior written approval of the Architectural Control Committee.

2.10 Any pets at the Property shall be maintained within the residence dwellings. Dogs and cats shall be permitted outside of residence dwellings only if leashed.

2.11 All rubbish, garbage and debris (combustible and non-combustible) on residential lots shall be stored in underground containers, in containers entirely within the garage or basement or, if approved as provided under Article III hereof, in outside containers. Additional regulations for the storage, maintenance and disposal of rubbish, garbage, debris and leaves may from time to time be established by the Owner, his successors and assigns, or the Association as hereinabove defined.

2.12 All electric and telephone facilities and services at Falken Timbers Fairways Plan shall be underground with the exception of (a) those above-ground services, if any, existing on the date hereof, and (b) any new or replacement poles, facilities or services located along such exterior portions of the Property as are adjacent and contiguous to the public rights-of-way accessing the Property, provided that said new or replacement poles, facilities or services shall be located within the 10 foot strip of land at the exterior of each such portion of the Property.

2.13 No structure or any part thereof shall be erected, placed or maintained on any residential lot nearer to the street or the street line or line which any existing building line(s), building setback line(s) or building area(s) shown on Falken Timbers Fairways Plan, except for a fence, hedge, wall or other enclosure which shall first have been approved as provided under Article III hereof for the purpose of beautifying said residential lots.

2.15 No unsightly weeds, underbrush or other object of any kind shall be permitted to grow or remain on any part of a residential lot. This paragraph shall be construed to prohibit the planting or maintaining of farm crops or grasses on residential lots.

2.16 No trash can, outdoor fireplace or other outdoor device expelling gas or smoke shall be placed on or adjacent to residential lots.

2.17 No satellite dishes or similar receiving or transmitting devices shall be permitted on any residential lot unless first approved as provided in Article III hereof.

2.19 No firearms of any type shall be discharged on the Property or on any lot at the Property, or on any contiguous lands now or to be owned in the future by the owner, his successors and assigns.
ARTICLE III
ARCHITECTURAL CONTROL

3.1 Architectural Control Committee

An Architectural Control Committee consisting of three (3) individuals is hereby established. The initial members of the committee shall be appointed by Owner. Owner shall have the right and authority to remove and replace such members and appoint successors and fill vacancies. A majority of the Architectural Control Committee may designate a representative to act for the committee. Neither the members of the committee, nor its designated representative (hereinafter shall be entitled to compensation. Upon the death or resignation of a member of the Architectural Control Committee, a new member shall be appointed by Owner until that point when the Homeowner's Association represents seventy-five percent (75%) of the entirety of Fallen Timbers Fairways Subdivision, at which time members shall be elected per the terms and regulations of the Fallen Timbers Homeowner's Association.

3.2 Architectural Control

No building, driveway, swimming pool, fence, hedge, wall, walk, or other structure, grading or planting, shall be commenced, erected, or maintained, nor shall any addition or change or alteration thereto be made until the detailed plans and specifications, showing the nature, kind, shape, height, materials, floor plans, color scheme, location and approximate cost of such structure or work to be done and the grading plan of the lot to be built upon shall have been submitted to and approved in writing by the Architectural Control Committee and fully approved and endorsed permanently by the committee. The Committee will require that such plans and specifications be prepared by a competent landscape architect. The Committee shall have the right to refuse or to approve any such plan or specifications or grading plans which are not suitable or desirable in its opinion for aesthetic or other reasons and in so passing upon such plans, specifications and grading plans, they have the right to take into consideration the suitability of the proposed building or other structure and of the materials with which it is to be built to the site upon which it is to be erected and the harmony thereof with the surroundings and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property.

3.3 Procedure

The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, then the same shall be deemed approved. In requiring submission of the plans as herein set forth, Owner contemplates the development of the property as an architecturally harmonious and desirable residential subdivision. In approving or withholding its approval of any plans as submitted, the Architectural Control Committee may consider the appropriateness of the contemplated improvements in relation to improvements on contiguous or adjacent residential lots, its artistic and architectural merit, its adaptability to the residential lot on which it is proposed to be constructed and with other matters as may be deemed to be in the interest and benefit of the owners of residential lots on the property as a whole. Any determination made by the Architectural Control Committee, in good faith, shall be binding on all parties in interest.

3.4 Easements Reserved

Owner, reserve to itself, its successors and assigns, a perpetual easement in, through, under and/or over these portions of the front, rear, side, of each lot, as shown on the Plat of Fallen Timbers Fairways, designated utility rights-of-way, for the construction, operation, and maintenance of electric light, electric power, telephone, cablevision and other utility poles, lines and conduits, and for water, gas and sewer pipes and conduits, or any other public utility facilities including easement, easements for right-of-way on abutting land in connection with the golf course faciliies, together with the necessary buildings and appurtenances; and no building or other structure or any part thereof, shall be erected or maintained upon any part of the property in Fallen Timbers Fairways, over or upon which easements for the institution and maintenance of public utilities, and golf course facilities, will be or have been granted.

3.5 Public Utilities Rights

Owner reserves the exclusive right to grant consents for the construction, operation, and maintenance of any electric light, electric power, telephone, cablevision and other utility poles, lines and conduits, and for water, gas and sewer pipes and conduits, or any other public utility facilities, together with the necessary buildings and appurtenances; and no building or other structure or any part thereof, shall be erected or maintained upon any part of the property in Fallen Timbers Fairways, over or upon which easements for the institution and maintenance of public utilities, and golf course facilities, will be or have been granted.

3.6 Grades and Slopes

The Architectural Control Committee shall have the sole and exclusive right to establish grades, slopes and elevations of residential lots and to fix the grade and elevation at which any structure or residence dwelling shall be hereafter erected or placed thereon, so that the same may conform to a general plan for the development and use of the Property. The grades, slopes and elevations of all residential lots shall be established on the Plans submitted to and approved by the Architectural Control Committee. No building or any part thereof shall be erected on a residential lot unless at the elevation of not less than the (3) foot higher than the 100-year flood elevation of________ shown on Flood Insurance Rate Map Community:________ Panel Number:________ Date:________. In addition, no alterations to the grades, slopes and elevations established by the Plans shall be made in any manner which would cause a change in the flow of water to the rear or side yard or catch basins on any residential lot.

3.7 Building Type

Only one single-residence may be erected on each lot. No building shall be erected, altered, placed or permitted to remain on any lot other than (a) one single family dwelling house and not to exceed twelve (12) stories and not more than twenty-five (25) feet in height, and (b) such other accessory buildings as may be permitted by the Architectural Control Committee. The main roof of all buildings shall be of the gable, hip, or gabled type. No exposed exterior surface of any building shall be any one of the following materials; shingled, cement or oyster shell, brick, stone, brick and stucco, aluminum or vinyl siding. Individual design concepts for use of any prohibited materials will be considered on a case by case basis. Prohibited material not to exceed twenty percent (20%) of any exterior structure (ie. vinyl windows, Vinyl aluminum downspouts). Garages are to be a minimum of 2 car storage and are to be attached to the main residential dwelling.

3.8 Building Location

No building shall be located on any lot nearer to the front lot than the minimum building setback lines shown on the recorded plat. No building shall be located nearer than ten (10) feet to any interior line of.
be used for any purpose other than that of lawn. Nothing herein contained, however, shall be construed as preventing the use of such portion of said premises for wells (so drilled if otherwise permitted), the planting of trees or shrubbery, and the growing of flowers or ornamental plants for the purpose of beautifying said premises, but no unattractive objects shall be allowed, placed, or suffered to remain thereon. In addition, all landscaping concepts, designs and desirable areas shall be submitted to the Architectural Control Committee for review and approval. Certain governmental regulations require a minimal amount of landscaping, in addition to the minimum yard setback provisions, and will be enforced by the Architectural Control Committee. This is to include front, rear, and side landscaping, including planting strips, hedges, trees, bushes, plantings, pools, gardens, patios, decks, etc., to be approved on a per-case basis and should not be considered permissible on every lot.

3.11 Slight Distance at Intersection

No fence, wall, hedge, or shrub planting which obscures sidewalks at an intersection between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any lot within the triangle area formed by the street property line and driveway line and the line connecting them at points ten (10) feet from the intersection of the street line. No trees shall be planted to remain within such distance of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

3.12 Driveway

All driveways are to be hard surface concrete, brick, or interlocking stone, from the road paving to the garage.

3.13 Sidewalks

Upon the sale of (a) eighteen (18) months following the date of closing on the sale of a residential lot, or (b) the completion of construction of a residence dwelling thereon, each residential lot owner shall install and construct a sidewalk on such residential lot. The sidewalk shall be four (4) inches in depth except at driveways where it is six (6) inches deep shall be provided, and shall be placed on a concrete foundation and built to length. If a residential lot owner fails to construct said sidewalk in accordance with the regulations of this or any other applicable code, the Architectural Control Committee shall assess the cost of such construction plus fifteen percent (15%) to be added to and become a part of the next annual assessment. It is the duty of the owner of such residential lot, at the expense of such owner, to keep and maintain the sidewalks located on such owner's residential lot in a good and safe condition and to clear the same of snow, ice, dirt, and any other debris within twenty-four (24) hours after deposit thereof, and each such owner shall indemnify and hold the Architectural Control Committee harmless from any liability to any person resulting from such owner's neglect, failure or refusal in performing said duty. The design and location of each individual lot owner's sidewalk will be mandated by the Architectural Control Committee as stated in the landscaping plan.

3.14 Planting

The owner has established and prepared a master plan for the planting of trees on each residential lot, generally in the areas between the curb and sidewalk on public streets or on the matured landscape. A copy of said master plan is maintained at the offices of the City of Macomb. All trees shall have trunks of diameter of twelve inches (12") or greater, and shall have been balled and burlapped roots. Each residential lot owner shall plant trees in the quantities and type of trees set forth in said master plan, within the area of (a) eighteen (18) months following the date of closing on the sale of a residential lot, or (b) the completion of a residence dwelling thereof. If a residential lot owner fails to plant said trees in accordance with this paragraph 3.14, the Architectural Control Committee or the lot owner shall be the right, without notice to the residential lot owner, to enter upon said residential lot and cause such sidewalk to be constructed thereof. In such case, the cost of such construction plus fifteen percent (15%) shall be added to and become a part of the next annual assessment to which such residential lot is subject.

3.15 Compatibility

Each structure will be judged upon its compatibility with existing structures, the compatibility with the master plan for the subdivision which will be determined in full by the Architectural Control Committee.

ARTICLE IV

USE RESTRICTIONS

4.1 Residential Use

Each lot in the subdivision is designated as a residential lot. No portion of any residential lot or structure thereon shall be used or permitted to be used for any business purpose whatsoever and no services, offer, queues, or any unreasonably disturbing activity shall be carried on upon any portion of the said subdivision, nor shall anything be done thereon which may or may become an annoyance or nuisance in said subdivision.

4.2 Occupancy

No dwelling erected in said subdivision shall be used as a residence, nor interior for the dwelling thereof shall be used or permitted to be used for any purpose whatsoever, and no services, offers, queues, or any unreasonably disturbing activity shall be carried on upon any portion of said subdivision, nor shall anything be done thereon which may or may become an annoyance or nuisance in said subdivision.

4.3 Storage of Vehicles

No boat, boat trailer, recreational vehicle or truck of any type shall be parked, kept or stored on any lot in the subdivision, nor shall any vehicle of any type be used on any lot, with any exception to a residence or a temporary parking area within a residence with or approval of the Architectural Control Committee. Building materials to be used in the construction of any structure to be erected on any residential lot shall be stored thereon, but if not incorporated within the structure within ninety (90) days after said delivery to and not shall be removed therefrom. No soil, dirt, gravel, debris, other materials, incident to construction, approved structures, shall be removed from said lot, without the written approval of the Architectural Control Committee.

4.4 Off-Road Vehicles

No off-road vehicles of any type shall be permitted for use on the area of residential lots or for the use of the subdivisions. This includes snowmobiles, all-terrain vehicles, dune buggies, etc. This provision is not only for the safety and maintenance of the golfing facility, but for the safety of those persons with knowledge of potential obstructions is not known. This provision will be strictly enforced.
4.5 Business and Stores

No property, vehicle or personal property of any kind shall be manufactured, sold, either wholesale or retail, upon said premises. No business, business or trade, occupation or profession of any kind shall be conducted, maintained or permitted upon said premises. No well for gas, oil or water shall be at any time, whether intended for temporary or permanent purpose, be erected, placed or suffered to remain upon said premises, nor shall the premises be used in any way for any purpose which may endanger the health or reasonably disturb the quiet of adjoining land holders. No advertising sign, billboard or other advertising device, except for the purpose of advertising the sale of said premises, shall be erected, placed or suffered to remain upon said premises, nor shall any commercial dog kennel be kept upon or maintained on any part of any lots or tract.

4.6 Pets

Except for normal household pets, no animals, rabbits, or possum of any kind, character or species of livestock shall be kept upon or maintained, nor shall any commercial dog kennel be kept upon or maintained on any part of any lots or tract.

4.7 Garbage and F нас Disposal

No lot shall be used or maintained as a dumping place for rubbish or grass clippings. All rubbish, and debris, combustible and non-combustible, and all garbage shall be stored in enclosed containers, or stored and maintained in containers entirely within the garage, underground or basement. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

4.8 Nuisances

No notice or offensive activity shall be carried on upon any lot, nor shall anything be done therein which may or may become an annoyance or nuisance to the neighborhood. No weeds, underbrush, or other unsightly growths or objects of any kind shall be placed, be permitted to grow, or be suffered to remain on any part of the premises. All lot owners shall be responsible for the proper care and maintenance of their respective yards including, but not limited to, cutting grass, trimming bushes and shrubbery, and the removal of snow and ice from sidewalks. No trash or other device expelling gas or smoke shall be allowed, except for property consigned and maintained chimney fans.

4.9 Propane Tanks

Any tanks for the storage of propane gas shall be located at least ten (10) feet from any lot line and ten (10) feet from any residential dwelling and shall comply with all applicable governmental rules and regulations pertaining thereto.

4.10 Swimming Pools

All swimming pools deeper than thirty inches (30") shall be fenced with a fence of four foot (4') minimum height and shall be kept locked when not in use. Pools must be approved and only inground pools will be permissible. Size, dimension and location of proposed pools will be reviewed by the Architectural Control Committee in cases where pools are deemed non-objectionable and permissible.

4.11 Water Supply

No individual water supply system shall be permitted on any lot unless such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the Architectural Control Committee, who will observe the laws of the local government authority. Approved such systems as installed shall be obtained from such authority.

4.12 Septic Disposal

All lot purchaser shall be required to tap into the sewage disposal system, and pay in Lucas County, the Village of Whittlesea and the Hinsdale Area Association all tap and assessment charges as is customary for such hook-up and usage.

4.13 Golf Course Usage

No lot owner, or other person(s) shall enter on or use the golf course without first registering in The Pro Shop.

ARTICLE V

HOMEOWNERS ASSOCIATION

5.1 There is hereby created by the Owner, who owns all of the residential lots at the present time, the community of Fallen Timbers Fairways Homeowners Association (the "Association"). The members of the Association shall be the owners, from time to time, of all of the residential lots at the Property, Said owners or their respective heirs, executors, administrators, personal representatives, successors and assigns, and any other person who may then be members of the Association, shall be permitted, at any time, to convey and assign all of their rights and duties hereunder to an Ohio non-profit corporation which shall thereafter exist and function as the Association, and whose membership shall continue to be the owners, from time to time, of all the residential lots on the Property.

5.2 The Association shall have the following powers and rights:

(a) To adopt the rules and regulations referred to in paragraph 7.2, as well as other rules and regulations of general application governing the use, maintenance, cleaning, repair, replacement, insurance and supervision of the Common Areas (as hereinafter defined), and (b) any easement areas created or reserved in this Declaration or on the recorded plat of Fallen Timbers Fairways Plat for any subsequent plat(s) of Fallen Timbers Fairways, and (c) the Poas, and any other improvements, facilities, equipment and amenities maintained by the Association and located in the Common Areas or within the public right-of-way at the Property.

(b) To appoint the members of the Architectural Control Committee, in accordance with paragraph 3.1, hereof.

(c) To promote and seek to maintain the attractiveness, value and character of the residential lots through enforcement of the terms, conditions, provisions and restrictions set forth in this Declaration, in any rules and regulations which the Association may from time to time adopt pursuant hereto, or in any subsequent declaration(s) of Fallen Timbers Fairways.

(d) To promote and seek to maintain community standards of community and neighborhood fellowship, and to provide a vehicle for voluntary social and neighborhood activities, in Fallen Timbers Fairways Plat 1.
(a) To represent the owners of residential lots before governmental agencies, offices and employees, and to generally promote the common interests of the residential lot owners.

(b) To collect and dispose of funds and assessments as provided in Paragraph 4.1 hereof, and as may be provided in any subsequent declaration(s) of the Association.

(c) To prepare and file, publish, record, and maintain the Declaration, amendments to the Declaration, and any other documents relating to the Association.

(d) To regulate and control the use of the common areas and facilities.

(e) To maintain, repair, improve, clean, and replace and repair the Common Areas and all improvements, facilities, equipment and/or amenities located thereon.

(f) To place, maintain, repair, manage, insure, improve, clean and replace any landscaping, signage, lighting or other amenities intended for the common use and enjoyment of the residential lot owners and located within the boulevard islands, if any, the curbside islands, if any, or any other portions of the public right-of-way at the Property.

(g) To purchase and maintain fire, casualty and liability insurance to protect the Association and its officers, trustees, managers and/or members from liability incident to the ownership, use, maintenance, repair, management, replacement and cleaning activities of the Association referred to in this paragraph.

(h) To collect and dispose of funds and assessments related to, and solvency to maintain and clean or offer into contracts with third parties for the management, maintenance and cleaning of all Common Areas as defined in Paragraph 7.1.

(i) To carry out all other purposes for which it was organized, to exercise all rights which it may be granted or reserved under this Declaration, to perform all duties which it may be assigned under the Declaration, to enforce all provisions hereof and in any subsequent declaration(s) of the Association.

5.3 To pay all real estate, personal property and other taxes levied against the Association or any of the Common Areas; to discharge any lien or encumbrance for taxes or otherwise against the Association or its assets; and to establish reserves to pay the estimated future costs of any of the items set forth in this paragraph.

5.4 Each member of the Association other than the Owner, its successors and assigns, shall be entitled to one (1) vote in the Association for each residential lot which such member owns. When more than one person holds an ownership interest in any residential lot, each person holding such ownership interest shall be members of the Association, and in such event the vote for such residential lot shall be counted as the owner or owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any residential lot. Where a vote is cast by one or more owners of any residential lot, the Association shall look only to the authority of the member casting the vote. Nevertheless, the above, so long as the Owner holds title to any residential lot(s) in Fallen Timbers Fairways Plan I or any subsequent plan of Fallen Timbers Fairways as above-described, the Owner shall be entitled to the (4) votes for each residential lot owned by it.

5.5 Fallen Timbers Fairways Golf Course will make available on an annual basis a limited number of golf course memberships to owners of lots in Fallen Timbers Fairways Subdivision. The yearly fees and numbers will be established in January of each year.

ARTICLE VI
ASSESSMENTS OF OWNERS

6.1 Each and every residential lot and residential lot owner shall be subject to a yearly assessment in such amount as may be annually determined by the Association. The initial annual assessment shall be equal to $60.00, and such amount may be reasonably adjusted from year to year in the discretion of the Association.

6.2 The annual assessments for residential lot owners shall be determined, levied and made on a uniform basis, with each residential lot being subject to the same yearly assessment; provided, however, that the annual assessment for residential lots owned by the Owner upon which no construction has commenced shall be 65% of the annual assessment for all other residential lots. Annual assessments for each calendar year shall be determined by the Association prior to the end of the preceding calendar year, and shall be payable to the Association on or before the first day of April of each calendar year for each calendar year. Further, Owner does not guarantee or make any representations regarding the sufficiency of such assessments for the purposes set forth herein.

6.3 The aforementioned annual assessments shall be applied only toward payment of reasonable costs and expenses incurred by the Association in conducting, carrying out, enforcing and performing the powers, rights and duties as set forth in Article V and Article VI. 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 such respect shall be binding upon all parties providing funds, but shall not exceed the amount necessary to the Association to carry out the purposes of the Association.

6.4 The Association shall have a perpetual lien upon the residential lots to secure the payment of the annual assessments and such assessment shall be a lien upon the property of the owner or owners of each residential lot at the time the assessment becomes due. The lien on the residential lot shall arise against each residential lot on the first day of the year in which it is due and shall be fixed between the owners of parts of residential lots in accordance with the proportions which the area of each part of a residential lot to which each owner holds record title bears to the total area of the residential lots against which the annual assessment is made. In the event of a failure to make payment of the annual assessment within sixty (60) days of its due date, the lien for said charge may be recorded by filing in the office of the Recorder of Lucas County, Ohio a "Notice of Lien" substantially the following form:

[Redacted]
NOTICE OF LIEN

Notice is hereby given that the Fallen Timbers Fairways Homeowners Association claims a lien for unpaid annual assessments for the years

[Insert Legal Description]

FALLEN TIMBERS FARWAYS HOMEOWNERS ASSOCIATION

STATE OF OHIO

SS:

COUNTY OF LUCAS

The foregoing instrument was acknowledged before me the day of , in the presence of , of FALLEN TIMBERS FARWAYS HOMEOWNERS ASSOCIATION, an Ohio non-profit corporation, on behalf of the corporation.

Notary Public

6.5 In the event any of said annual assessments are not paid when due, the Association may, when and as often as such delinquencies occur, proceed by process of law to collect the amount then due by foreclosure of said lien, or otherwise, as in such event, shall be entitled to recover and have and enforce against each residential lot a lien and judgment for the resulting costs and expenses (including court costs and reasonable attorney fees) involved in the collection thereof. No owner may waive or otherwise escape liability for the annual assessments provided for herein by abandoming of such owner's residential lot or for any other reason. The lien of said assessments shall be subordinate to the lien of any first mortgage. Sale or conveyance of any residential lot shall not affect the assessment lien, or relieve the residential lot from liability for any assessments or from the lien thereof provided, however, that the sale or conveyance of any residential lot pursuant to foreclosure of a first mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or conveyance.

ARTICLE VII
EASEMENTS

7.1 The Owner reserves to itself and to its successors and assigns, the exclusive right to grant easements, easements and rights-of-way for the construction, operation, maintenance, repairs and replacement of electric light, electrical transmission, natural gas transmission, cable television, telephone and telegraph poles, wires and conduits, including underground facilities, and for drainage and storm and sanitary sewers on, over, below, under or within all of the areas designated with the words "Easement", "Utility Easement", "Drainage Easement", "Sanitary Easement", "Fence Maintenance, Landscaping and Anti-Vehicular Access Easement" and "Common Area", or with words of similar import, on Fallen Timbers Fairways Plats I and II, and along and upon all highways and rights-of-way now existing or hereafter established and abutting all the lots in Fallen Timbers Fairways Plats I. The Owner 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 lots from time to time to install, maintain, repair, replace and remove such equipment and facilities. No structures or any part thereof shall be erected or maintained over or upon any part of the areas designated on Fallen Timbers Fairways Plats I as "Easement", "Utility Easement", "Drainage Easement", "Sanitary Easement", "Fence Maintenance, Landscaping and Anti-Vehicular Access Easement" and "Common Area" or with words of similar import; provided, however, that this prohibition shall not be applicable to driveways, fences, hedges, sidewalks and other non-structural items.

7.2 No owner of any residential lot in Fallen Timbers Fairways Plats I shall have the right to reserve or grant any easements or rights-of-way upon or over any of the residential lots in Fallen Timbers Fairways Plats I without the prior written consent of the owner, its successors and assigns.

7.3 The Owner reserves to itself, and to its successors and assigns, the exclusive right to extend any of the public rights-of-way in Fallen Timbers Fairways Plats I or to any other adjoining property owned by the Owner.

ARTICLE VIII
GENERAL PROVISIONS

8.1 The boulevard islands, if any, and cut de-sec islands, if any, located throughout the Property, although contained within the public right-of-way, are intended to be treated as such boulevard islands and cut de-sec islands shall contain landscaping and/or signage which shall be maintained and replaced, from time to time, by the Association.

8.2 The Owner has constructed or intends to construct pond(s) on the Property (the "Pond(s)"). The owners of residential lots shall not have any right to use the Pond(s) for recreational purposes and such use shall be strictly prohibited, unless otherwise provided by the Association. Any necessary maintenance of the Pond(s) shall be the responsibility of the Association. Any power boats, motor boats, electric motors, gasoline-powered motors or other motors of any kind shall be prohibited on the Pond(s). Reasonable rules and regulations governing the use of the Pond(s) may be promulgated from time to time by the Owner, its successors and assigns, and the Association, and such rules and regulations shall be strictly observed by all residential lot owners.

8.3 No owner of any residential lot shall permit any discharge or erosion of soil, dirt, chemicals, sediment or other materials from such owner's residential lot into the Pond(s), into any of the Drainage Easement areas shown on Fallen Timbers Fairways Plats I, or into any other pond, lake or body of water on the Property, the Adjacent Property or any other adjoining property, whether before, during or after the construction of any structure or residence dwelling on such residential lot. In addition, under no circumstances shall the owner of any residential lot have the right to diminish, control or affect the level, volume, or amount of water in the Pond(s) by means of irrigation or otherwise.
8.4 The Owner, its successors and assigns, shall have the right, at any time and from time to time, to convey fee simple title to all or any portion of the Common Areas to the Association, and in such instance, the Association shall be required to accept delivery of a quitclaim deed for such purpose.

8.5 Notwithstanding the provisions of paragraph 8.2 and any designation of Common Areas on the Adjacent Property, neither the Association nor any owner of any residential lot shall have any ownership interest in any right to control the use or development of any such Common Areas unless and until the Owner shall convey such Common Areas to or for the benefit of the Association. Thereafter, the owners of the residential lots at the Property shall have only those rights with respect to the Common Areas as are granted herein and under the Articles and Bylaws of the Association, if any, of the Association.

8.6 In connection with the development and platting of Fallen Timbers Fairways Plat 1, the Owner has granted or will grant certain drainage easements to the Board of Lucas County Commissions over portions of the areas designated on Fallen Timbers Fairways Plat 1 as "Drainage" and "Drainage Basin" or words of similar import, included in the areas subject to these drainage easements the Pond(s) and any other bodies of water located on the Property and/or on the Adjacent Property, and the associated stormwater and overflow lines, levee level control lines, storm sewer outflow lines outside the roadway rights-of-way, and storm water discharges from the storm drainage system (collectively, the "Drainage Facilities"). The Drainage Facilities comprise part of the drainage system for the entire Fallen Timbers Fairways Plat 1. The Drainage Facilities shall be kept clear and free of debris and otherwise maintained (as determined by the Lucas County Engineer or, otherwise) by the Association, from time to time. In the event, all residential lots shall be subject to drainage maintenance assessments in the event that, at such time as, the Lucas County Engineer determines that the Association is not properly maintaining the Drainage Facilities, in which case the amount and method of assessment shall be determined by the Lucas County Engineer. In such event, no party other than the residential lot owners shall have any liability or responsibility for maintenance of the Drainage Facilities or for any assessments or costs relating thereto.

ARTICLE IX
DURATION OF RESTRICTIONS; AMENDMENTS

9.1 This Declaration shall run with the land and shall be binding upon the Owner and all persons claiming under or through the Owner until December 31, 2013, at which time this Declaration shall be automatically extended for successive periods of ten (10) years.

9.2 This Declaration may be amended prior to December 31, 2013 with the written approval of the then owners of not less than 60% of the residential lots, which amendment shall become effective from and after the filing of an Instrument stating the amendment and signed by all approving residential lot owners with the formalities required by law. This Declaration may be terminated as of December 31, 2013 and may be amended or terminated thereafter with the written approval of the owners of not less than 50% of the residential lots upon the filing of an Instrument as evidenced with the Recorder of Lucas County, Ohio.

ARTICLE X
ENFORCEMENT OR RESTRICTIONS; OTHER MATTERS

10.1 Any violation or attempt to violate any of the covenants, agreements or restrictions herein while the same are in force shall be unavailing. The Owner, the Architectural Control Committee, the Association or any person or persons owning any residential lot may proceed at law, or in equity, against the person or persons violating or attempting to violate any such covenant, agreement or restriction to prevent him or them from so doing, to cause the removal of any violation and/or to recover damages for such violation or attempted violation.

10.2 Infringement of any of the covenants, agreements or restrictions herein contained by judgment or court order, or amendment hereof by act of the owners of residential lots, shall not affect any of the other provisions contained in this Declaration, which shall remain in full force and effect.

10.3 All transfers and conveyances of each and every lot in Fallen Timbers Fairways Plat 1 shall be made subject to this Declaration.

10.4 Any notice required to be sent to any owner of a residential lot in Fallen Timbers Fairways Plat 1 or to the Owner or to the Architectural Control Committee or to the Association shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as such owner or the Owner or any member of the Architectural Control Committee or the Association as such address appears on the applicable public records or on the records of the Association or on the records of the Architectural Control Committee or on the records of the Association.

10.5 The rights, privileges and powers granted by this Declaration to, and/or reserved by, the Owner shall be freely assignable and shall inure to the benefit of the successors and assigns of the Owner.

10.6 The Owner, its successors and assigns, or the Association, as the case may be, shall have the right to construe and interpret this Declaration, and such construction or interpretation, in good faith, shall be final and binding as to all persons and property benefited or bound hereby.

10.7 No owner of any residential lot shall subdivide the same or convey less than the whole of any residential lot without first obtaining the written consent of the Owner, its successors and assigns, or the Association.

10.8 No restrictions imposed hereof shall be abrogated or waived by any failure to enforce the provisions hereof, no matter how many violations or breaches may occur.

10.9 Each individual lot owner, by acceptance of a deed to a residential lot, agrees and consents and shall be deemed to agree and consent that if, in the opinion of the Owner, its successors and assigns, the shape, size, dimensions or topography of the residential lot upon which a residence dwelling or other improvement is proposed to be made, is such that it affects construction or enforcement of the building code as shown on the Plat of Fallen Timbers Fairways Plat 1, or of the plans or specifications shown or set forth in any other provision of this Declaration, such party will not construct, do any work on, or make any improvement on the residential lot, such party shall be permitted to modify this Declaration, in writing, as to such residential lot(s) so as to permit the erection of such residence dwelling or the making of the proposed improvements. The Owner, its successors and assigns, shall not be limited in the exercise of the aforesaid right to modify this Declaration by reason of the fact that it may be the owner and/or builder for whose benefit such modification is granted.

10.10 In the event of a material change in conditions or circumstances from those existing at the time this Declaration is adopted which would cause the enforcement of this Declaration to become a hardship upon any of the residential lots, or which would cause this Declaration to cease to be effective, then the above provisions shall be superceded as to such residential lots in such event.
being beneficial to the owners of such residential lots, the Owner, its successors and assignees, after receiving its written approval of the owners of not less than 60% of the residential lots, may modify this Declaration so as to remove the hardship or to otherwise benefit the affected residential lot owner. The provisions of this paragraph 10.10 shall not be construed as a limitation upon the right of the Owner to modify the provisions of this Declaration as provided in paragraph 10.8 nor shall it limit the provisions of Article VIII hereof.

10.11 By acceptance and recording of a deed to a residential lot in Fallen Timbers Fairways Plat 1, each residential lot owner shall be deemed to have acknowledged and agreed that there are no representations, express or implied, by the Owner or the Association with respect to the merchantability, fitness or suitability of the Property for the construction of residences, with respect to any improvements on the Common Areas (whether or not constructed by the Owner), or otherwise with respect to Fallen Timbers Fairways Plat 1 other than as expressly stated in writing by the Owner to the residential lot owner; (a) In this Declaration or (b) in the Articles of Incorporation or Code of Restrictions (if any) of the Association and each residential lot owner, by the acceptance and recording of a deed to a residential lot, hereby releases the Owner from any liability with respect thereto. Furthermore, the Owner is under no obligation or duty to inspect, maintain or otherwise care for property designated as Common Area, any equipment erected or maintained therein nor any easement or any easement therein nor any easement or utility easement on any property, and the owners of residential lots hereby release and indemnify the Owner, to the fullest extent permitted by law, of and from any and all losses sustained, whether arising in tort or otherwise, on the Common Area(s). In addition, the trustees, officers, employees and agents of the Association are hereby released and indemnified by the Association to the fullest extent permitted by law for their actions taken on behalf of the Association, including actions taken under this Declaration.

10.12 In the event that there shall be any conflicts, contradictions or inconsistencies between the provisions of this Declaration and any rules and regulations adopted or enacted by the Association, the provisions of this Declaration shall take precedence, govern and control.

IN WITNESS WHEREOF, Fallen Timbers Development Corporation, acting by and through its duly authorized representatives, has caused this Declaration of Rights and Restrictions to be executed on its behalf this 3rd day of December, 1993.

Signed and acknowledged

IN THE PRESENCE OF:

By

FALLEN TIMBERS DEVELOPMENT CORPORATION,

By

STATE OF OHIO } SS:

COUNTY OF LUCAS

The foregoing instrument was acknowledged before me this 3rd day of December, 1993, by Gary F. Kuns, Jr., the President, and by Gary F. Kuns, Sr., the Secretary, of the Fallen Timbers Development Corporation, an Ohio corporation, on behalf of the corporation.

KATHI L. BATE, Notary Public

KATHI L. BATE, Notary Public, State of Ohio

RECEIVED & RECORDED

SUE ROUX
RECORDLER, LUCAS COUNTY, OHIO

- 9 -
CORRECTION OF DECLARATION OF RESTRICTIONS
AS TO
FALLEN TIMBERS FAIRWAYS SUBDIVISION
PLAT(S) ONE, TWO, AND THREE

THIS CORRECTION OF THE DECLARATION OF RESTRICTIONS, made and entered into by Fallen Timbers Development Corporation, an Ohio closely-held Corporation, hereinafter called "Owner", this 18th day of November 1998.

WITNESSETH:

WHEREAS, Owner filed Declaration of Restrictions as to Fallen Timbers Fairways Subdivision Plats One, Two, Three and Four in Record Number 98-2312B01 Lucas County Recorder;

WHEREAS, Owner erroneously included Plats One, Two, and Three in said Declaration of Restrictions, and further erroneously referenced ownership of Lots 1 through 144 when, in fact, Owner intended to reference only Plat IV (Four) and only Lots 107 through 144;

NOW, THEREFORE, in consideration of these premises, Owner hereby declares that any reference in Deed and Building Restrictions Record Number 98-2312B01 as to Plats One, Two, and/or Three, Lots 1 through 106, is hereby stricken.

IN WITNESS WHEREOF, Fallen Timbers Development Corporation, acting by and through its duly authorized representatives, has caused this Correction of Declaration of Rights and Restrictions as to Fallen Timbers Fairways Subdivision Plat(s) One, Two, and Three to be executed on its behalf this 18th day of November, 1998.

Signed and acknowledged in the presence of:

FALLEN TIMBERS DEVELOPMENT
CORPORATION

By: Gary F. Kuns, Jr.
Tit: President

By: Gary F. Kuns
Its: Secretary-Treasurer
STATE OF OHIO  
COUNTY OF LUCAS  

The foregoing instrument was acknowledged before me this 18th day of November, 1998 by Gary F. Kuns, Jr., President, and Gary F. Kuns, Secretary-Treasurer, of Fallen Timbers Development Corporation, an Ohio Corporation, on behalf of the Corporation.

[Signature]
Notary Public

[Signature]
Notary Public, State of Ohio
Notary Public, State of Ohio

RECEIVED & RECORDED  

NOV 25 1998  10:00 AM

SUE RIOUX  
RECORDER, LUCAS COUNTY, OHIO

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