Whitehouse Square

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WHITEHOUSE SQUARE
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS (the "Declaration") is made and adopted as of the 25th day of January
2005, by J.C.T. Enterprises, Ltd., and Ohio limited liability company, with offices at
7410 Noward Rd., Waterville, Ohio 43566 ("Developer").

WHEREAS, Developer is the owner in fee simple of all of the Lots shown on
Whitehouse Square Plat 1, which plat was recorded on November 6, 2003 in Volume
2003/Plats, pages ______, Lucas County, Ohio
Records (the "Plat") and legally described on Exhibit A attached and incorporated herein
(the "Property").

WHEREAS, Developer desires to establish a general plan for the development,
use and maintenance of the property as a first-class, high quality, mixed
commercial/residential use project, and to establish restrictions upon the manner of use,
improvement and enjoyment of the Property, which will make the Property attractive for
its intended purposes and will protect present and future owners of land within the
Property in their enjoyment and use of the Property for all intended purposes.

WHEREAS, Developer may in the future provide for the development of all or
part of certain other lands now, or hereafter, owned by Developer and located adjacent to
or near the Property (the "Adjacent Property") as an extension of, and in conjunction
with, the development of the Property by recording subsequent plats of Whitehouse
Square;

WHEREAS, Developer reserves the right to establish further restrictions upon
the manner of use, improvement and enjoyment of the lands within any subsequent
plat(s) which are in all respects similar to the restrictions on the Property and which will
make the lands in such subsequent plat(s) more attractive for commercial/residential
purposes and will protect present and future owners of such lands in their use and
enjoyment thereof for such purposes; and Developer or its successors and assigns, may
exercise the above-mentioned reserved rights by filing subsequent plats of Whitehouse
Square with respect to all or any part of the Adjacent Property, together with
supplemental declarations of restrictions subjecting such subsequent plats to this
Declaration.

NOW, THEREFORE, in consideration of the enhancement in value of the
Property by reason of the adoption of this Declaration, Developer does, for itself and its
successors and assigns, hereby declare, covenant and stipulate the Property and all lands
comprising the Property shall be subject to and shall hereafter be conveyed by Developer,
its successors and assigns, and their respective heirs, executors, administrators, personal
representatives, successors and assigns, subject to the following covenants, conditions and
restrictions:
ARTICLE I
USE OF LAND; LOCATION
OF BUILDINGS AND IMPROVEMENTS

1.1 **Use Restrictions.** The Property shall be developed, improved, maintained and used as a first-class, high quality commercial/residential project known as Whitehouse Square. In particular, no Building shall be erected and no portion of the Property shall be used for any use or purpose other than those purposes permitted under the provisions of all applicable zoning, building and other governmental ordinances, codes and regulations, as amended from time to time (the “Codes”). However, no portion of the Property in Whitehouse Square shall be used for any of the following purposes without the prior written consent of all Owners:

(a) Tavern, bar, nightclub, discotheque or other establishment selling alcoholic beverages for on-premises consumption, provided, however, the forgoing shall not prohibit the operation of restaurants where the sale of alcoholic beverages therein comprise less than fifty percent (50%) of the restaurant’s gross annual revenues.

(b) Bowling alleys, game rooms, pool or billiard hall, amusement or video arcade;

(c) Flea market;

(d) Car wash;

(e) Automobile body repair or a facility for the sale, lease, storage or repair of automobiles, trucks, trailers, motor cycles, mobile homes, recreation vehicles, boats, agricultural implements or other motorized vehicles;

(f) Animal hospitals or veterinarian offices or clinics;

(g) Self-service storage facilities;

(h) Warehousing; or

(i) Adult bookstore or other establishments selling or exhibiting pornographic materials or drug paraphernalia or a massage parlor.

No noxious, offensive, unreasonably disturbing activities shall be carried on upon any part of the Property, nor shall anything be done which shall become a nuisance.

1.2 **Building Setback Lines.** No Building or structure or any part thereof shall be erected, placed or maintained on any Lot in violation of any set back requirements, building lines or front, rear or side yard requirements prescribed by the Codes or by the Plat. No portion of any Lot nearer to any street than the minimum required front, rear or side yards or set back lines shall be used for any purpose other than a lawn; provided, however, this restriction shall not be construed to prevent the use of such portions of Lots for walks, drives, parking areas, trees, shrubbery, flowers, flower beds, ornamental plants and advertising signs or
other structures which shall first have been approved as provided under Article II hereof; and provided further, the depth of the landscaping strip between any parking area and public right-of-way shall be not less than one-half (1/2) of any building setback line prescribed by the Codes or by the Plat.

1.3 **Building Heights.** No Building shall be constructed on any Development Site which exceeds the maximum height permitted by the Codes.

1.4 **Utility Service.** All electric, television, natural gas, telephone, internet, cable and other utility lines and facilities servicing Buildings or structures located at the Property shall be underground, except temporary lines and facilities utilized during the construction or rehabilitation of Buildings or structures at the Property.

1.5 **Signs or Advertising.** No pylon signs, monument signs, or billboards, advertising signs or other signs and displays, except for a sign identifying the name, business and product of the firm occupying a particular Development Site and of a size, shape, color and illumination meeting the requirements of this paragraph and first approved as provided under Article II hereof, shall be erected, placed or maintained on any Lot or on any Building or other structure located within the Property. All signs approved by the Architectural Control Committee shall be affixed to the Building on a Development Site, and the Architectural Control Committee, may, in its discretion, establish uniform standards of size, shape, color and illumination for all such signs and displays within the Property.

1.6 **Loading Docks.** All loading docks shall be so placed that trucks and other vehicles or machinery using such loading docks will at no time project into a public street, sidewalk, or off-street parking area when in the process of loading or unloading. In addition, no loading docks shall be placed on or along the front elevation of any Building or structure located on any Development Site. Loading dock areas must be screened in such manner and with such materials and landscaping as are approved by the Architectural Control Committee under Article II hereof.

1.7 **Trash Burners.** No trash burner, outdoor fireplace or other device expelling gas or smoke shall be permitted on or at the Property without the prior written approval of the Architectural Control Committee.

1.8 **Outside Storage.** No outside storage of equipment, machinery or building supplies or materials shall be permitted at the Property except during and in connection with the construction or rehabilitation of improvements at the Property, unless approved by the Architectural Control Committee. In this regard, it is understood outside storage is strongly discouraged.

1.9 **Accessory Structures.** No outside or rooftop air conditioning units, telecommunications systems and equipment, satellite dishes, communications towers and other rooftop or outside accessory units or structures shall be installed unless first approved by the Architectural Control Committee. If approved, such facilities, units or structures shall be fully and attractively screened in such manner and with such materials as are stipulated by the Architectural Control Committee.
1.10 **Emissions.** No portion of the Property shall be used in any manner which subjects adjacent Lots to offensive noise, odors or emissions, except during and in connection with the construction or rehabilitation of improvements at the Property.

1.11 **General Maintenance.** Each Owner of a Development Site shall keep its land, Buildings, improvements and appurtenances thereon in a safe, neat, clean and wholesome condition and shall comply in all respects with the codes and all other governmental statutes, ordinances, regulations, health, police and fire requirements. Notwithstanding any other provisions of this Declaration, all of the Lots within the Property shall be maintained in a first-class, high quality manner, consistent with the standard for the Property as set forth in the recitals, in paragraph 1.1 hereof, and in Article II hereof.

1.12 **Drainage.** Each Owner of a Development Site shall provide adequate on-site storm water drainage facilities, including storm water detention, in accordance with (a) approved plans on file with the Lucas County Engineer, (b) the existing storm sewer system and topography, (c) any plat(s) of the Property and Adjacent Property, and (d) such methods as may be prescribed by the Architectural Control Committee.

**ARTICLE II**

**APPROVAL OF PLANS**

2.1 **Architectural Control Committee; Submission of Plans.** The plans, drawings and specifications for all Buildings, structures and other improvements (including, but not limited to, landscaping designs, signs, drainage systems, fences, walls, driveways, hedges and other enclosures) ("Plans and Specifications") to be constructed, reconstructed, enlarged or rehabilitated at or within the Property shall be submitted for examination to the Whitehouse Square Architectural Control Committee (the "Architectural Control Committee"), and written approval of the Architectural Control Committee to the Plans and Specifications shall be obtained before any such Building, structure or improvement shall be constructed or placed upon any Development Site and before any material addition, change or alteration may be made to any Building or other structure then situated on a Development Site. The submitted Plans and Specifications shall be prepared by a competent architect or engineer and shall show (a) the size, location, type, architectural design, quality, use, construction, material and color scheme of the Building, structure, improvement, addition, change or alteration; (b) the grading and landscaping plan, including, without limitation, the number, type and size of trees, for the Development Site, including, an underground irrigation system; (c) the lighting plan for the Development Site; (d) the signage plan and details, including location on the Building, number of signs, materials, colors and method of construction; and (e) the finished grade elevations for the Development Site. The number of sets of such Plans and Specifications to be furnished to the Architectural Control Committee shall be not less than the number of members of the Architectural Control Committee from time to time. The Architectural Control Committee shall approve, reject or approve with modifications all Plans and Specifications within 30 days after submission thereof. The failure of the Architectural Control Committee to so respond within such time period shall be deemed to be approval of the submission.

2.2 **Membership of Architectural Control Committee.** The Architectural Control Committee shall consist of not less than 3 members and not more than 5 members, and shall be designated and appointed by the Association (as hereinafter defined) from time to time;
Members of the Architectural Control Committee need not be members of the Association. The actual number of members and voting rights of members of the Architectural Control Committee shall be determined by the Association. Notwithstanding the foregoing, Developer shall appoint all members to the Architectural Control Committee as long as it owns any Lot, or any part of the Adjacent Property, or until it releases its right to appoint members.

2.3 Architectural Standards, Harmonious Plan. In requiring the submission of Plans and Specifications Developer intends to assure the development of the Property as a high quality, architecturally harmonious and desirable commercial, retail, office, business, residential project, with all buildings and structures to be constructed in such architectural styles, of such materials and colors, and located in such manner as to, in the judgment of the Architectural Control Committee, compliment one another and promote the harmony and desirability of the Property 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 compliance of the proposed Building, structure, improvement, addition, change or alteration with this Declaration, the suitability of the proposed improvement and of the materials of which it is to be built to the Development Site upon which it is proposed to be erected or added, the appropriateness and harmony of the improvement contemplated in relation to improvements on contiguous or adjacent Development Sites and in relation to the general plan for the development of the Property, its architectural merits, the effect of the proposed improvement on the outlook from adjacent or neighboring Development Sites, the extent to which its location, configuration and landscaping preserve the natural attributes (including any trees thereon) of the Development Site, and such other matters as may be deemed to be in the interest and to the benefit of the Owners of Lots in the Property as a whole.

2.4 Establishment of Grades. The Architectural Control Committee shall have the right to establish grades, slopes and swales on all Development Sites and to fix the grade at which any Building, structure or improvement shall hereafter be erected or placed thereon, so that the same may conform to the general plan for the drainage, development and use of the Property.

2.5 Landscaping. All landscaping shall be fully installed and completed, pursuant to landscaping plans approved by the Architectural Control Committee as part of the Plans and Specifications, not later than 180 days following the date of occupancy of any Building, structure or addition. All landscaping material and design must conform with any master landscaping plans which the Architectural Control Committee may adopt. If any landscaping installed pursuant to this paragraph 2.5 is destroyed, whether by natural or manmade causes, such landscaping shall be promptly replaced with landscaping which, in the judgment of the Architectural Control Committee, is of the same or higher quality.

2.6 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 without the written consent of the Architectural Control Committee, such variance shall be deemed a violation of this Declaration.
2.7 **Waiver of Restrictions.** Each Lot Owner, by acceptance of a deed to a Lot, agrees and consents for itself and for its heirs, executors, administrators, personal representatives, successors and assigns, that if, in the opinion of the Architectural Control Committee, the shape, dimensions, location of natural features such as trees, or topography of any Lot is such that a strict construction or enforcement of any provision of this Declaration would work a hardship, the Architectural Control Committee may, in writing, grant waivers from this Declaration as to such Lot.

2.8 **Architectural Control Committee Not Liable for Determinations.** Although the Architectural Control Committee is granted by this Declaration certain discretion and rights of approval, disapproval and interpretation, the Owners of Lots, as further consideration for the conveyance to them of the Lots, do hereby for themselves and their successors and respective heirs, executors, administrators, personal representatives and assigns, release and forever discharge the Architectural Control Committee, its members and Developer, and their respective successors and assigns, from any claims they may have against the Architectural Control Committee, its members and Developer, arising out of the exercise by the Architectural Control Committee of such discretion and such rights of approval, disapproval and interpretation and/or for the failure of the Architectural Control Committee to exercise such discretion, rights of approval, disapproval and interpretation.

2.9 **Street Trees.** Developer may establish and prepare a master plan for the planting of trees in the areas along the public rights-of-way adjacent to each Development Site and within each Lot. All trees shall have trunks with a diameter of between one and one-half inches (1-1/2") and two inches (2") at twelve inches (12") above grade, and shall have balled and burlapped roots. Each Owner shall plant trees in the quantities and of the types set forth on said master plan, within the earlier of (a) one year following the date of closing of the sale of a Development Site to such Owner, or (b) the completion of construction of a structure thereon. If a Lot Development Site Owner fails to plant trees in accordance with this paragraph 2.9, the Architectural Control Committee or Developer shall have the right, without notice to the Owner, to enter upon the Lot and cause said trees to be planted. In such case, the cost of such tree planting plus fifteen percent (15%) shall be added to and become a part of the next annual assessment for the subject Lot.

2.10 **Sidewalks.** It is the duty of the Owner of each Lot within the Property, at the expense of each such Owner, to keep and maintain the sidewalks/bikeways/walkways located on and adjacent to such Owner’s lot in a good and clean manner and to clear the aforesaid sidewalks/bikeways/walkways of snow, ice, dirt and any other debris within twenty-four (24) hours after deposit thereon, and each such Owner shall indemnify and hold the Village of Whitehouse harmless from any liability to any person resulting from such Owner’s neglect, failure or refusal in performing said duty.
ARTICLE III
THE ASSOCIATION

3.1 Membership and Powers. Upon recording the Plat for the Property, Developer may create the Whitehouse Square Owners' Association. Until the Association is created, Developer shall have all of the powers of the Association. The members of the Association shall be the Owners, from time to time, of all of the Lots within the Property. At any time, Developer may convey and assign all or any part of its rights and duties hereunder to an Ohio non-profit corporation, or an unincorporated association, which shall thereafter act and function as the Association, and whose membership shall be the Owners, from time to time, of all the Lots within the Property. In addition, Developer or any other owner of all or a portion of the Common Areas shall have the right, at any 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 quit-claim deed for such purpose.

3.2 Association Powers and Rights. The Association shall have the following powers and rights:

(a) to promulgate rules and regulations, from time to time, limiting, regulating and controlling the use, enjoyment and operation of the Common Areas;

(b) to appoint the members of the Architectural Control Committee, subject to the Developer right set forth in paragraph 2.2 hereof;

(c) to enforce all provisions hereof within the Property and all regulations which the Association may promulgate with respect to any and all of the Common Areas;

(d) to collect assessments (annual and special) and disburse and dispose of funds as herein provided;

(e) to prepare or cause to be prepared, on an annual basis, estimated budgets and determinations of the method of payment of assessments (annual and special);

(f) to keep a full and correct set of books of account, and to make said books of account available for inspection by any Lot Owner or Lot Owner's representative at reasonable times during normal business hours;

(g) to prepare annual financial statements;

(h) to improve, maintain, alter, repair, replace and remove any and all landscaping, signs, lakes, ponds, fences, trees, grass, equipment and Drainage Facilities located on the Common Areas and/or on the boulevard islands, if any,
located within the public right-of-way at the Property and/or within any reserved easements at the Property, and to contract in whole or in part for such services and activities;

(i) to provide lighting, sweeping, cleaning, trash pickup, grass cutting, landscaping maintenance and other similar services within the Common Areas;

(j) to pay all real estate taxes and installments of assessments with respect to the Common Areas;

(k) to pay all expenses associated with electrical, water, sewer, fuel or other utility services to the Common Areas;

(l) to maintain all necessary fire, property and public liability insurance with respect to the Common Areas, and any necessary directors’ and officers’ liability insurance or similar liability insurance with respect to the Association and/or the Architectural Control Committee;

(m) to acquire title from Developer to all Common Areas and easements designated in the Plat, and

(m) to take any and all such other actions as may be reasonably necessary to carry out the powers and enforce the rights set forth in this paragraph 3.2.

3.3 Rights of Members. Subject to such rules and regulations as may be promulgated from time to time by the Association, each member of the Association, in common with all other members, shall have the limited right to use the Common Areas for all purposes incident to the use and occupancy of its Development Site and shall have a limited, non-exclusive easement together with the other Owners to the use and enjoyment of the Common Areas. All members of the Association shall use the Common Areas in such manner as will not restrict, impede or interfere with the use thereof by other members, and their respective tenants, visitors, guests, invitees and licensees.

3.4 Voting Rights. Voting rights within the Association shall be allocated among the members of the Association on a pro rata basis, based on the acreage of the Lots rounded to the nearest tenth of an acre owned by each of the members as a percentage of the total acreage of all Lots within the Property. However, until such time as 85% of the total acreage of Lots within the Property are owned of record by persons or entities other than Developer, Developer’s percentage of voting power in the Association shall be deemed to be not less than 51%.

When more than one person holds an ownership interest in any Lot, all persons holding such ownership interest shall be members of the Association and in such event the vote for such Lot shall be exercised as said Owners among themselves determine, but in no event
shall the voting rights attached to such Lot be greater than the pro rata share of such Lot as determined by the formula set forth in this paragraph 3.4. Where a vote is cast by one of two or more Owners of any Lot, the Association shall not be obligated to look to the authority of the member casting the vote.

ARTICLE IV
ASSESSMENTS

4.1 Annual Assessments. Each Lot within the Property shall be subject to a yearly assessment in such amount as may be annually determined by the Association, subject to the maximum amounts set forth in this paragraph 4.1. The amount of such assessment shall be based upon each Lot’s pro rata share of the Association’s annual operating budget, said pro rata share to be determined in accordance with the formula set forth in paragraph 3.4 hereto (but based upon what would be the voting power of the respective Lot Owners in the Association without applying or utilizing the Owner’s deemed 51% voting right).

The annual assessment 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 such year. The annual assessments of the Association may be increased, decreased or adjusted from year to year by the Association as the interests of the Owners may, in its judgment, require.

Consistent with the powers and rights of the Association under paragraph 3.2 hereto, the annual assessments of the Association shall be applied only toward payment of the following costs and expenses:

(a) the improvement, maintenance, alteration and removal of all lands, lakes, ponds, bikeways, walkways, fences, signs, easements, Drainage Facilities, buildings, structures and improvements which comprise the Common Areas and/or which may be included within public rights-of-way or reserved easements at the Property, and the provision of lighting, sweeping, cleaning, trash pickup, landscaping and other similar services within the Common Areas;

(b) all taxes, assessments, fees and other charges that may be levied or assessed by any governmental body against the Common Areas;

(c) reasonable costs and expenses of collecting assessments provided for under this Article IV, maintaining and managing the Association, obtaining and providing necessary insurance coverages, establishing and maintaining a reasonable contingency reserve for Common Area maintenance and improvements, and any and all other costs and expenses which the Association may determine from time to time to be for the general benefit and in the best interest of the Owners of Lots within the Property; and
(d) all other costs and expenses reasonably related to the carrying out by the Association of its powers and rights.

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 and reference thereto shall be binding upon all interested parties.

4.2 Special Assessments. Each Lot shall also be subject to special assessments in such reasonable amounts as the Association may determine, from time to time, as being necessary to pay for unusual or non-recurring costs and expenses of maintaining, repairing, replacing and operating the Common Areas. Such special assessments, when collected by the Association, shall be held in and disbursed from a separately maintained account. The amount of any such special assessment to be incurred by a Lot shall be based upon such Lot's pro rata share thereof as determined in accordance with the formula set forth in paragraph 3.4 (but based upon what would be the voting power of the respective Owners in the Association without applying or utilizing Developer's deemed 51% voting right). Special assessments may be determined by the Association at any time, and shall be payable by the Owners to the Association on or before that date occurring 60 days after such determination is made by the Association.

4.3 Lien to Secure Payment of Assessments. The Association shall have a perpetual lien upon the Lots to secure the payment of the annual assessments and any special assessments, and each such annual assessment and/or special assessment shall also be the personal obligation of the Owner (and the joint and several obligation of the Owners) of each Lot at the time when the assessment falls due. If default occurs in the payment of any annual assessment or special assessment for a period of 60 days after its due date, a “notice of lien” in substantially the following form may be filed and recorded in the lien records at the Office of the Recorder of Lucas County, Ohio:

NOTICE OF LIEN

Notice is hereby given that the Whitehouse Square Owners’ Association claims a lien for unpaid annual assessments and/or special assessments for the year(s) in the amount of $ against the following described premises owned by :

(insert legal description)
In the event any annual assessments or special 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 (including its costs and expenses of said collection, and attorney fees) by foreclosure of the above-described lien, or otherwise. No Owner may waive or otherwise escape liability for annual assessments or special assessments by non-use of the Common Areas or by abandonment of a Lot. The lien of the annual assessments and special assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or conveyance of any Lot shall not affect said lien(s) or relieve any Lot from the liability for any assessments thereafter becoming due or from the lien thereof; provided, however, that the sale or conveyance of any Lot pursuant to foreclosure of a first mortgage shall extinguish the lien of the Association as to payments which became due prior to such sale or conveyance.

4.4 Certificates. Upon demand of any Lot Owner and after payment of a reasonable charge therefor, any officer of the Association shall promptly issue a certificate setting forth whether all assessments have been paid for such Owner’s 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 V
EASEMENTS, ETC.

5.1 Common Utility Facility Easements. Developer reserves to itself and to its successors and assigns, non-exclusive easements for the construction, installation, use, operation, maintenance, repair and replacement of Common Utility Facilities (which shall, except as otherwise approved under Article II hereof, be underground facilities), sewers, swales and conduits for storm water and sanitary purposes, gas and water mains, and for any other
facility or utility deemed convenient or necessary by Developer, or its successors or assigns, for the use of the Property, on, over, below, or under all areas designated as "utility easement" on the Plat. Developer reserves to itself and its successors and assigns, the exclusive right to grant and convey easements and rights of way to utility companies within such utility easement areas. No buildings or structures shall be located within any such utility easement areas.

5.2 **Private Access Drive Easements.** Developer reserves to itself, and to its successors and assigns, and to each Owner of all or any part of Lot 2 of the Plat, a non-exclusive easement for ingress and egress to and from the adjacent public street, known as Whitehouse Square Boulevard (which public street as shown on the Plat is to be dedicated by Developer to the public upon the completion), for motor vehicles and pedestrian travel, in, over and across the "30' Cross Access Easement" designated on the Plat (the "Private Drive"). The Private Drive shall be constructed by Developer, at a time determined by Developer, in its sole discretion. Developer reserves to itself, and to its successors and assigns, and to each Owner of all or any part of Lot 2, a non-exclusive easement for ingress and egress to and from State Route 64, for motor vehicular and pedestrian travel in, over and across Lot 3 of the Plat depicted as an "Access Drive" (the "Access Drive"). The Access Drive shall be constructed by the Owner of Lot 3 of the Plat. All deliveries, maintenance, construction, trash removal and other service vehicles, shall use only the Access Drive and the Private Drive to obtain access to the Buildings located on Lot 2 of the Plat. The Owners shall prohibit such service vehicles from using the public street known as Whitehouse Square Boulevard. No Owner shall obstruct or interfere in any way with the free flow of vehicular or pedestrian traffic on the Private Drive or Access Drive, except to the extent necessary for reasonable maintenance and repair. Each Owner of a Lot to be created from Lot 2 of the Plat (a "Lot 2 Owner") shall have the right to maintain, repair and replace the Private Drive and the Access Drive. The Lot 2 Owners shall each be responsible to pay their pro rata share of such costs based on their percentage of the total acreage of Lot 2 of the Plat.

5.3 **Extension of Rights-of-Way.** Developer reserves to itself and to its successors and assigns, the exclusive right to extend any of the public rights-of-way, and the Access Drive, at the Property to any Adjacent Property.

5.4 **Lakes and Ponds.** Developer intends, but shall not be obligated, to construct one or more lakes or ponds on the Common Areas of the Adjacent Property (the "Lakes"). The Owners of Lots shall not have any right to use the Lakes for recreational purposes or for any other purposes, and such uses shall be strictly prohibited unless otherwise provided by the Association. In this regard, no power boats, motor boats, electric motors, gasoline-powered motors or other motors of any kind shall be permitted on the Lakes. In addition, under no circumstances shall the Owner of any Lot have the right to diminish, control or affect the level, volume or amount of water in the Lakes by means of irrigation or otherwise.

5.5 **Drainage Facilities.** In connection with the development and platting of the Property and the Adjacent Property, Development has granted or will grant certain drainage easements to the Association and/or to the Board of Lucas County Commissioners over portions of the areas designated on the Plat, or subsequent plats, of the Property or Adjacent Property as "utility easement" or with words of similar import. Included in the areas which may be subject to these easements are the Lakes and any other bodies of water located on the Property, the storm water catch basins, outlets and overflow lines, lake level control lines, the storm water

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retention pond, 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 Property and the Adjacent Property. 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. All costs and expenses incurred by the Association to maintain, repair and replace the Drainage Facilities shall be included as part of the Association’s annual assessment for each Lot.

5.6 Boulevard Islands. The boulevard islands, if any, located within the Property, although included within the public right-of-way, are intended to be treated as if such boulevard islands are part of the Common Areas. Said boulevard islands shall contain landscaping and/or signage which shall be maintained and replaced, from time to time, by the Association.

5.7 Control of Common Areas. Notwithstanding anything else contained in this Declaration or the Plat, neither the Association nor any Owner of any Lot shall have any ownership interest in or any right to control the use or development of any Common Areas unless and until Developer shall convey title to the Common Areas to or for the benefit of the Association. Thereafter, the Owners of the Lots at the Property shall have only those rights with respect to the Common Areas as are granted them hereunder and under the articles and code of regulations, if any, of the Association.

ARTICLE VI
DURATION AND AMENDMENTS

6.1 Term. This Declaration shall run with the land known as the Property and shall be binding upon Developer, all persons claiming under or through Developer, all other parties who acquire title to any Lots (or parts thereof) within the Property, and all other persons claiming ownership, possession or use of the Property or any portion thereof, until January 1, 2023, at which time this Declaration shall be automatically extended for successive periods of ten (10) years.

6.2 Amendments. This Declaration may be amended from time to time, but only upon and with the written approval of the then Owners of not less than 60% of the total acreage of the Lots within the Property. Any amendments referred to in this paragraph 6.2 shall become effective only upon the filing with the Office of the Lucas County Recorder of an instrument stating the amendment and signed by all approving Lot Owners with the formalities required by law.
ARTICLE VII
MISCELLANEOUS

7.1 Declaration/Superior. All holders of a first mortgage lien shall be subject to the restrictions, covenants, conditions, agreements and other provisions herein contained. If any Lot or any portion of the Property is acquired in lieu of foreclosure or is sold under foreclosure of any mortgage or under any judicial sale, any purchaser at such sale and the executors, administrators, personal representatives, successors and assigns of such purchaser, shall hold said Lot or portion of the Property so purchased or acquired subject to all of the restrictions, covenants, conditions, agreements and other provisions of this Declaration.

7.2 Violations Unlawful. Any violation or attempt to violate this Declaration or any provision hereof shall be unlawful. Developer, the Architectural Control Committee, the Association or any person or persons owning any Lot at the Property may prosecute any proceedings at law, or in equity, against the person or persons violating or attempting to violate any provision of this Declaration to prevent such person or persons from so doing, to cause the removal of any violation and/or to recover damages for such violation or attempted violation.

7.3 Saving Clause. The invalidation or unenforceability of any provision(s) of this Declaration by judgment, court order, amendment hereof by act of the Owners of Lots within the Property or otherwise, shall not affect any of the other provisions contained herein, which shall remain in full force and effect.

7.4 Transfers Subject to Declaration. All transfers and conveyances of each and every Lot or any part thereof shall be subject to this Declaration and all easements and other rights created hereunder.

7.5 Notices. Any notice required to be sent to any Owner of a Lot or any part thereof or to Developer 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 Developer or to any member of the Architectural Control Committee as such address appears on the applicable public record or on the records of the Architectural Control Committee.

7.6 Developer Rights Assignable. The rights, privileges, powers and obligations granted herein to, and reserved by, Developer ("Developer Rights") shall be assignable by Developer and shall inure to the benefit of the successors and assigns of Developer. The assignment of Developer Rights shall be evidenced by a written assignment signed by Developer and its assignee. The assignment may, but need not, be recorded with the Lucas County Recorder, and is effective when signed by Developer and the assignee.

7.7 No Subdivision of Lots Without Consent. No Owner of any Lot shall subdivide the same or convey less than the whole of any Lot without first obtaining the written consent of the Architectural Control Committee, its successors and assigns, which shall permit such conveyance if, in its judgment, the Development Site or Common Area so created by such subdivision will permit construction thereon or development or use thereof which will be in conformity with the development of the Property contemplated by and as set forth in this
Declaration. This paragraph 7.7, however, shall not apply to initial subdivisions and conveyances by Developer or its successors and assigns.

7.8 **No Waiver of Violations.** No provisions hereof shall be abrogated or waived by any failure to enforce any of the same, no matter how many violations or breaches may occur.

7.9 **Interpretation.** In the event of any question of interpretation hereunder, the Association shall have the right to construe and interpret this Declaration, and its construction or interpretation, in good faith, shall be final and binding as to all persons and property benefited or bound by this Declaration.

7.10 **Paragraph Headings.** The paragraph headings contained herein have been inserted for convenience of reference only and are not to be used in the construction and/or interpretation of this Declaration.

7.11 **Dissolution of Association.** The Association may be dissolved with the written and signed assent of members having not less than 90% of the voting power of all members of the Association. Upon dissolution of the Association, other than incident to a merger or consolidation, the Common Areas owned in fee by the Association and all facilities and improvements thereon and all other assets owned by the Association shall be dedicated to the Village of Whitehouse, Lucas County, or another appropriate public agency to be used for purposes similar to those for which the Association was created and as contemplated by this Declaration. In the event that such dedication is not accepted and thus cannot be accomplished, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such purposes. The articles and bylaws of regulations of any non-profit corporation formed and operating as the Association, pursuant to paragraph 3.1 hereof, shall be consistent with this paragraph 7.11.

7.12 **Parking.** No cross-parking easements are created by this Declaration. Each Lot and its development shall contain sufficient parking spaces on the Lot as required by the Codes.

7.13 **Enforcement.** The easements, restrictions and obligations created and imposed herein shall be effective upon the date hereof, shall run with the land known as the Property, and shall inure to the benefit of and be binding upon the Owners, their heirs, executors, administrators, successors, successors in title, assigns and tenants, including any ground lessee under a ground lease and the customers, employees and invitees of such parties. Said easements, restrictions and obligations shall be unaffected by any change in the ownership of any Property covered by this Declaration or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein. Each of the rights created hereunder may be enforceable in a court of equity by Developer or Owner of any Lot covered by this Declaration, or any portion thereof; however, enforcement hereunder shall not be sought solely against the then Owner or occupant of the Lot (or the Owner of an interest in such Lot) alleged to be in default.

7.14 **Limitation of Warranties.** By the acceptance and recording of a deed to any Lot, each Owner shall be deemed to have acknowledged and agreed there are no
representations or warranties, express or implied, by Developer or its members, officers, agents or employees, with respect to the merchantability, fitness or suitability for any use or construction of any Building, structure or improvement on any Lot.

ARTICLE VIII
DEFINITIONS

All capitalized terms, not otherwise defined herein, shall have the following meanings for purposes of this Declaration.

8.1 "Building" shall mean any permanently enclosed structure, constructed or located within a Lot, and shall include any appurtenant canopies, supports, loading docks, truck ramps and other outward extensions.

8.2 "Common Area(s)" shall mean those areas or portions of the Property not included within any Development Site, intended for the limited common and non-exclusive use, enjoyment and benefit of all present and future Owners of Lots within the Property, and designated as Common Area(s), drainage, open space, green space, lake(s), pond(s) or with words of similar import (a) on any plat(s) recorded affecting the Property or any other plat or plats of the Property or any portion thereof or the Adjacent Property or any portion thereof, or (b) by any other recorded instrument relating to the Property or any portion thereof.

8.3 "Common Utility Facilities" shall mean all utility systems and facilities from time to time situated on the Property serving more than one Lot; such as storm drainage, retention and disposal, sanitary sewers, water lines, telephone, cablevision, natural gas and electrical systems and facilities.

8.4 "Development Site" shall mean any Lot, Lots or portion thereof, not included within the Common Areas (as hereinafter defined), and intended or utilized for improvement and development as the site of one or more Building(s) or structure(s) and any accessory structure(s).

8.5 "Lot" shall mean any legally separate, distinct and transferable parcel of real estate within the Property, now or hereafter created.

8.6 "Owner" shall mean the record fee simple title owner, whether one or more, of a Lot, including Developer.
Developer, acting by and through its duly authorized representatives, has caused this Declaration to be executed on the date set forth below.

J.C.T. ENTERPRISES, LTD.,
an Ohio limited liability company

By:  

Title:  

Date:  

STATE OF OHIO  

COUNTY OF LUCAS  

The foregoing instrument was acknowledged before me this 26 day of January, 2005, by Thomas P. Taylor as Member of J.C.T. Enterprises, Ltd., an Ohio limited liability company, on behalf of the company.

ADRIENNE E. OWEN  
Notary Public  
In and for the State of Ohio  
My Commission Expires: Nov. 28, 2009

This instrument prepared by:
Steven D. Reinbolt, Esq.
Eastman & Smith Ltd.
One Seagate, 24 Floor
P.O. Box 10032
Toledo, Ohio 43699-0032
EXHIBIT A

Lots 1, 2 and 3 in Whitehouse Square, a Subdivision located in the Village of Whitehouse, Lucas County, Ohio.

SEE ENV.

JCT Enterprises, Ltd.
7410 Newark Rd.
Waterville, OH 43566