

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS****FOR****HERITAGE LAKES**

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE LAKES (this "Declaration") is made and executed this 6<sup>th</sup> day of JANUARY 1994 by Planned Development Company of Ohio, an Ohio corporation (the "Declarant").

**W I T N E S S E T H:**

Declarant, as the owner of the real property which is legally described in Exhibit "A" attached hereto and made a part hereof, intends by this Declaration:

(i) to establish a general plan and uniform scheme of development and maintenance of the Property (as hereafter defined) as a community consisting of residential dwelling units and common property to be known as "Heritage Lakes";

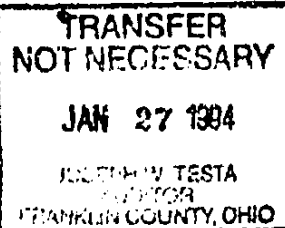
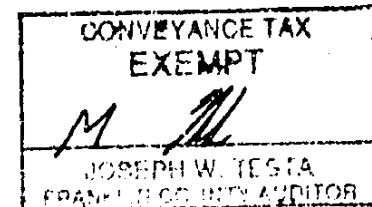
(ii) to provide a flexible and reasonable procedure for development of the Property;

(iii) to provide for the preservation of property values within the Property;

(iv) to provide for the addition of real estate into Heritage Lakes; and

(v) to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property and Common Property (as hereafter defined).

Declarant hereby declares that the property described in Exhibit "A" attached hereto and made a part hereof (and any additional property subjected to this Declaration as provided herein) is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, reservations, restrictions, easements, assessments, charges, liens and other provisions hereinafter set forth in this Declaration, as this Declaration may be amended from time to time as more particularly set forth herein.

**ARTICLE I****DEFINITIONS**

In addition to terms defined elsewhere in this Declaration, the following terms, as used in this Declaration, shall have the following meanings:

Central City Title Agency, Inc.  
178 E. State Street  
P.O. Box 1098  
Columbus, Ohio 43216

Section 1.1. The **Architectural Design Guide** shall mean that certain guide prepared by the Architectural Review Committee (and approved by the Board) as the same may be amended and modified from time to time (with the approval of the Board) setting forth certain design guides and minimum building standards for Improvements to be constructed at Heritage Lakes and procedures to obtain approval for construction of any such Improvements.

Section 1.2. The **Architectural Review Committee** shall mean the Committee appointed by the Board to prepare and implement the Design Review Guide and otherwise oversee construction of, and all subsequent modifications, additions, or alterations to, Improvements.

Section 1.3. The **Articles** shall mean the Articles of Incorporation of the Association.

Section 1.4. The **Assessments** shall mean Base Assessments, Individual Assessments and Special Assessments.

Section 1.5. The **Assessment Cap** shall mean the maximum amount of Base Assessments or Special Assessments, as the case may be, which may be levied against and collected from any Owner during any one calendar year. For the purposes of this Declaration, the Assessment Cap for 1994 shall be \$300 and, for calendar year 1995 and thereafter, the Assessment Cap shall be determined by increasing or decreasing, as the case may be, the Assessment Cap applicable during the preceding calendar year by the increase or decrease, as the case may be, in the CPI during the preceding calendar year. For example, if the CPI increases 2.3% in 1994, the Assessment Cap for 1995 shall be equal to \$306.90 [ $\$300 \times 2.3\% = \$6.90$ ;  $\$300 + \$6.90 = \$306.90$ ]. As a further example, if the CPI decreases 1.9% in 1995, the Assessment Cap for 1996 shall be \$301.07 [ $\$306.90 \times 1.9\% = \$5.83$ ;  $\$306.90 - \$5.83 = \$301.07$ ].

Section 1.6. The **Association** shall mean Heritage Lakes Homeowners Association, Inc., an Ohio corporation not for profit, and its successors and assigns.

Section 1.7. The **Base Assessments** shall mean those charges levied and collected by the Association from Owners of Developed Lots to fund Common Expenses.

Section 1.8. The **Board** shall mean the Board of Trustees of the Association.

Section 1.9. A **Builder** shall mean any Person that (i) acquires a Lot for the purpose of development and sale in the ordinary course of business or (ii) enters into an agreement with an Owner to construct any Improvement on a Lot.

Section 1.10. The Code of Regulations shall mean the Code of Regulations of the Association, as in effect from time to time.

Section 1.11. The Common Expenses shall mean all expenses incurred by the Association in connection with its ownership and/or maintenance of the Common Property, maintenance of the Median Strips, maintenance of the sanitary pump station (located on the Golf Course Northeast of Lots 23 and 24 of Heritage Lakes Section One), maintenance of property other than Common Property as provided herein, real estate taxes and assessments, if any, attributable to the Common Property, utilities for the Common Property or consumed in furtherance of the Association's duties and obligations and conducting its affairs and generally discharging the duties and obligations imposed upon it by this Declaration or assumed by it pursuant to authorization granted by this Declaration.

Section 1.12. The Common Property shall mean all portions of the Property that are intended for the common use and enjoyment of Members (e.g., the entryway to Heritage Lakes and the amenities related thereto including, without limitation, the entryway fences, walls, ponds, signs, irrigation system and landscaping (including, without limitation, the red maple trees planted along Heritage Lakes Drive, between Alton-Darby Road and the intersection of Heritage View Court and Heritage Point Court, located between the curb and sidewalk), and which are identified as Common Property by the Association or which are dedicated to the Association on a Plat of Heritage Lakes or which are conveyed by Declarant to the Association, together with all personal property related thereto, and all real and personal property that may subsequently be acquired by the Association for the common use and enjoyment of the Members.

Section 1.13. The Community Standard shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property, as determined by the Board.

Section 1.14. The CPI shall mean the Consumer Price Index for all Urban Consumers, U.S. City Average, All Items (1982 - 1984 = 100), as published from time to time by the Bureau of Labor Statistics, United State Department of Labor.

Section 1.15. The Declarant shall mean Planned Development Company of Ohio, an Ohio corporation, its successors and assigns, provided those successors and assigns are designated in writing by Planned Development Company of Ohio in an instrument filed in the Public Records as successors or assigns of its rights under this Declaration.

Section 1.16. The Declaration shall mean this instrument, and all exhibits hereto, as it may be amended from time to time.

Section 1.17. A Developed Lot shall mean any Lot owned by any Person other than Declarant.

Section 1.18. The Golf Course shall mean the approximate 175± acre tract of land improved with, among other things, an 18-hole golf course and related amenities, a clubhouse and a driving range, located adjacent to portions of the Property and contiguous to Golf Course Lots.

Section 1.19. A Golf Course Lot shall mean any Lot which is contiguous at any point with the Golf Course.

Section 1.20. The Golf Course Owner shall mean Heritage Golf Club Limited Partnership, an Ohio limited partnership ("Heritage Ltd."), its successors and assigns, provided those successors and assigns are designated in writing by Heritage Ltd. in an instrument filed in the Public Records as successors or assigns of its rights under this Declaration.

Section 1.21. Heritage Lakes shall mean the Property, including Common Property, subject at any time to this Declaration and comprising the residential community created hereby.

Section 1.22. The Improvements shall mean all structures or improvements of any kind, including without limitation, any building, fence, pool, hot-tub, wall, sign, paving, grading, parking area, screen enclosure, porch, deck, patio, sewer, drain, disposal system, decorative building, landscaping, landscape device or object, and all alterations and additions thereto.

Section 1.23. An Individual Assessment shall mean those charges levied and collected by the Association from an Owner of a Developed Lot for expenses or obligations which are not Common Expenses.

Section 1.24. A Lot shall mean a portion of the Property designated on a Plat as a separate building lot and containing a separate tax parcel identification number, and shall include both Developed Lots and Undeveloped Lots.

Section 1.25. The Median Strips shall mean those areas within the middle of the rights of way of publicly dedicated streets located within Heritage Lakes which are not paved and which contain grassy areas, trees, shrubs and landscaping and which the Association is required to maintain pursuant to the provisions hereof, but shall not include the areas between the street curb and the right of way.

Section 1.26. A Member shall mean and refer to any member of the Association.

Section 1.27. A Mortgage shall mean any Mortgage or functionally similar instrument filed in the Public Records which encumbers a Lot or any other portion of the Property.

Section 1.28. A Mortgagee shall mean the beneficiary or holder of a Mortgage.

Section 1.29. An Owner shall mean the record owner(s) of fee simple title to any Lot.

Section 1.30. A Person shall mean any natural person or any artificial entity.

Section 1.31. A Plat shall mean any plat of all or any portion of the Property as recorded in the Public Records, as amended or revised from time to time.

Section 1.32. The Property shall mean that certain real property described in Exhibit "A" attached hereto and made a part hereof, which is subject to this Declaration, together with such additional real property, if any, as is hereafter subjected to this Declaration.

Section 1.33. The Public Records shall mean the records maintained in the Office of the Recorder, Franklin County, Ohio.

Section 1.34. The Rules and Regulations shall mean the rules and regulations for the conduct of Members and their respective families, guests, licensees and invitees, as adopted from time to time by the Board.

Section 1.35. A Special Assessment shall mean those charges levied and collected by the Association from Owners of Developed Lots to fund extraordinary expenses which are not included in the Association's budget.

Section 1.36. An Undeveloped Lot shall mean any Lot owned by Declarant.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

Section 2.1 PROPERTY. Upon the recordation hereof, the Property shall be held, transferred, sold, conveyed, improved and occupied subject to this Declaration.

Section 2.2 ADDITIONS. Declarant shall have the right and power, but neither the duty nor the obligation, in its sole and absolute discretion and by its sole act, to subject additional property to this Declaration from time to time by executing and recording in the Public Records an amendment to this Declaration

specifying that such additional property is part of Heritage Lakes. An amendment to the Declaration shall not require the joinder or consent of the Association, other Owners, Mortgagees, or any other Person. In addition, such amendments to the Declaration may contain such supplementary, additional, different, new, varied, revised and amended provisions as may be necessary or appropriate, as determined by Declarant, to reflect and address the different character or intended development of any such additional property.

### ARTICLE III

#### THE ASSOCIATION

Section 3.1 FORMATION. Declarant has caused the formation of the Association by the filing of the Articles in the office of the Secretary of State of Ohio. The purposes and powers of the Association shall be all of the purposes and powers set forth in this Declaration and in the Articles and Code of Regulations. The Association shall be responsible for the execution, performance, administration and enforcement of all the terms and conditions of this Declaration. If there is a conflict between the terms and conditions set forth in this Declaration, the Articles or Code of Regulations, the conflict shall be resolved in favor of the terms and conditions as provided in this Declaration.

Section 3.2 MEMBERSHIP. A Person shall become a Member of the Association upon acquisition and/or ownership of fee simple title to any Lot, as evidenced by a deed recorded in the Public Records. If title is held by more than one Person, such multiple Owners shall together constitute one Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of the Lot and simultaneously with the transfer of ownership (whether voluntarily or by operation of law), the membership shall automatically transfer to the new Owner. No person or entity shall become a Member of the Association by reason of holding an interest in a Lot as security for performance of an obligation. By recording an amendment to this Declaration, subjecting additional real property to this Declaration, Declarant may create additional memberships in the Association and, as provided in Section 2.2 hereof, may designate the ownership basis for such additional membership.

Section 3.3 ADMINISTRATION OF THE ASSOCIATION. The affairs of the Association shall be administered by the Board in accordance with this Declaration, the Articles and Code of Regulations. This Declaration may be amended as provided herein and the Articles and Code of Regulations may be amended in the manner set forth therein; provided, however, that no such amendment shall

adversely affect the rights of Declarant, without Declarant's prior written approval.

Section 3.4 VOTING. The total number of votes on any question for which the vote of Members is permitted or required shall be equal to the number of Lots comprising Heritage Lakes at the time of the vote. Each Member shall be entitled to one vote per Lot owned by such Member on any question for which the vote of Members is permitted or required. At all elections for members of the Board, the candidate receiving the greatest percentage of votes cast shall be elected. All other questions shall be determined by the vote of those Members entitled to exercise not less than a majority of the voting power of the Members present or represented by proxy at a meeting, unless for any particular purpose the vote of a greater percentage of all Members is required by this Declaration, the Articles, the Code of Regulations, by law or otherwise.

Section 3.5 SUSPENSION OF MEMBERSHIP RIGHTS. No Member shall have any vested right, interest or privilege in or to the assets, functions, affairs or interests of the Association, or any right, interest or privilege which may be transferable, or which shall continue after his or her membership ceases, or while he or she is not in good standing. A Member shall be considered "not in good standing" during any period of time in which he or she is delinquent in the payment of any Assessments, or in violation of any provision of this Declaration, or of any Rules and Regulations. While not in good standing, the Member shall not be entitled to vote or exercise any other right or privilege of a Member of the Association, including use of the Common Property.

Section 3.6 AUTHORITY TO BORROW FUNDS. In order to secure the repayment of any and all sums borrowed by it, loaned to it, or owed by it, from time to time, the Association is hereby granted the right and power to mortgage, assign and pledge all revenue received and to be received by it under the terms of this Declaration, including, without limitation, the proceeds of the Assessments payable hereunder.

Section 3.7 AUTHORITY TO MAINTAIN SURPLUS. The Association shall not be obligated to spend in any particular year or time period all sums collected or received by it in such year or time period and may carry forward, as surplus, any balances remaining without any obligation to apply such surplus against the budget for the current or next ensuing year.

Section 3.8 AUTHORITY TO ENTER INTO CONTRACTS. The Association shall have the power and authority to contract with any Person, including the Declarant, for the exercise of any one or more of the various powers and authority granted to and duties to be performed by the Association hereunder, and to delegate

such powers and authority to any agent or employee of the Association.

Section 3.9 RULES AND REGULATIONS. In addition to the restrictions and limitations imposed by this Declaration, the Association, through its Board, shall regulate the use of the Property and Common Property by its Members and their respective families, guests, licensees and invitees, and may from time to time promulgate such Rules and Regulations as are consistent with this Declaration, governing the use thereof as it may deem to be in the best interests of its Members.

#### ARTICLE IV

##### COMMON PROPERTY

Section 4.1 COMMON PROPERTY. The Common Property is intended for the use and benefit of Members and their respective social guests, licensees and invitees, subject at all times to the provisions of this Declaration and such Rules and Regulations as may be adopted by the Board from time to time.

Section 4.2 ACQUISITION AND DISPOSITION OF COMMON PROPERTY. The Association shall have the power and authority to acquire and grant such interests in real and personal property and to withdraw or convey such portions of the Common Property as it may deem beneficial to its Members. Such interests may include fee simple or other absolute ownership interests, easements, mortgage liens, leaseholds, or such other possessory use interests as the Association may determine to be beneficial to its Members.

Section 4.3. ASSOCIATION'S RESPONSIBILITY. The Association shall maintain and keep in good condition the Common Property, such maintenance to be funded with Assessments as herein provided. Additionally, the Association shall maintain and keep in good condition and repair the Median Strips, unless the City of Hilliard agrees to assume such maintenance responsibility. Further, the Association may, in its discretion and to the extent determined by the Board, choose to maintain property that it does not own, the maintenance of which would, in the opinion of the Board, benefit Heritage Lakes.

Section 4.4 OWNER'S RESPONSIBILITY. Each Owner shall maintain his or her Lot and the area between the street curb and the right of way and all structures, landscaping (including landscaping planted by Declarant and/or the Association, if any), sidewalks, parking areas and other Improvements located thereon in a manner consistent with the Community Standard, this Declaration and all applicable Rules and Regulations, except to the extent the maintenance responsibility is otherwise expressly assumed by the Association pursuant to this Declaration or by a



governmental authority. If any Owner fails to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred against the Owner of the Lot as an Individual Assessment.

## ARTICLE V

### COMMON EXPENSES: ASSESSMENTS

Section 5.1 AUTHORITY. The Association, through the Board, shall have the power and authority to make and collect Assessments from Owners of Developed Lots to provide for the payment and discharge of the Common Expenses or otherwise incurred or paid by the Association in the performance of its duties and exercise of its powers under this Declaration, the Articles and the Code of Regulations.

Section 5.2 BASE ASSESSMENTS. The Board shall annually estimate the Common Expenses and other expenses, if any, it expects the Association to incur in the Association's next ensuing fiscal year (which may be a calendar year -- as determined by the Board from time to time) for the maintenance, operation and management of the Association, including the Common Property, and shall assess sufficient Base Assessments (which may include amounts for a reasonable reserve fund -- as may be determined by the Board) to meet this estimate. All Developed Lots shall be assessed for Base Assessments at a uniform rate; provided, however, such rate may be prorated for any Developed Lots which were not Developed Lots for the entire calendar year. Base Assessments shall be payable, in advance, monthly, quarterly, semi-annually or annually, as the Board shall determine.

Section 5.3 SPECIAL ASSESSMENTS. In the event during the course of any fiscal year the Board should determine that the Base Assessments are insufficient to meet an extraordinary expense not originally part of the Association's budget, the Board may levy a Special Assessment to cover such extraordinary expense. All Developed Lots shall be assessed for Special Assessments at a uniform rate; provided, however, such rate may be prorated for any Developed Lots which were not Developed Lots for the entire calendar year. Notwithstanding anything to the contrary herein contained, it is recognized and declared that any Special Assessment shall be in addition to and not part of any Base Assessment, and any such Special Assessment assessed against Lots shall be paid by such Owners in addition to any Base Assessments. Special Assessments shall be paid in installments or in a lump sum as the Board shall determine.

Section 5.4 CAP ON BASE AND SPECIAL ASSESSMENTS. Anything in Sections 5.1, 5.2 and/or 5.3 or elsewhere herein to the

contrary and notwithstanding the annual budget approved by the Board pursuant to Section 5.2 above, the Board may not assess Base Assessments for any one calendar year or Special Assessments (alone or when added to previously approved Special Assessments for that calendar year), as the case may be, against any Owner of a Developed Lot in an amount in excess of the then applicable Assessment Cap unless approved by Members (exclusive of Declarant) entitled to exercise not less than 75% of the voting power of all Members (exclusive of Declarant) in the Association.

**Section 5.5 INDIVIDUAL ASSESSMENTS.** The Association may levy and collect an Individual Assessment against a particular Owner for the cost of (i) any benefits, goods or services provided to a particular Lot and not otherwise provided to all Lots in Heritage Lakes; (ii) maintenance, repairs or replacements of the Lot, which the Owner thereof has failed to perform and which failure or refusal to perform has in the opinion of the Association, violated the Community Standard or endangered or impaired the use, value or appearance of the Property, (iii) maintenance, repairs or replacements of Common Property and related improvements resulting from damage or destruction attributable to the Owner's family, guests, agents, invitees, contractors or representatives, and/or (iv) liquidated damages arising under Section 7.10 hereof. All Individual Assessments shall be collectible in such manner as the Board shall determine.

**Section 5.6 COVENANT TO PAY ASSESSMENTS.** In order to fulfill the terms, provisions, covenants and conditions contained in this Declaration, and to maintain, operate, preserve and improve the Common Property for the recreation, use and benefit of the Members and their respective families, guests, invitees and licensees, there is hereby imposed upon each Owner of a Developed Lot the affirmative covenant and obligation to pay the Association all Assessments. Each and every Owner of a Developed Lot shall be obligated and jointly and severally agrees to pay to the Association all Assessments in accordance with this Declaration and each consents and agrees to the lien rights set forth hereunder.

**Section 5.7 EFFECT OF NON-PAYMENT OF ASSESSMENT LIENS.** All notices of Assessments from the Association to the Owners of Developed Lots shall designate when the Assessment is due and payable. If an Assessment is not paid on the date when due, it shall then become delinquent and shall bear interest at a rate equal to the lesser of (i) National City Bank Prime plus 4%, or (ii) the maximum rate allowed by law, until paid, unless, at the discretion of the Board, such interest is waived in whole or in part. The Assessments, together with interest thereon, and the cost of collection thereof, including attorneys fees, shall constitute both a personal, joint and several obligation of the Owner against whom they are assessed and a charge and continuing lien against the Developed Lot they are attributable to. If any

Assessments, or any installment thereof, shall not be paid within thirty (30) days after the due date, the Association may, at any time thereafter, accelerate the entire amount due for the balance of the year for which the Assessments were made and declare the same immediately due and payable.

**Section 5.8. CERTIFICATE OF LIEN.** The Association may also record a certificate of lien in the Public Records if any Assessment, or any installment thereof, shall not be paid within thirty (30) days after the due date. Any lien recorded pursuant to this Declaration shall secure payment of all delinquent Assessments, any accelerated Assessments, penalties and costs, including attorneys' fees of the Association in collection of all such sums due, theretofore accrued and thereafter becoming due and owing, until paid in full. Such certificate of lien shall contain a legal description of the Developed Lot against which the lien exists, the name of the Owner thereof and the amount due and owing the Association. Such certificate of lien shall be signed by such officer of the Association as the Board may determine. The Association may at any time thereafter bring an action to foreclose the lien against the Developed Lot and/or a suit on the personal obligation of the Owner. Any successor or subsequent holder of an interest in title to a Developed Lot shall be held to have constructive notice of the records of the Association to determine the existence of delinquency in the payment of Assessments.

**Section 5.9 CERTIFICATE OF ASSESSMENTS.** At the request of a Member, the Board shall prepare a certificate (a "Certificate of Assessments"), signed by an officer of the Association, setting forth the date to which Assessments have been paid with respect to any Developed Lot, and the amount which is due as of the date of the Certificate of Assessments.

**Section 5.10 SUBORDINATION TO LIEN OF MORTGAGES.** The lien of the Assessments and charges provided for herein shall be subject and subordinate to the lien of any duly executed first Mortgage on a Developed Lot, unless such Assessments and other charges are secured by a certificate of lien which is recorded prior to the recording of such Mortgage, and any holder of such first Mortgage which comes into possession of a Developed Lot pursuant to the remedies provided in the Mortgage, foreclosure of the Mortgage, or deed in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the Developed Lot free of any claims for unpaid installments of Assessments and other charges against the Developed Lot which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vested in the successor Owner.

**Section 5.11 BASE ASSESSMENTS BUDGET DEFICIENCY.** Declarant acknowledges that the Assessment Cap may create a deficiency

between the annual budget approved by the Board pursuant to Section 5.2 above and the aggregate amount of Base Assessments the Board may assess Owners of Developed Lots in Heritage Lakes for any given year. Accordingly, in consideration for the rights and privileges set forth in Article IX of this Declaration, Declarant hereby agrees, for so long as Declarant owns any Lot in Heritage Lakes, to be responsible for and to pay to the Association the deficiency, if any, between the annual budget approved by the Board for a given year pursuant to Section 5.2 above and the aggregate amount of Base Assessments assessed by the Board for that year against all Owners of Developed Lots. Any such deficiency shall be payable in such manner as the Board may determine. Each Owner hereby acknowledges and agrees that Declarant's obligations under this Section 5.11 shall arise only in the event and for so long as Declarant owns a Lot in Heritage Lakes and only in the event the Assessment Cap prevents the Association from assessing Owners of Developed Lots for the entire budget approved by the Board pursuant to Section 5.2 above.

## ARTICLE VI

### EASEMENTS. RIGHT OF ENTRY

Section 6.1 OWNERS' EASEMENTS OF ENJOYMENT. Subject to the provisions of this Declaration and the Rules and Regulations, each Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Property to share in common with all other Owners, which easement shall be appurtenant to and shall pass with the title to each Lot. However, each Member of the Association, by acceptance of a deed or other instrument conveying any part of the Property, acknowledges and agrees that (i) there are no light, air, access, view or similar easements or rights appurtenant to any Lot in Heritage Lakes and constituting a burden on the Golf Course and that nothing in this Declaration shall prevent or prohibit the Golf Course Owner from constructing landscaping, mounding, fencing and/or other improvements on the Golf Course in such manner and locations as the Golf Course Owner may determine and (ii) no easement shall be granted, conveyed, permitted or established over, under or through any Lot without Declarant's prior written consent and approval, which consent and approval may be withheld for any reason or no reason.

Section 6.2 ENTRY EASEMENT TO ASSOCIATION. The Association, through its authorized representatives, shall have the right of entry and access to, over, upon and through all of the Property, to enable the Association to perform its obligations, exercise its rights, and fulfill its duties pursuant hereto, and such representatives shall not be deemed to have committed a trespass as a result thereof.

Section 6.3 UTILITY EASEMENT. Declarant reserves to itself, to the Association and to any public utility a perpetual easement in, through, under and over those portions of each Lot, as designated on a Plat as an easement, for the construction, operation and maintenance of electrical, telephone and cable lines and conduits and water, gas and sanitary and storm sewer lines and conduits, or any other public utility facilities. Within these easement areas, no Improvements shall be placed or permitted to remain, unless such Improvements have been installed by Declarant or approved in accordance with the terms of this Declaration.

Section 6.4 GOLF COURSE EASEMENTS. Each Owner hereby acknowledges and agrees that the Property is burdened with an easement permitting golf balls unintentionally to come upon the Common Property and Lots. Each Owner by acceptance of a deed to any Lot acknowledges the possibility of personal injuries and/or property damage resulting from errant golf balls as a consequence of living in a residence situated on or near a golf course. EACH OWNER HEREBY WAIVES AND RELEASES AND AGREES TO INDEMNIFY AND HOLD HARMLESS THE GOLF COURSE OWNER (AND ANY PERSON RETAINED BY THE GOLF COURSE OWNER TO OPERATE THE GOLF COURSE), DECLARANT, THE ASSOCIATION AND ANY AUTHORIZED USER OF THE GOLF COURSE FROM ANY AND ALL ACTION, CAUSE, SUIT, CLAIM OR DEMAND WHATSOEVER, IN LAW OR IN EQUITY, AS A RESULT OF PROPERTY DAMAGE OR PERSONAL INJURY TO SUCH OWNER, THEIR GUESTS, FAMILY MEMBERS, EMPLOYEES, LICENSEES OR INVITEES CAUSED BY AN ERRANT GOLF BALL OR OTHERWISE ATTRIBUTABLE TO THE DESIGN, PLAY OR MAINTENANCE OF THE GOLF COURSE.

Section 6.5 ADDITIONAL EASEMENTS. Declarant reserves to itself and to the Golf Course Owner a perpetual easement in, through, under and over a 10' strip of land on Golf Course Lots located contiguous to and parallel with the property line of the Golf Course for the purpose of maintaining the Golf Course including, without limitation, any landscaping and fencing located thereon.

## ARTICLE VII

### ARCHITECTURAL CONTROLS

Section 7.1 ARCHITECTURAL REVIEW COMMITTEE. The Architectural Review Committee, established hereby, shall consist of three individuals or such other number as the Board may determine from time to time (who need not be Members and who may or may not be members of the Board), all of whom shall be appointed and may be removed by the Board, to serve such terms and to be subject to such purposes, restrictions and limitations as the Board may determine from time to time. The Architectural Review Committee shall prepare, or cause to be prepared, the

Architectural Design Guide and shall, subject to the terms of this Declaration, have exclusive jurisdiction over construction, modifications, additions, or alterations of and to all Improvements.

Section 7.2 APPROVAL REQUIRED. No construction, which term shall include grading, clearing, staking and other site work, shall take place and no Improvements (including Improvements to previously approved Improvements) shall be erected, constructed, placed, altered, removed, or maintained on a Lot until and unless the same, and the Builder thereof, shall have first been approved in writing by the Architectural Review Committee and, pursuant to Article IX hereof (if applicable), the Declarant and/or Golf Course Owner. Neither the Architectural Review Committee, the Board, Declarant nor the Golf Course Owner shall be liable to anyone submitting plans for approval by reason of mistakes in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any proposed Improvements.

Section 7.3 FAILURE TO APPROVE OR DISAPPROVE. If the Architectural Review Committee, Declarant and/or Golf Course Owner, as the case may be, fails either to approve or disapprove such plans and specifications within thirty days after the same have been delivered to the Architectural Review Committee, Declarant and/or Golf Course Owner, as the case may be, it shall be presumed that the Architectural Review Committee, Declarant and/or Golf Course Owner, as the case may be, has disapproved said plans and specifications.

Section 7.4 NO WAIVER. The approval or disapproval by the Architectural Review Committee, Declarant and/or Golf Course Owner, as the case may be, of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Review Committee, Declarant and/or Golf Course Owner, as the case may be, shall not be deemed to constitute a waiver of any right to approve or withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent nor to prohibit the Architectural Review Committee from modifying and amending the Architectural Design Guide from time to time (with the approval of the Board) to specifically permit any Improvement previously prohibited or prohibit any Improvement previously permitted.

Section 7.5 VARIANCE. The Architectural Review Committee may authorize variances from compliance with the Architectural Design Guide when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate, as determined by the Architectural Review Committee, and no variance shall (a) be effective unless in writing, or (b) estop the Architectural

Review Committee from denying a variance in other circumstances.

Section 7.6 EXPENSE OF APPROVALS. The Architectural Review Improvement Committee may charge a reasonable fee in connection with reviewing materials submitted for approval in accordance with this Declaration, the amount of such fee and the manner of payment of such fee to be determined from time to time by the Board.

Section 7.7 COMPLIANCE WITH LAWS. Review and approval of plans and specifications by the Architectural Review Committee, Declarant and/or Golf Course Owner, as the case may be, shall not imply or infer compliance with any law, ordinance or regulation, or structural integrity or safety of any Improvements described in any approved plans and specifications. Review and approval as provided in this Article is for aesthetic purposes only. It is each Owner's sole responsibility to plan and construct any and all Improvements in a manner which complies with all applicable codes, statutes, laws, ordinances and regulations and in compliance with any approval granted hereunder.

Section 7.8 DUTY TO BUILD. An Owner of a Developed Lot shall commence construction of a residential dwelling thereon within the earlier to occur of: (i) 6 months following the date an Owner obtains approval for the construction of Improvements upon a Lot from the Architectural Review Committee, Declarant and/or the Golf Course Owner, as the case may be, or (ii) 18 months following the month in which such Owner acquired title to such Developed Lot; or such longer time as the Architectural Review Committee may agree, in writing, upon good cause shown. For the purposes of this Declaration, an Owner shall be deemed to have commenced construction of an Improvement at such time as footers are poured and the foundation is completed.

Section 7.9 DUTY TO COMPLETE IMPROVEMENTS. An Owner shall complete all approved Improvements, subject to unforeseen circumstances and causes beyond the reasonable control of such Owner, as reasonably determined by the Architectural Review Committee, within 12 months following commencement of construction of such approved Improvements.

Section 7.10 FAILURE TO COMMENCE OR COMPLETE CONSTRUCTION. In the event construction of a residential dwelling is not commenced within the time-period provided in Section 7.8 above, Declarant may, but shall not be obligated to, elect to exercise the "Repurchase Option" contained in the deed from Declarant to Owner or Owner's predecessor in interest. In the event construction of any Improvement is not completed within the time-period provided in Section 7.9 above, as such may be extended, in writing, by the Architectural Review Committee for good cause shown, the Owner shall pay the Association as liquidated and agreed damages, since actual damages would be difficult if not impossible to

accurately ascertain, the sum of \$20.00 per day, or such other sum as the Board may from time to time determine, that the construction remains incomplete after the date required herein for completion. This payment shall be in addition to any other remedies at law or equity and shall not be exclusive thereof and any liquidated damages arising hereunder may constitute an Individual Assessment and entitle the Association to file a certificate of lien to secure the same.

Section 7.11 SIDEWALKS; MAILBOX. Each Owner of a Developed Lot shall install and maintain on their Lot (i) sidewalks adjacent to all public rights-of-way in accordance with and as required by governmental regulations, and (ii) a mailbox which complies with the Architectural Design Guide or as otherwise required by the Architectural Review Committee.

## ARTICLE VIII

### RESTRICTIONS

Section 8.1 RESIDENTIAL USE. All Lots shall be used only for residential dwellings and for no other purpose. No business or commercial building may be erected on any Lot and no business may be conducted on any part thereof except for use by Declarant in connection with the sale of Lots in the Property.

Section 8.2 TEMPORARY STRUCTURES. No structure or object of a temporary character such as, but not limited to, house trailers, vans, tents, shacks, or sheds shall be constructed, erected, kept or maintained on any Lot. This restriction shall not apply to temporary structures used by Declarant or with Declarant's consent, for development, construction or sale of the Lots, nor to temporary structures such as tents, canopies or awnings erected for special events, provided that such structures are removed within 72 hours and otherwise comply with the Community Standard, nor to temporary construction trailers used by Builders in the course of construction of Improvements.

Section 8.3 NUISANCES. No use or practice which is either an annoyance to Members or an interference with the peaceful possession and proper use of the Property by Members or which may become an annoyance or other nuisance shall be allowed. No Member shall commit or permit any nuisance or any illegal activity in or about the Property. For example, no Member shall knowingly or wilfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet and/or comfort of other Members as reasonably determined by the Board. No plant, animal, device or thing shall be kept or maintained, whose normal activities or existence is in any way considered noxious, dangerous, unsightly, unpleasant or of a



nature which may diminish or destroy the enjoyment of Lots by the Owners or occupants thereof.

Section 8.4 UTILITY CONNECTIONS. Permanent building connections for all utilities including, but not limited to, water, electricity, gas, telephone and cable, shall be run underground from the proper connecting points to the building structure in such a manner to be consistent with governmental requirements and acceptable to the Association.

Section 8.5 PETS. Owners may keep companion pets such as birds, domesticated cats, fish, dogs and other small mammals. Owners may not keep a number of pets which the Association, in its sole and absolute discretion, shall deem excessive. No Owner may keep exotic cats, horses, fowl, reptiles, obnoxious, vicious or dangerous animals, farm livestock or zoo-type animals on the Property. The determination of what is or what may be an obnoxious animal, fowl or reptile shall be determined by the Board in its sole and absolute discretion. Pets must be kept under control. Owners are responsible for their pets at all times. Pets shall not be permitted to make noise for extended periods of time or to rummage through refuse, such actions being deemed a nuisance. The Owner shall remove and properly dispose of its pet's waste from the Property. Failure to remove and dispose of a pet's waste material shall be deemed a nuisance. The Board shall have the right to order the removal of any pet which, in the Board's sole and absolute discretion, is considered a nuisance, and the same shall be done without compensation to the Owner. In such event, the Board shall give written notice thereof to the pet owner, and the pet shall immediately thereafter be permanently removed from the Property. An Owner, by the purchase of a Lot, agrees to indemnify the Association, and hold it harmless against loss or liability of any kind arising from the Owner having any animal on the Property.

Section 8.6 FENCES. No fence, wall, or barrier of any kind (including shrubbery and hedges) may be erected, except as may be approved by the Architectural Review Committee.

Section 8.7 ANTENNAE. No radio, satellite dish, television or other electronic antennae or aerial may be erected or maintained on any Lot or the exterior of any Improvement, without the prior written approval of the Architectural Review Committee.

Section 8.8 SUBDIVISION OF LOTS. No Lot shall be subdivided to permit property lines to be altered in any manner except as may be approved in writing by the Association provided, however, that a single Lot may be combined with another Lot or portion thereof, to form a larger Lot, with the prior written approval of the Association. To the extent that any resubdivision is approved, the same shall be reflected by an appropriate document recorded in the Public Records, which shall

also state how the properties are to be assessed, as determined by the Board.

Section 8.9 REFUSE CONTAINERS. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in covered sanitary refuse containers. Trash, refuse or waste materials shall not be burned on the Property. The foregoing provisions shall be subject to such Rules and Regulations as may be promulgated by the Association, including, without limitation, such rules that may require the sorting of refuse for recycling purposes.

Section 8.10 MINERAL EXPLORATION. The Property shall not use in any manner to explore for, use, or exploit commercially any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth, soil, or any other substance located on or under the ground.

Section 8.11 MACHINERY AND EQUIPMENT. No commercial machinery or equipment of any kind shall be placed, operated or maintained upon any Lot except such machinery or equipment reasonably necessary for use in connection with maintenance or construction of Improvements on the Property.

Section 8.12 VEHICLES, TRAILERS, BOATS AND MOTOR HOMES. No automobile may be left on any Lot (except if stored in a fully enclosed garage) for a period longer than five days in a condition such that it is incapable of being operated, after which time the vehicle shall be considered as a nuisance and must be removed from the Lot. No boat, motor home or mobile home may be kept or stored on any portion of a Lot for periods longer than 24 hours unless stored within a fully enclosed garage. No commercial vehicles may be parked, stored or temporarily kept on any Lot, except when there temporarily to service existing Improvements, or to be used in connection with construction of Improvements on the Property.

Section 8.13 INTERFERENCE WITH PLAY ON GOLF COURSE. Owners of Golf Course Lots shall be obligated to refrain from any actions which would detract, in the reasonable determination of the Board or Golf Course Owner, from the playing qualities and conditions on the Golf Course. During any golf tournament held on the Golf Course which is sanctioned by any professional golfers association or amateur golf organization, Owners of Golf Course Lots shall suspend all construction activity, lawn maintenance and other noisy activities which may cause disturbance to play.

Section 8.14 SWIMMING POOLS AND HOT TUBS. Above ground and portable swimming pools are strictly prohibited. In ground swimming pools and hot tubs may be permitted if appropriate

approvals have been obtained in accordance with the provisions of this Declaration.

Section 8.15 SIGNS. No sign or billboard of any kind or nature including, but not limited to, commercial and similar signs, whether permanent or temporary, shall be erected or maintained on any Lot except signs required as a matter of law, signs approved by the Architectural Review Committee in accordance with the terms of this Declaration and customary and ordinary signs which offer real estate for sale and which are located in the front yard of any Lot (defined to mean that portion of a Lot located between the public street and front building setback line as depicted on the applicable Plat or, if not so depicted, 30' from such public street right-of-way).

## ARTICLE IX

### ADDITIONAL RIGHTS

Section 9.1 RIGHTS OF DECLARANT. Anything in this Declaration, the Articles or Code of Regulations to the contrary notwithstanding, for so long as Declarant owns any Lot in Heritage Lakes:

- (a) This Declaration, the Articles, the Code of Regulations and/or the Architectural Design Guide may not be amended or modified without Declarant's prior written consent;
- (b) No Improvements may be constructed on any Lot unless and until the proposed Improvements have been approved in writing by Declarant as being in conformity with the Architectural Design Guide and this Declaration;
- (c) Declarant shall have the sole and absolute right and authority to appoint trustees to and remove trustees from the Board;
- (d) Declarant shall have the right and authority to enforce the provisions of and restrictions imposed by this Declaration in any manner or the same manner as is available to the Association hereunder; and
- (e) Declarant may amend this Declaration in whole or in part without the consent or approval of any Member, the Association or any other Person provided no such amendment may eliminate the vote of any Member in the Association or increase the then applicable Assessment Cap unless approved by Members (exclusive of Declarant) entitled to exercise not less than 75% of the voting

power of all Members (exclusive of Declarant) in the Association).

Section 9.2 RIGHTS OF HERITAGE LTD. Anything in this Declaration, the Articles or Code of Regulations to the contrary notwithstanding, for so long as Heritage Ltd. owns the Golf Course:

- (a) The Architectural Design Guide may not be amended or modified as it relates to Golf Course Lots without the prior written consent of Heritage Ltd.;
- (b) No Improvements may be constructed on any Golf Course Lot unless and until such proposed Improvements have been approved in writing by Heritage Ltd. as being in conformity with the Architectural Design Guide and this Declaration; and
- (c) Heritage Ltd. shall have the right and authority to enforce the provisions of and restrictions imposed by this Declaration as the same relate to Golf Course Lots in any manner or the same manner as is available to the Association hereunder.

#### ARTICLE X

#### ENFORCEMENT

The Association, through its Board and officers, shall have the authority to enforce the provisions of and restrictions imposed by this Declaration in any manner provided by law or equity. As the remedy at law for any breach of any of the terms of this Declaration or the Rules and Regulations may be inadequate, the Association shall have a right of temporary and permanent injunction, specific performance, self help and other equitable relief that may be granted in any proceeding that may be brought to enforce any provision hereof, without the necessity of proof of actual damage or inadequacy of any legal remedy. Additionally, should any violation exist for a period of thirty (30) days after notice from the Association and the Member shall fail to remedy such violation within such thirty (30) day period then the Board or any other person authorized by it, shall have the right, but not the obligation, to enter upon the affected property and effect such remedy, which may include, but shall not be limited to, removal of any element, repair, replacement, mowing, painting, trimming or other action necessary to effect compliance with the terms of or as authorized by this Declaration. Violation or breach of any condition, covenant or restriction herein contained shall give the Association a right of action before any court of competent jurisdiction, whether in law or in equity, to compel compliance with the terms of the

covenants or restrictions, and to prevent the violation or breach of any of them, and the expense of such litigation shall be borne by the Member in violation, provided such proceeding results in a finding that such Member was in violation of the covenants or restrictions. Expenses of litigation shall include reasonable attorney's fees incurred by the Association in seeking such enforcement.

## ARTICLE XI

### DECLARANT AND ASSOCIATION LIABILITY

Section 11.1 DISCLAIMER. Notwithstanding anything contained herein or in the Articles, Code of Regulations, the Rules or Regulations or any other document governing or binding the Association (collectively, the "Association Documents"), the Association, the Declarant and the Golf Course Owner shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Member, occupant or user of any portion of the Property including, without limitation, Owners and their respective families, guests, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. It is the express intent of the Association Documents that the various provisions thereof that are enforceable by the Association and govern or regulate the uses of the Property have been written, and are to be interpreted and enforced, for the sole purpose of maintaining the enjoyment of the Property. The Association, the Declarant and the Golf Course Owner are not empowered, and have not been created, to act as an entity which enforces or ensures any other individual or entity's compliance with the laws of the United States, State of Ohio or any other jurisdiction or the prevention of criminal, tortious or other like regulated activities. Every Owner, by taking title to any part of the Property, covenants and agrees to hold harmless and to indemnify the Association, the Declarant, the Golf Course Owner and their respective directors, trustees, officers, agents, parties and affiliates from and against all claims of any kind whatsoever by any invitee, licensee, family member, employee or other representative or agent of that Member for any loss or damage arising in connection with the use, ownership or occupancy of any portion of the Property including, without limitation, any claim by any invitee, licensee, family member, employee or other representative relating to personal injuries and/or property damage resulting from errant golf balls from the Golf Course (as provided in Section 6.4 hereof).

Section 11.2 INDEMNIFICATION. Every officer of the Association, every trustee, every member of the Architectural Review Committee, and every member of any committee of the

Association shall be indemnified by the Association against all expenses and liability, including attorney fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been an officer, trustee, or member, whether or not he is an officer, trustee or member at the time such expenses are incurred, except in such cases wherein the officer, director or member is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the officer, director, or member seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such officer, trustee or member may be entitled.

## ARTICLE XII

### INSURANCE AND CASUALTY LOSSES

The Association shall obtain and maintain a comprehensive policy of public liability insurance insuring the Association, the Board and officers of the Association with such limits as the Board may determine, covering claims for personal injury and/or property damage arising by reason of acts by or on behalf of the Association. Such insurance shall include protection against such risks as are customarily covered with respect to developments similar in construction, location and use, as determined by the Board. The Board, in its sole and absolute discretion, may maintain such other insurance on behalf of the Association, or others, as the Board may determine from time to time.

## ARTICLE XIII

### GENERAL PROVISIONS

Section 13.1 DURATION. The covenants and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable as provided herein for an initial term of thirty (30) years from the date this Declaration is recorded. The covenants, restrictions and other provisions hereof shall automatically be extended for successive periods of ten (10) years unless those Members which possess and constitute not less than 75% of the voting power of all Members in the Association sign an instrument acknowledging and agreeing to terminate this Declaration. Any such instrument shall contain a certification by the Secretary of the Association that the

Members signing possess and constitute not less than 75% of the voting power of all Members in the Association. Such instrument shall become effective upon recordation thereof in the Public Records.

Section 13.2 ADDITIONAL RIGHTS OF DECLARANT. All parties owning or otherwise making use of any portion of the Property shall be deemed, by virtue of accepting such ownership or making such use, to have covenanted and agreed that (i) "Heritage Lakes", "Heritage Golf Club" and other names and phrases using the word "Heritage" and/or the logo and emblem used by Declarant in connection with the development of the Property are registered marks owned by Declarant and may be used by Declarant in connection with the development of the Golf Course and/or other property which may not become part of Heritage Lakes, (ii) except as provided below, no usage of that mark or name will be made in naming or referring to any activity within or outside the Property and (iii) no usage of that mark or name shall be made without the express prior written approval of Declarant. Declarant reserves the right to require any Person that Declarant may grant the right to use the name or the mark to enter into a license agreement with Declarant and to charge a fee or royalty therefor.

Section 13.3 NOTICE. Any notice required to be delivered to any Member under the provisions of this Declaration shall be deemed to have been properly delivered when mailed, postpaid, to the last known address of the Person as it appears on the records of the Association at the time of such mailing.

Section 13.4 SEVERABILITY. Invalidation of any one of these covenants and restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

Section 13.5 AMENDMENTS. Subject to the provisions of Article IX hereof, this Declaration may be amended in whole or in part with the approval of Members entitled to exercise not less than 75% of the voting power of all Members in the Association. Unless amended by Declarant, any such amendment shall contain a certification by the Secretary of the Association that the Members signing the amendment possess and constitute not less than 75% of the voting power of all Members in the Association. Any amendment, including an amendment by Declarant, shall become effective upon recordation thereof in the Public Records.

Section 13.6 VENUE. The venue for any action filed in appropriate courts regarding this Declaration shall be Franklin County, Ohio.

Section 13.7 USAGE. Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 13.8 DISSOLUTION OF ASSOCIATION. In the event of the dissolution of the Association, its property rights and interests shall be transferred as provided in the Articles of Incorporation.

Section 13.9 EFFECTIVE DATE. This Declaration shall become effective upon its recordation in the Public Records.

Section 13.10 NO MERGER. It is the intention of Declarant and this Declaration to permit the possibility that the Property may be owned by or thereafter conveyed to Declarant at the time of recording this Declaration in the Public Records. Such ownership or conveyance shall not result in a merger of interest and shall not serve to extinguish all or any portion of this Declaration.

Section 13.11 INTERPRETATION. In case of uncertainty as to the meaning of any article, paragraph, sentence, clause, phrase or word in this Declaration, the interpretation of the Board shall be final and conclusive upon all interested parties.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed in its name, to be effective as provided in §13.9 hereof.

Signed and acknowledged in the presence of the following two witnesses:

PLANNED DEVELOPMENT COMPANY OF OHIO, an Ohio corporation

Paula L. O'Brien  
(signature of witness #1)  
PAULA L. O'BRIEN  
(printed name of witness #1)

By: [Signature]  
(signature)  
DANIEL M. O'BRIEN  
(printed name)

Mary A. Mannasmith  
(signature of witness #2)  
MARY A. MANNASMITH  
(printed name of witness #2)

Its: PRESIDENT 2 36 PM  
(title) (TIME) M  
RECORDER FRANKLIN CO., OHIO

JAN 27 1994

STATE OF OHIO )  
                          ) SS:  
COUNTY OF FRANKLIN )

RICHARD B. NEIDALE RECORDER  
RECORDER'S FEE 106.00

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of JANUARY, 1994 by DANIEL M. O'BRIEN, the PRESIDENT of Planned Development Company of Ohio, an Ohio corporation, on behalf of the corporation.

Paula L. O'Brien  
Notary Public-State of Ohio  
My Commission Expires 1-18-94

Paula L. O'Brien  
Notary Public

This Declaration was prepared by and after recording return to:

J. Thomas Mason, VORYS, SATER, SEYMOUR AND PEASE, 52 East Gay Street, P.O. Box 1008, Columbus, Ohio 43216-1008, (614) 464-5446.



## Exhibit "A"

Situated in the State of Ohio, City of Hilliard, Franklin County, Ohio and known as Lots One (1) to Ninety-Three (93), both inclusive, and an area designated "Reserve A" of HERITAGE LAKES SECTION 1, as the same are numbered and delineated on the plat thereof, in Plat Book 79, pages 42, 43 and 44, Recorder's Office, Franklin County, Ohio.

27798003

193629

TIME 1031 AM  
RECORDED FRANKLIN CO., OHIO

FIRST SUPPLEMENT

TO

NOV 1 1994

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

RICHARD B. METCALF, RECORDER  
RECORDER'S FEE \$ 16.00

FOR

HERITAGE LAKES

This First Supplement to the Declaration of Covenants, Conditions and Restrictions for Heritage Lakes is executed and delivered this 31<sup>st</sup> day of October, 1994 by Planned Development Company of Ohio, an Ohio corporation ("Declarant").

**BACKGROUND**

A. A plan of covenants, easements, restrictions and assessments for Heritage Lakes in the City of Hilliard, Franklin County, Ohio, was created by a declaration thereof (the "Declaration") recorded in Official Records 25447-D07, Recorder's Office, Franklin County, Ohio with respect to the Property (as defined in the Declaration).

B. Pursuant to the provisions of Section 2.2 of the Declaration, Declarant reserved the right to subject additional property to the provisions of the Declaration.

C. Declarant desires by this instrument to subject the following described property to the provisions of the Declaration:

NOW THEREFORE, Declarant thereby declares that the following described real estate:

Situated in the State of Ohio, County of Franklin and City of Hilliard, and known as Lots 94 through 104 and Lots 148 through 158, both inclusive, of HERITAGE LAKES Section 2 Phase 1, as the same are numbered and delineated on the plat thereof in Plat Book 81, pages 4 and 5, Recorder's Office, Franklin County, Ohio

all of which is owned by Declarant, shall be held, transferred, sold, conveyed, improved and occupied subject to all of the covenants, conditions and restrictions set forth in the Declaration and such property shall be and hereby is deemed part of the Property (as defined in the Declaration).

CONVEYANCE TAX  
EXEMPT  
*PJA*  
JOSEPH W. TESTA  
FRANKLIN COUNTY AUDITOR

TRANSFER  
NOT NECESSARY  
NOV 1 1994  
JOSEPH W. TESTA  
AUDITOR  
FRANKLIN COUNTY, OHIO

Central City Title Agency, Inc. BOX  
178 E. State Street  
P.O. Box 1008  
Columbus, Ohio 43216

IN WITNESS WHEREOF, this First Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes has been duly signed, acknowledged and delivered by Declarant as of the date set forth above.

Signed and acknowledged in the presence of the following two witnesses:

Planned Development Company of Ohio, an Ohio corporation

J. Thomas Mason  
(signature of witness #1)

By: [Signature]  
Daniel M. O'Brien, President

J. Thomas Mason  
(printed name of witness #1)

Kimberly L. Dobson  
(signature of witness #2)

KIMBERLY L. DOBSON  
(printed name of witness #2)

STATE OF OHIO            )  
  ) SS:  
COUNTY OF FRANKLIN    )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of October, 1994 by Daniel M. O'Brien, President of Planned Development Company of Ohio, an Ohio corporation, on behalf of the corporation.

[Signature]  
Notary Public

This Instrument Prepared by and After Recording Return to:

J. Thomas Mason, Esq.  
Vorys, Sater, Seymour and Pease  
52 East Gay Street  
Post Office Box 1008  
Columbus, Ohio 43216-1008



J. THOMAS MASON, Attorney-At-Law  
NOTARY PUBLIC, STATE OF OHIO  
My commission has no expiration date.  
Section 147.03 R.C.

29871 H04

123697

SECOND SUPPLEMENT

TO

TIME 1 30 PM  
RECORDED FRANKLIN CO., OHIO

DECLARATION OF COVENANTS,

AUG 28 1995

CONDITIONS AND RESTRICTIONS

RICHARD B. METCALF, RECORDER

FOR

RECORDER'S FEE \$ 18.00

HERITAGE LAKES

This Second Supplement to the Declaration of Covenants, Conditions and Restrictions for Heritage Lakes is executed and delivered this 25 day of August, 1995 by Planned Development Company of Ohio, an Ohio corporation ("Declarant").

BACKGROUND

A. A plan of covenants, easements, restrictions and assessments for Heritage Lakes in the City of Hilliard, Franklin County, Ohio, was created by a declaration recorded in Official Records 25447-D07, Recorder's Office, Franklin County, Ohio with respect to the Property (as defined in the Declaration) as amended by that certain First Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes, recorded in Official Records 27798-D03, Recorder's Office, Franklin County, Ohio (collectively, the "Declaration").

B. Declarant desires to amend the Declaration as permitted by § 9.1 thereof.

NOW THEREFORE, Declarant hereby declares that the Declaration shall be and hereby is amended by adding the following new Section 6.6, titled "No Rights in Golf Course," thereto:

Section 6.6. No Rights in Golf Course. Each Owner, by acceptance of a deed to any Lot, acknowledges and agrees that neither the Owner nor the Owners successors in interest, by purchasing and acquiring title to a Lot, shall acquire any right, license, easement, title, membership or other interest in or to use of the Golf Course or amenities developed on or provided in connection with the Golf Course. The Association has no legal or equitable interest in the Golf Course and the Golf Course is not part of the Common Property. Any such use and enjoyment of the Golf Course is not connected with nor based upon ownership of a Lot. The Golf Course Owner has the sole and exclusive right to establish, from time to time, the terms and conditions of use of the Golf Course.

MASON: Vorys Box

CONVEYANCE TAX  
EXEMPT  
*JW*  
JOSEPH W. TESTA  
FRANKLIN COUNTY AUDITOR

TRANSFER  
NOT NECESSARY  
AUG 28 1995  
JOSEPH W. TESTA  
AUDITOR  
FRANKLIN COUNTY, OHIO



33947A01

3 10 PM

TIME \_\_\_\_\_ M  
RECORDER FRANKLIN CO., OHIO

**THIRD SUPPLEMENT TO  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR HERITAGE LAKES**

DEC 27 1996

RICHARD B. METCALF, RECORDER

RECORDER'S FEE 40<sup>00</sup>

This Third Supplement to the Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Third Supplement") is executed and delivered this 15<sup>th</sup> day of December, 1996 by Planned Development Company of Ohio, an Ohio corporation ("Declarant").

**BACKGROUND**

**209730**

A. A plan of covenants, easements, restrictions and assessments for Heritage Lakes in the City of Hilliard, Franklin County, Ohio, was created by a declaration thereof recorded in Official Records 25447-D07, Recorder's Office, Franklin County, Ohio (the "Public Records"), as amended by that certain First Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "First Supplement"), recorded in Official Records 27798-D03 of the Public Records, as further amended by that certain Second Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Second Supplement"), recorded in Official Records 29871-H04 of the Public Records (collectively, the "Declaration"; unless otherwise defined in this Third Supplement, all capitalized terms and phrases contained in this Third Supplement shall have the same meanings as ascribed to each in the Declaration).

B. Pursuant to the provisions of Section 2.2 of the Declaration, Declarant reserved the right to subject additional property to the provisions of the Declaration.

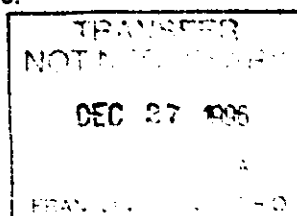
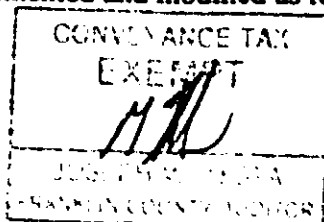
C. Pursuant to the provisions of Section 9.1 of the Declaration, Declarant reserved the right to amend the Declaration.

D. Declarant desires by this Third Supplement to subject the following described property to the provisions of the Declaration and to otherwise amend the Declaration as more particularly provided in this Third Supplement.

NOW THEREFORE, Declarant thereby declares that:

1. Addition to Property. The approximate 2.144 acre tract of real property more particularly described in Exhibit A to this Third Supplement, all of which is owned by Declarant, shall be held, transferred, sold, conveyed, improved and occupied subject to all of the covenants, conditions and restrictions set forth in the Declaration and such property shall be and hereby is deemed part of the Property and, for purposes of the Declaration, a Lot.

2. Definitions. Article I of the Declaration, titled "Definitions," is hereby amended, supplemented and modified as follows:



Centre of the Earth, Inc. Box  
118 E. State Street  
PO Box 19003  
Columbus, OH 43216

a. Lot. Section 1.24 of the Declaration is hereby amended by deleting this section in its entirety and substituting the following in lieu thereof:

Section 1.24. A Lot shall mean a portion of the Property designated by metes and bounds description and/or on a Plat as a separate building lot and containing a separate tax identification number, and shall include both Developed Lots and Undeveloped Lots.

b. Common Property. Section 1.12 of the Declaration is hereby amended by deleting this Section in its entirety and substituting the following in lieu thereof:

Section 1.12. Common Property shall mean all portions of the Property (including any Scenic Common Property) that are intended for the common use and enjoyment of Members (e.g., the entryway to Heritage Lakes and the amenities related thereto) including, without limitation, the entryway fences, walls, ponds, signs, irrigation system and landscaping (including the red maple trees planted between the curb and sidewalk along Heritage Lakes Drive between Alton-Darby Road and the intersection of Heritage View Court and Heritage Point Court) and which are identified as Common Property by the Association and/or Declarant or which are dedicated to the Association on a Plat of Heritage Lakes or which are conveyed by Declarant to the Association, together with all personal property related thereto, and all real and personal property that may subsequently be acquired by the Association for the common use and enjoyment of the Members.

c. Scenic Common Property. Article I of the Declaration is further amended by adding the following new Sections 1.37, 1.38 and 1.39 to such Article:

Section 1.37. Scenic Common Property shall mean any portion of the Common Property designated as Scenic Common Property in this Declaration, by Declarant or by the Association.

Section 1.38. Scenic Common Area shall mean that area more particularly described on Exhibit B to this Declaration.

Section 1.39. Scenic Common Area Easement shall mean the easement reserved by Declarant over, through and under the Scenic Common Area, for the benefit of Declarant and the Association, in Section 6.6 of this Declaration.

3. Scenic Common Area. Article IV of the Declaration, titled "Common Property," is hereby amended by adding the following new Section 4.5 to such Article:

Section 4.5. Scenic Common Property and Area.

Any Scenic Common Property shall be maintained by the Association as provided in Section 4.3 of this Declaration. However; and notwithstanding any contrary provision in this Declaration, Members shall not be entitled to any access over or use of any such Scenic Common Property. The lakes, waterfalls, stonework, fencing, utilities and related landscape and site improvements located in the Scenic Common Area, all of which is Common Property under this Declaration, shall be deemed Scenic Common Property.

4. Scenic Common Area Easement. Article VI of the Declaration, titled "Easements, Rights of Entry," is hereby amended by adding the following new Section 6.6 to such Article:

Section 6.6. Scenic Common Area Easement. Declarant reserves to itself and to the Association a perpetual easement in, through, under and over the Scenic Common Area. No Improvements shall be placed or permitted to remain within the Scenic Common Area unless such Improvements have been installed by Declarant and/or the Association or approved in accordance with the terms of this Declaration.

5. Exhibits. The Declaration is further amended by adding to the Declaration as Exhibit B the legal description attached to this Third Supplement as Exhibit B.

6. Ratification of Declaration. Except as amended, supplemented and modified by the First Supplement, the Second Supplement and this Third Supplement, Declarant hereby ratifies and affirms the Declaration.

IN WITNESS WHEREOF, this Third Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes has been duly signed, acknowledged and delivered by Declarant as of the date set forth above.

Signed and acknowledged in the presence of the following two witnesses:

Paula H. O'Brien  
(signature of witness #1)

PAULA H. O'BRIEN  
(printed name of witness #1)

J. Thomas Wilson  
(signature of witness #2)

J. THOMAS WILSON  
(printed name of witness #2)

Planned Development Company of Ohio,  
an Ohio corporation

By: Daniel M. O'Brien  
Daniel M. O'Brien, President



STATE OF OHIO )  
 ) SS:  
COUNTY OF FRANKLIN )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of December, 1996 by Daniel M. O'Brien, President of Planned Development Company of Ohio, an Ohio corporation, on behalf of the corporation.

J. Thomas Mason  
Notary Public



J. THOMAS MASON, Attorney-At Law  
NOTARY PUBLIC, STATE OF OHIO  
My commission has no expiration date  
Section 147.03 R.C.

This Instrument Prepared by  
and After Recording Return to:

J. Thomas Mason, Esq.  
Vorys, Sater, Seymour and Pease  
52 East Gay Street  
Post Office Box 1008  
Columbus, Ohio 43216-1008

EXHIBIT "A"  
DESCRIPTION OF  
2.144 ACRES  
HERITAGE LAKES

Situate in the State of Ohio, County of Franklin, City of Hilliard, being in Virginia Military Survey No. 6638 and being a part of the original 53.723 acre tract (Parcel 1) and all of the 1.033 acre tract (Parcel 2) "Life Estate", conveyed to Planned Development Company of Ohio by deed of record in O.R. 16324J09, records of the Recorder's Office, Franklin County, Ohio and being more particularly described as follows;

Beginning for reference at the point of intersection of the centerline of Heritage Lakes Drive with the centerline of Alton-Darby Creek Road as established by the Franklin County Engineer;

Thence S 89° 58' 29" W, a distance of 6.31 feet, along the centerline of Heritage Lakes Drive to a point in the centerline of Alton-Darby Creek Road as established by the record plat of "HERITAGE LAKES, SECTION 1", of record in Plat Book 79, Page 42;

Thence S 00° 01' 31" E, a distance of 81.03 feet, along the said centerline as established by Plat Book 79, Page 42, to a railroad spike found at a southwesterly corner of said "HERITAGE LAKES, SECTION 1" and being the point of true beginning for the herein described tract;

Thence N 89° 58' 29" E, a distance of 40.00 feet, to an iron pin set at a point of curvature in the southerly right-of-way line of said Heritage Lakes Drive;

Thence the following three (3) courses and distances along the southerly right-of-way line of Heritage Lakes Drive:

- (1) Thence along a curve to the right having a radius of 41.03 feet, a central angle of 90° 00' 00" the chord to which bears N 44° 58' 29" E, a chord distance of 58.03 feet, to an iron pin set at a point of curvature;
- (2) Thence N 89° 58' 29" E, a distance of 328.97 feet, to an iron pin set at a point of curvature;
- (3) Thence along a curve to the left having a radius of 360.00 feet, a central angle of 24° 02' 58" the chord to which bears N 77° 57' 00" E, a chord distance of 150.00 feet, to an iron pin set at a corner to the 26.852 acre tract (Parcel 1) conveyed to Hilliard Lakes Golf Club by deed of record in O.R. 20271C03;

Thence S 29° 38' 11" W, a distance of 260.13 feet, along the westerly line of said 26.852 acre tract to an iron pin set;

Thence S 89° 58' 29" W, a distance of 427.98 feet, across the said original 53.723 acre tract to a P.K. nail set in the westerly line of the said original 53.723 acre tract;

Thence N 00° 01' 31" W, a distance of 153.76 feet, along the westerly line of said original 53.723 acre tract and centerline of Alton-Darby Creek Road (as established by said deed of record in O.R. 16324J09), to the point of true beginning, containing 2.144 acres, more or less.

The bearings shown in the above description were based on the bearing of N 89° 58' 29"E, for the centerline of Heritage Lakes Drive, as delineated on the record plat of "HERITAGE LAKES, SECTION 1", of record in Plat Book 79, Page 42.

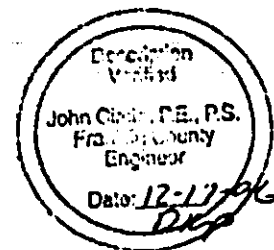


R. D. ZANDE & ASSOCIATES, INC.

*[Handwritten Signature]*  
Registered Surveyor No. 6096

LP/tp3432D-D.001  
December 10, 1996

O-62-A  
2.144 AC.  
SPLIT FROM  
(050)-6127



Approved by Planning & Zoning Commission,  
Hilliard, Ohio. This approval does not Supercede  
any deed covenant or condition which imposes  
a greater restriction.

*[Handwritten Signature]*  
City Clerk

## SCENIC COMMON AREA EASEMENT

Situate in the State of Ohio, County of Franklin, City of Hilliard being in Virginia Military Survey Number 6638 and being a strip of land on, over and across the original 53.723 acre tract (Parcel 1) conveyed to Planned Development Company of Ohio by deed of record in O.R. 16324J09, records of the Recorder's Office, Franklin County, Ohio and being more particularly described as follows:

Beginning for reference at the point of intersection of the centerline of Alton-Darby Creek Road with the centerline of Heritage Lakes Drive as shown and delineated on the record plat of "HERITAGE LAKES, SECTION 1", of record in Plat Book 79, Page 42;

Thence N 89° 58' 29" E, a distance of 81.03 feet, along the centerline of Heritage Lakes Drive to a point;

Thence S 00° 01' 31" E, a distance of 40.00 feet, to a point in the southerly right-of-way line of Heritage Lakes Drive and being the point of true beginning for the herein described easement;

Thence N 89° 58' 29" E, a distance of 328.97 feet along the southerly right-of-way line of Heritage Lakes Drive to a point of curvature;

Thence continuing along the southerly right-of-way line of Heritage Lakes Drive with a curve to the left having a radius of 360.00 feet, a central angle of 24° 02' 58", the chord to which bears N 77° 57' 00" E, a chord distance of 150.00 feet to a point in the 26.852 acre tract (Parcel 1) conveyed to Hilliard Lakes Golf Club Limited Partnership by deed of record in O.R. 20271C03;

Thence S 32° 34' 43" W, a distance of 216.05 feet, along the westerly line of said 26.852 acre tract, to a point;

Thence the following seven (7) courses and distances across the said Planned Development Company of Ohio tract:

1. Thence S 89° 58' 29" W, a distance of 118.31 feet, to a point;
2. Thence N 38° 17' 49" W, a distance of 83.59 feet, to a point;
3. Thence S 89° 13' 20" W, a distance of 96.68 feet, to a point;
4. Thence N 00° 27' 34" E, a distance of 24.54 feet, to a point;
5. Thence N 88° 30' 48" W, a distance of 8.33 feet, to a point;

33947A03

6. Thence N 89° 40' 30" W, a distance of 125.43 feet, to a point in the proposed easterly right-of-way line of Alton-Darby Creek Road;
7. Thence N 00° 01' 31" W, a distance of 19.85 feet, along the said proposed right-of-way line to a point of curvature in the southerly right-of-way line of Heritage Lakes Drive;

Thence along said right-of-way line with a curve to the right having a radius of 41.03 feet, a central angle of 90° 00' 00", the chord to which bears N 44° 58' 29" E, a chord distance of 58.03 feet, to the point of true beginning.

**R. D. ZANDE & ASSOCIATES, INC.**

MM:tp/3432A-D.005  
December 11, 1996



Instr: 199708050062963 08/05/1997  
 Pages: 2 Fee: \$16.00 11:29AM  
 Richard B. Metcalf T19970031250  
 Franklin County Recorder BXCENTRAL

**FOURTH SUPPLEMENT TO  
 DECLARATION OF COVENANTS, CONDITIONS  
 AND RESTRICTIONS FOR HERITAGE LAKES**

This Fourth Supplement to the Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Fourth Supplement") is executed and delivered this 29<sup>th</sup> day of July, 1997 by Planned Development Company of Ohio, an Ohio corporation ("Declarant").

**BACKGROUND**

A. A plan of covenants, easements, restrictions and assessments for Heritage Lakes in the City of Hilliard, Franklin County, Ohio, was created by a declaration thereof recorded in Official Records 25447-D07, Recorder's Office, Franklin County, Ohio (the "Public Records"); as amended by that certain First Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "First Supplement"), recorded in Official Records 27798-D03 of the Public Records; as further amended by that certain Second Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Second Supplement"), recorded in Official Records 29871-H04 of the Public Records; as further amended by that certain Third Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Third Supplement"), recorded in Official Records 33947,A01 of the Public Records (collectively, the "Declaration"; unless otherwise defined in this Fourth Supplement, all capitalized terms and phrases contained in this Fourth Supplement shall have the same meanings as ascribed to each in the Declaration).


B. Pursuant to the provisions of Section 2.2 of the Declaration, Declarant reserved the right to subject additional property to the provisions of the Declaration.

C. Declarant desires by this Fourth Supplement to subject the following described property to the provisions of the Declaration.

1. **Addition to Property.** Declarant thereby declares that the following described real estate:

Situated in the State of Ohio, County of Franklin and City of Hilliard, and known as Lots 105 through 147, both inclusive, of HERITAGE LAKES Section 2, Phase 2, as the same are numbered and delineated on the plat thereof in Plat Book 86, pages 80, 81 and 82, Recorder's Office, Franklin County, Ohio

all of which are owned by Declarant, shall be held, transferred, sold, conveyed, improved and occupied subject to all of the covenants, conditions and restrictions set forth in the Declaration and such property shall be and hereby is deemed part of the Property

CONVEYANCE TAX EXEMPT  JOSEPH W. TESTA FRANKLIN COUNTY AUDITOR
---

TRANSFER NOT NECESSARY <b>AUG 5 1997</b> JOSEPH W. TESTA AUDITOR FRANKLIN COUNTY, OHIO
---

Central City Title Agency, Inc. *Book*  
 178 E. State Street  
 P.O. Box 1008  
 Columbus, Ohio 43216



970929007

Instr: 199709290104667 09/29/1997  
Pages: 3 Fee: \$20.00 2:50PM  
Richard B. Metcalf T19970053076  
Franklin County Recorder BXCENTRAL

FIFTH SUPPLEMENT TO

DECLARATION OF COVENANTS, CONDITIONS

AND RESTRICTIONS FOR HERITAGE LAKES

This Fifth Supplement to the Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Fifth Supplement") is executed and delivered this 19<sup>th</sup> day of September, 1997 by Planned Development Company of Ohio, an Ohio corporation ("Declarant").

BACKGROUND

A. A plan of covenants, easements, restrictions and assessments for Heritage Lakes in the City of Hilliard, Franklin County, Ohio, was created by a declaration thereof recorded in Official Records 25447-D07, Recorder's Office, Franklin County, Ohio (the "Public Records"); as amended by that certain First Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "First Supplement"), recorded in Official Records 27798-D03 of the Public Records; as further amended by that certain Second Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Second Supplement"), recorded in Official Records 29871-H04 of the Public Records; as further amended by that certain Third Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Third Supplement"), recorded in Official Records 33947,A01 of the Public Records; as further amended by that certain Fourth Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Fourth Supplement"), recorded as Instrument Number 199708050062963 in the Public Records (collectively, the "Declaration"; unless otherwise defined in this Fifth Supplement, all capitalized terms and phrases contained in this Fifth Supplement shall have the same meanings as ascribed to each in the Declaration).

B. Pursuant to the provisions of Section 2.2 of the Declaration, Declarant reserved the right to subject additional property to the provisions of the Declaration.

C. Pursuant to the provisions of Section 9.1 of the Declaration, Declarant reserved the right to amend the Declaration.

D. Declarant desires by this Fifth Supplement to subject the following described property to the provisions of the Declaration and to otherwise amend the Declaration as more particularly provided in this Fifth Supplement.

DECLARATION

1. Addition to Property. Declarant thereby declares that the following described real estate:

CONVEYANCE TAX  
EXEMPT  
*[Signature]*  
JOSEPH W. TESTA  
FRANKLIN COUNTY AUDITOR

TRANSACTION  
NOT NECESSARY  
SEP 29 1997  
JOSEPH W. TESTA  
AUDITOR  
FRANKLIN COUNTY, OHIO

Central City Title Agency, Inc.  
10000 Hilliard Rd.  
Hilliard, Ohio 43026



Situated in the State of Ohio, County of Franklin and City of Hilliard, and known as Lots 202 through 224, both inclusive, of **FAIRWAY COMMONS AT HERITAGE LAKES**, as the same are numbered and delineated on the plat thereof in Plat Book 87, page(s) 24, Recorder's Office, Franklin County, Ohio; **EXCEPTING THEREFROM** those two strips of land conveyed by Declarant to Franklin County, Ohio for right-of-way purposes pursuant to that certain Quitclaim Deed recorded in the Public Records on September 29, 1997 as Instrument Number \* ; \*199709290104664

all of which property ("Fairway Commons") is owned by Declarant, shall be held, transferred, sold, conveyed, improved and occupied subject to all of the covenants, conditions and restrictions set forth in the Declaration and such property shall be and hereby is deemed part of the Property.

2. Common Property. The islands located within the two cul-de-sacs forming a part of Fairway Commons Drive (located on the Plat described in ¶1 of this Fifth Supplement) shall be deemed "Common Property," as that term is defined in §1.12 of the Declaration.

3. Clarification of Article VI. The Second Supplement and Third Supplement each added a new Section 6.6 to the Declaration. As such, Article VI of the Declaration, titled "Easements, Rights of Entry," is hereby clarified and amended by: (i) maintaining the amendment to this Article created by the Second Amendment as Section 6.6 of the Declaration (titled "No Rights in Golf Course"), and (ii) adding a new Section 6.7 to such Article, the contents of which shall be the Scenic Common Area Easement described in ¶4 of the Third Supplement (titled "Scenic Common Area Easement").

4. Additional Easements. Article VI of the Declaration is hereby further amended by adding the following new Section 6.8 to such Article:

Section 6.8 Fence and Landscape Easement. Declarant reserves to itself, the Association and to the Golf Course Owner a perpetual easement for the construction, maintenance, repair and replacement of fencing and landscaping in, through, under and over: (i) a 20' strip of land on Lots 215 through 224, both inclusive, of Fairway Commons located east of and contiguous to the western right-of-way line for Alton Darby Road for the purpose of installing, repairing, maintaining, removing and replacing Common Property including, without limitation, fencing and landscaping, and (ii) a 5' strip of land on Lots 202 and 224 of Fairway Commons located contiguous to and south of the north property line of such lots for the purpose of installing, repairing, maintaining, removing and replacing Common Property including, without limitation, fencing and landscaping.

5. Ratification of Declaration. Except as amended, supplemented and modified by the First Supplement, the Second Supplement, the Third Supplement, the Fourth Supplement and this Fifth Supplement, Declarant hereby ratifies and affirms the Declaration.

IN WITNESS WHEREOF, this Fifth Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes has been duly signed, acknowledged and delivered by Declarant as of the date set forth above.

Signed and acknowledged in the presence of the following two witnesses:

Planned Development Company of Ohio, an Ohio corporation

Thomas L. Hart

(signature of witness #1)

THOMAS L. HART

(printed name of witness #1)

Karen L. Dennis

(signature of witness #2)

KAREN L. DENNIS

(printed name of witness #2)

By: Daniel M. O'Brien  
Daniel M. O'Brien, President

STATE OF OHIO )  
 ) SS:  
COUNTY OF FRANKLIN )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of September, 1997 by Daniel M. O'Brien, President of Planned Development Company of Ohio, an Ohio corporation, on behalf of the corporation.

Karen L. Dennis  
Notary Public



KAREN L. DENNIS  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES MAY 15, 2000

This Instrument Prepared by and After Recording Return to:

J. Thomas Mason, Esq.  
Vorys, Sater, Seymour and Pease  
52 East Gay Street  
Post Office Box 1008  
Columbus, Ohio 43216-1008

**SIXTH SUPPLEMENT TO**

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR HERITAGE LAKES**

This Sixth Supplement to the Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Sixth Supplement") is executed and delivered this 11th day of December, 2002 by Planned Development Company of Ohio, an Ohio corporation ("Declarant").

BACKGROUND

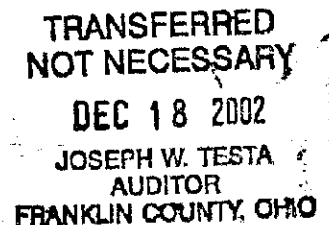
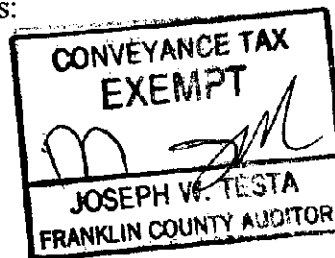
A. A plan of covenants, easements, restrictions and assessments for Heritage Lakes in the City of Hilliard, Franklin County, Ohio, was created by a declaration thereof recorded in Official Records 25447-D07, Recorder's Office, Franklin County, Ohio (the "Public Records"); as amended by that certain First Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "First Supplement"), recorded in Official Records 27798-D03 of the Public Records; as further amended by that certain Second Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Second Supplement"), recorded in Official Records 29871-H04 of the Public Records; as further amended by that certain Third Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Third Supplement"), recorded in Official Records 33947-A01 of the Public Records; as further amended by that certain Fourth Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Fourth Supplement"), recorded as Instrument Number 199708050062963 in the Public Records; as further amended by that certain Fifth Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes (the "Fifth Supplement") recorded as Instrument No. 199709290104667 in the Public Records (collectively, the "Declaration"; unless otherwise defined in this Sixth Supplement, all capitalized terms and phrases contained in this Sixth Supplement shall have the same meanings as ascribed to each in the Declaration).

B. Pursuant to the provisions of Section 9.1 of the Declaration, Declarant reserved the right to amend the Declaration.

C. Declarant desires by this Sixth Supplement to amend the Declaration to clarify certain provisions thereof as more particularly provided in this Sixth Supplement.

NOW, THEREFORE, Declarant hereby declares that:

1. Clarification of Section 13.5. In order to clarify and reaffirm that Declarant has the power and authority to subject additional property to the Declaration regardless of whether Declarant owns any Lots in Heritage Lakes, Section 13.5 of the Declaration, titled "Amendments", is hereby amended to read as follows:



“Section 13.5 AMENDMENTS. This Declaration may be amended at any time by Declarant (without the consent or approval of any Member, the Association or any other person) for the purpose of subjecting additional property to this Declaration as provided in Section 2.2 hereof, regardless of whether Declarant owns any Lot in Heritage Lakes at the time of the amendment. In addition, this Declaration may be amended at any time by Declarant as provided in Section 9.1(e) hereof without the consent or approval of any Member, the Association or any other person, but subject to the limitations set forth in Section 9.1(e). In all other instances, this Declaration may be amended in whole or in part with the approval of Members entitled to exercise not less than 75% of the voting power of all Members in the Association. Unless amended by Declarant, any such amendment shall contain a certification by the Secretary of the Association that the Members signing the amendment possess and constitute not less than 75% of the voting power of all Members in the Association. Any amendment, including an amendment by Declarant, shall become effective upon recordation thereof in the Public Records.”

2. Ratification of Declaration. Declarant hereby ratifies and affirms the Declaration, as amended, supplemented and modified by the First Supplement, the Second Supplement, the Third Supplement, the Fourth Supplement, the Fifth Supplement and this Sixth Supplement.

IN WITNESS WHEREOF, this Sixth Supplement to Declaration of Covenants, Conditions and Restrictions for Heritage Lakes has been duly signed, acknowledged and delivered by Declarant as of the date set forth above.

Planned Development Company of Ohio,  
an Ohio corporation

By: *Daniel M. O'Brien*  
Daniel M. O'Brien, President

STATE OF OHIO            )  
  ) SS:  
COUNTY OF FRANKLIN    )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of December 2002 by Daniel M. O'Brien, President of Planned Development Company of Ohio, an Ohio corporation, on behalf of the corporation.

*Paula L. O'Brien*  
Notary Public



PAULA L. O'BRIEN  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES FEB. 7, 2004

This Instrument Prepared by  
and After Recording Return to:

Gary E. Davis, Esq.  
Vorys, Sater, Seymour and Pease  
52 East Gay Street  
Post Office Box 1008  
Columbus, Ohio 43216-1008