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AMENDED AND RESTATED  
DECLARATION  
OF  
COVENANTS AND RESTRICTIONS  
FOR  
WATERFORD CROSSING SUBDIVISIONS  
Strongsville, Ohio

This Amended and Restated Declaration is made this 4<sup>th</sup> day of April, 2003, by Kingswood Group, Inc., an Ohio corporation, hereinafter called "Developer" and "Declarant".

WITNESSETH:

WHEREAS Declarant has previously imposed covenants and restrictions (the "Initial Declaration") on the Properties in accordance with a Declaration of Covenants and Restrictions, dated July 27, 1993 and recorded in Volume 93-07802, Page 6 of Cuyahoga County Records;

WHEREAS Developer was the owner of a portion of the property and is the owner of the balance of the property described in Article II of this Declaration and Developer desires to create thereon a residential community with living units therein (consisting of detached single family living units and cluster and/or condominium living units, as said number of living units and mix thereof may be adjusted from time to time as provided in Article II hereof) with permanent open spaces, easement areas and other common properties and facilities for the benefit of the said residential community; and

WHEREAS such residential community will be developed in phases over a period of years; and

WHEREAS the Developer, pursuant to the general plan of residential development and in furtherance of the desire to provide for the presentation of the values and amenities in said residential community, desires to subject the real property described in Article II, together with such additions as may hereafter be made thereto (as provided in Article II), to the covenants, restrictions, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS the Developer has deemed it desirable for the efficient preservation of the values and amenities in said residential community to create an agency to which should be delegated and assigned the power of maintaining and administering the open spaces, common properties and facilities and easement areas as set forth in Article IV hereof and administering and

enforcing the covenants and restrictions set forth herein and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS Developer has therefore caused to be incorporated under the laws of the State of Ohio, as a non-profit corporation, Waterford Crossing Homeowners' Association, for the purposes of exercising the functions aforesaid;

WHEREAS Article VII, Section 2 of the Initial Declaration authorizes modification of any of the provisions of the Initial Declaration (except as provided therein), Developer intends to modify the Initial Declaration and to substitute for it this Declaration;

WHEREAS it is the judgment of the Developer that the development or lack of development of the Properties requires the modification of the Initial Declaration by the substitution for it of this Declaration and it is the judgment of the Developer that the purposes of the general plan of development will be better served by said modification;

NOW, THEREFORE, effective on the date hereof, the Developer declares that the real property described in Article II, and such additions thereto, as may hereafter be made, pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth and further specifies that this Declaration (herein called the "Declaration") shall constitute covenants to run with the land and shall be binding upon the Developer and its successors and assigns, and all subsequent owners of all or any part of said real property, together with their grantees, successors, heirs, executors, administrators or assigns. Developer may impose a separate and additional declaration of covenants and restrictions applicable only to a Unit Cluster Parcel or a Condominium Property and create a separate ancillary homeowners' association or condominium association to enforce and administer same, but in any event this Declaration shall nevertheless be binding upon such Unit Cluster Parcel and/or Condominium Property with priority and precedence over such separate ancillary declaration. The Initial Declaration shall have no further effect after the date hereof and the provisions of this Declaration shall control with respect to all matters arising prior to the date hereof.

## ARTICLE I

### DEFINITIONS

SECTION 1. The following words, when used in this Declaration or any Supplemental Declaration (unless the context prohibits), shall have the following meanings:

(a) "Association" shall mean and refer to the Waterford Crossing Homeowners' Association which is a not-for-profit corporation under the laws of the State of Ohio.

(b) The "Properties" shall mean and refer to the property described in Article II and any additions made thereto in accordance with Article II.

(c) "Common Properties" shall mean and refer to those areas of land and improvements and facilities thereon, shown on any recorded subdivision plat of the Properties and intended to be devoted to the common use and enjoyment of all owners of the Properties. All Easement Areas and recreational facilities, unless specifically designated in writing upon any subdivision plat pertaining to such separate ancillary Declaration to be solely for the benefit of the members of such Unit Cluster Parcel or Condominium Property encumbered by said separate ancillary Declaration, shall be deemed to be Common Properties and all such recreational facilities shall be available for use by any owner of a Living Unit and by Developer.

(d) "Condominium Property" shall mean and refer to any building and related common and limited common areas which are dedicated to be a condominium project pursuant to Chapter 5311 of the Ohio Revised Code.

(e) "Condominium Unit" shall mean any Unit and its related limited common areas and its pro rata share of any common areas of a Condominium Property.

(f) "Developer" shall mean and refer to Kingswood Group, Inc. and its successors and assigns and an individual or entity to whom or to which Kingswood Group, Inc. or a successor Developer conveys all or substantially all of the real estate comprising the Properties which have not been previously conveyed and one (1) or more individuals or entities to whom or to which Kingswood Group, Inc. or a successor Developer, at any time or from time to time, assigns or conveys all or any portion of the rights and/or obligations of the Developer hereunder.

(g) "Development Period" shall mean the development of the residential community in stages, including, but not limited to, any additional properties which were added to and made a part of the Properties pursuant to Article II, with the Development Period to end on December 31, 2007.

(h) "Living Unit" shall mean and refer to any building, or any portion of a building situated upon a Lot, or any unit of Condominium Property and/or any Unit Cluster Parcel, situated within the Properties, designed and intended for use and occupancy as a residence by a single family.

(i) "Lot" shall mean and refer to any subplot (whether or not improved with a house) shown upon any recorded subdivision plat of the Properties and any sublots (whether or not improved with the house) which have been formed due to the further subdivision or consolidation of any subplot.

(j) "Member" shall mean and refer to all those Owners called members of the Association as provided in Article III, Section 1, hereof.

(k) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon the Properties, but shall not mean or refer to the mortgagee thereof unless and until such mortgagee has acquired title pursuant to foreclosure, or any proceeding in lieu of foreclosure.

(l) "Residential Community" shall include and mean the maximum number of Living Unit which may be developed upon the Properties pursuant to the provisions of Article IV, Section 1 hereof, as said number may be adjusted from time to time pursuant to Article II hereof, including, but not limited to any additional properties which may be added to or made part of the Properties, pursuant to Article II hereof.

(m) "Unit Cluster Parcel" shall mean and refer to those areas of land shown on any recorded subdivision plat of the Properties and intended to be devoted to the uses allowed by Section 1252.32 of the Codified Ordinances of the City of Strongsville, or any other successor ordinance regulating Unit Cluster Developments.

(n) "City" shall mean the City of Strongsville, a municipal corporation organized and existing under the laws of the State of Ohio. It is specifically acknowledged by all parties to these Covenants and Restrictions that the "City" is a third party beneficiary to these Covenants and Restrictions and has the same authority to administer and enforce these Covenants and Restrictions as they relate to the open spaces, Common Properties, storm sewers and swales, and other Easement Areas as more fully set out herein, as does the Association or Developer. The City, as a third-party beneficiary to these Covenants and Restrictions and by giving its approval to these documents, shall in no way be deemed to have waived any of its zoning, building or other requirements of ordinances or general law which requirements shall still be binding upon the Properties if they are more restrictive than the requirements set out within these Covenants and Restrictions.

## ARTICLE II

### PROPERTIES SUBJECT TO THE DECLARATION; ADDITIONS THERETO

#### SECTION 1. Existing Property.

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Strongsville, Ohio, includes the Waterford Crossing Subdivisions and is more particularly described in the Initial Declaration and the amendments thereto adding additional property, which are of record.

All of the aforesaid real property shall hereinafter be referred to as "Existing Property".

#### SECTION 2. Additions to Existing Property.

Additional lands may become subject to this Declaration in the following manner:

(a) Additions by the Developer With the Prior Approval of the City. The Developer, with the prior written approval of the City, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development. Nothing, however, contained herein shall bind the Developer to make any additions or to adhere to any particular plan of development.

(b) Additions by the Association with the Prior Approval of the City. The Association, with the prior written approval of the City, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development. Nothing, however, contained herein shall bind the Association to make any additions or to adhere to any particular plan of development.

(c) Any such addition shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions in a form approved by the Developer or the Association, as applicable, with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such additional property. Such Supplemental Declaration may contain such complementary additions and modifications of these Covenants and Restrictions as may be necessary to reflect the different character, if any, of the added property and as are not inconsistent with the scheme of these Covenants and Restrictions. In no event, however, shall such Supplemental Declaration revoke, modify or add to the Covenants and Restrictions established by this Declaration within the Existing Property, nor shall such instrument provide for assessment of the added property at a lower rate than that applicable to the Existing Property.

(d) Such additions shall extend the jurisdiction, functions, duties and membership of the Association to such properties. In the event of such addition, the definition of Residential Community shall be amended to include any additional Living Units to be developed in such additional property.

(e) The Association may be merged or consolidated with another Association as provided in its Articles, By-Laws or Rules and Regulations. Upon such merger or consolidation, the Association's properties, rights and obligations may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants and restrictions established by this Declaration with the Existing Property except as hereinafter provided.

Developer shall have the right to assign any and all of the rights reserved to it in this Article II.

Developer, on its own behalf as the owner of all the Existing Property, and on behalf of all subsequent owners, hereby consents to and approves, and each subsequent Owner and its mortgagee by acceptance of a deed conveying such ownership interest, as the case may be, thereby consents to and approves the provisions of this Article II, including without limitation and the generality of the foregoing, and the amendment and modification of this Declaration by Developer in the manner provided in this Article II herein and Article VII herein.

### SECTION 3. Changes in Development.

Developer reserves the right to add to or subtract from the projected number of Living Units to be developed by Developer as part of the Residential Community, and/or the mix of detached single family living units and/or Cluster Units or Condominium Units within the Residential Community. In the event of any change in the number of Living Units, the definition

of Residential Community shall be amended to reflect said change. In no event does Developer warrant, expressly or by implication, that any particular number of Living Units, more or less, will, in fact, be developed within the Existing Property and/or any addition thereto or that any particular number, more or less, of detached single family living units will be developed or that any particular number, more or less, of Cluster Units or Condominium Units will be developed, now or in the future in the Existing Property or any addition thereto.

Developer reserves the right to make such changes in the boundaries of Lots and/or Unit Cluster Parcels or Condominium Property shown on any subdivision plat, with the approval of the City, as Developer deems advisable, provided that no such change may be made if same would materially adversely affect the boundaries or the beneficial use and enjoyment of any Living Unit then owned by persons other than Developer without the written consent of such person.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

##### SECTION 1. Membership.

Each person or entity who is a record Owner of a fee or undivided fee simple interest in any Lot or Living Unit shall automatically be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the payment of money or performance of an obligation shall not be a Member. When more than one person holds such interest or interests, in any Lot or Living Unit, all such persons shall be Members, but for quorum, voting, consenting and all other rights of Membership, such persons shall collectively be counted as a single Member, and entitled to one vote for each such Lot or Living Unit, which vote for such Lot or Living Unit shall be exercised as they among themselves deem. Each such Member shall be jointly and severally liable for the payment of the assessments hereinafter provided with respect to such Lot or Living Unit.

##### SECTION 2. Voting Rights.

The Association (until the expiration of the Development Period, or until the occurrence of the event specified below, whichever event shall first occur) shall have two classes of voting Membership:

**CLASS A:** Class A Members shall be all Members (with the exception of the Developer until such time as the Developer's Class B votes are converted to Class A votes). Class A Members shall be entitled to one vote for each Lot or Living Unit owned by them.

**CLASS B:** The Class B Member shall be the Developer. The Class B Member shall be entitled to 2 votes for each Living Unit then owned by Developer and each Lot, Unit Cluster within a proposed Unit Cluster Parcel or Condominium Unit within a proposed Condominium Property then owned by Developer which constitutes a part of the Residential Community (as hereinbefore defined), provided that the Class B Membership shall cease and become converted to a Class A Membership on the happening of the following event:

When, or on the expiration of the Development Period, whichever event shall first occur, the total votes outstanding in the class A Membership equal the total votes outstanding in the Class B Membership as computed upon the basis set forth above.

From and after the happening of the said event, the Class B Member shall be deemed to be a Class A Member and entitled to one vote for each Lot or Living Unit owned by it.

SECTION 3. Articles and By-Laws of the Association.

The Articles of Incorporation and By-Laws of the Association may contain any provisions not in conflict with this Declaration or any Supplemental Declaration as are permitted to be set forth in such Articles and By-Laws by the non-profit corporation law of the State of Ohio as from time to time in effect.

ARTICLE IV

RESERVED EASEMENTS UPON THE PROPERTIES

SECTION 1. Spillway and Retention Pond.

Developer does hereby reserve the right to create easement(s) upon any one or more Lots, Unit Cluster Parcels and/or Condominium Properties for the installation and use of a spillway and retention pond for the benefit of the Properties as may be shown from time to time on any subdivision plat relating to any part of the Properties.

SECTION 2. Access Road.

Developer does hereby reserve the right to create easement(s) upon any one or more Lots, Unit Cluster Parcels and/or Condominium Properties for the construction and use of an access road to any such spillway and retention pond for the benefit of the Properties as may be shown from time to time on any subdivision plat relating to any part of the Properties.

SECTION 3. Landscaping Easement.

Developer does hereby reserve the right to create easement(s) upon any one or more Lots, Unit Cluster Parcels and/or Condominium Properties within the first ten (10) feet thereof which abuts a roadway appurtenant to any such Lot, Unit Cluster Parcel and/or Condominium Property to install and maintain landscaping for the benefit of the Properties as may be shown from time to time on any subdivision plat relating to any part of the Properties.

SECTION 4. Signage Easement.

Developer does hereby reserve the right to create easement(s) upon any one or more Lots, Unit Cluster Parcels and/or Condominium Properties within the first ten (10) feet thereof which abuts a roadway which is appurtenant to any such Lot, Unit Cluster Parcel and/or Condominium Property for the purpose of installing and maintaining signs for the benefit of the Properties and/or

the sale of any Lot or Living Unit within the Properties by Developer, as may be shown from time to time on any subdivision plat relating to any part of the Properties.

SECTION 5. Storm and Sanitary Sewer Easement Areas.

Developer has reserved and/or created and granted or may create and grant easements for the installation and maintenance of sanitary sewers, storm sewers, drainage, and swales to the City of Strongsville, all as shown on the subdivision plat to be recorded for the Subdivision. Developer does hereby reserve the right to create further easement(s) upon any one or more Lots, Unit Cluster Parcels and/or Condominium Properties for the purpose of installing and maintaining storm and sanitary sewers, drainage and swales for the benefit of the Properties as may be shown from time to time on any subdivision plat relating to any part of the Properties. No structures (including but not limited to sidewalks and driveways), plantings or other materials shall be placed or permitted to remain within such easement areas which may damage or interfere with the installation and/or maintenance of such improvements in such easement areas or which may change, retard or increase the flow of water through the respective easement areas. The easement areas and all improvements therein shall be maintained continuously by the Association unless those easement areas are accepted by the City of Strongsville and which the City of Strongsville has formally undertaken to maintain. The City of Strongsville has the right to enter upon and cross each Lot at any place that the City deems necessary in order to install or maintain, or to perform any function or operation in accordance with such easements.

SECTION 6. Public Utility Easements.

Developer does hereby reserve the right to create easement(s) upon any one or more Lots, Unit Cluster Parcels and/or Condominium Properties for the installation, use and maintenance of all utilities as Developer may determine, including, but not limited to, electrical, gas, T.V. cable, sewer and/or water service lines, all as may be shown from time to time on any subdivision plat relating to any part of the Properties. Developer does hereby reserve the right to create additional easement(s) across each Lot, Unit Cluster Parcel and/or Condominium Property for the purpose of installing a second electrical meter on any Living Unit, as Developer deems necessary, for the purpose of providing common electrical metering for lighting of signs and street lighting, and an easement to install and maintain and use such electrical lines across said Lot, Unit Cluster Parcel and/or Condominium Property to and from said electrical meter as may be shown from time to time on any subdivision plat relating to any part of the Properties.

SECTION 7. Members' Easements of Enjoyment.

Subject to the provisions of Section 9 of this Article IV, each Member or each Lessee of a Lot or Living Unit of a Member, shall have a right and easement of enjoyment in and to the Common Properties (for himself, his immediate household and guests), in common with all others entitled to use the same, and such easement shall be appurtenant to and shall pass with the title to each Lot or Living Unit. Common areas, facilities and improvements located entirely within a Unit Cluster Parcel and/or a Condominium Property which are designated in writing upon subdivision plat pertaining to such Unit Cluster Parcel or Condominium Property to be solely for the benefit of the Members of such Unit Cluster Parcel or Condominium Property shall be limited



in use and enjoyment to the Members of said separate Unit Cluster Parcel or Condominium Property.

SECTION 8. Title to Common Property.

Developer may retain the legal title to any part or all of the Common Properties until such time as all improvements to be constructed upon said Common Properties have been completed thereon, and until such time as, in the opinion of the Developer, the Association is able to maintain the same. Notwithstanding any provisions herein, the Developer hereby covenants for itself and its successors and assigns that it shall convey all of the Common Properties to the Association no later than the expiration of the Development Period. Developer, with the prior written approval of the City, retains the right to change and adjust the boundaries, location and size of any Common Properties so long as Developer is the owner of said Common Properties or until the expiration of the Development Period, whichever last occurs.

SECTION 9. Extent of Membership Easements.

The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Developer and of the Association in accordance with its Articles and By-Laws to borrow money for the purposes of improving the Common Properties and in aid thereof to mortgage said Common Properties. In the event of a default upon any such mortgage, the lender's rights thereunder shall be limited to a right, after taking possession of such Common Properties, to charge admission and other fees as a condition to continued enjoyment by the Members, and, if necessary, to open the enjoyment of such common Properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such Common Properties shall be returned to the Association and all rights of the Members thereof shall be fully restored; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

(c) The right of the Association in accordance with its Articles and By-Laws to suspend the enjoyment of the rights described above in Section 7, for any period during which the Member's assessment remains unpaid and for any infraction of its rules and regulations; and

(d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and

(e) The right of the Association to issue annual permits to non-members for the use of all or a part of the Common Properties when and upon such terms as may be determined at a meeting of the Members by the affirmative vote of Members entitled to exercise two-thirds (2/3) of the voting power of the Association; and

(f) The right of the Association to dedicate or transfer all or any part of the Common Properties to any municipality or any public agency, authority or utility for such purposes and subject to such conditions as may be determined at a meeting of the Members by the affirmative vote of Members entitled to exercise two-thirds (2/3) of the voting power of the Association,

provided that written notice shall be given to every Member at least thirty (30) days in advance of the date of such meeting stating that such a dedication or transfer will be considered at such meeting.

SECTION 10. Common Property Maintenance Obligations.

Developer, on behalf of the Association, shall maintain all common Properties until such time as all improvements to be located upon said Common Properties are installed, completed, paid for in full, and turned over or conveyed to the Homeowners' Association. Maintenance shall include, but not be limited to, painting, repairing, replacing, and caring for all appurtenances, exterior and interior building surfaces, trees, shrubs, grass areas, driveways, walls, concrete, and other improvements in and/or on the Common Properties. Developer shall be entitled to reimbursement for such maintenance costs from the assessments arising pursuant to Article V hereof. All costs of initial construction or completion of any such improvements upon any Common Properties by the Developer shall be payable solely by Developer.

SECTION 11. Association's Maintenance Obligations.

The Association shall assume the same duty to maintain all Common Properties as does the Developer, as set out in this Article, after title has been conveyed to the Association.

SECTION 12. City as Third-Party Beneficiary.

The City, as a Third-Party Beneficiary, may — although no obligation or duty to do so — compel compliance with Sections 10 and 11 of this Article as the City deems necessary by court action or any other legal means.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments.

The Developer, for each Lot with a house thereon or a Living Unit within the Properties owned by Developer and leased to or rented to another person, hereby covenants and each other Owner of any Lot or Living Unit by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

(a) An annual assessment for the continued operation, maintenance and repair of the Common Properties and for the Association's performance of its other functions and responsibilities; and

(b) An annual assessment for the continued operation, maintenance and repair of all Easement Areas, and for continued operation, maintenance and repair of the sanitary/storm sewer facilities servicing the Properties until such time, if any, as the City of Strongsville assumes the

obligation of maintenance and repair of said sanitary/storm sewer facilities and for sidewalks located on the Properties, and for the Association's performance of its other functions and responsibilities; and

(c) Special assessments for improvements or other capital expenditures, for emergency, operating, maintenance or repair costs, and for other costs and expenses not anticipated in determining the applicable annual assessment. Each assessment shall be in the same amount for each such Lot or Living Unit. Each such Lot with a house thereon or a Living Unit owned by the Developer and leased or rented to another person, and each such Lot or Living Unit owned by any other Owner, shall be subject to a lien in favor of the Association securing any and all unpaid annual and special assessments, as hereinafter provided. All annual and special assessments, together with interest thereon as hereinafter provided, shall be a charge upon such Lot or Living Unit and if not paid within thirty (30) days after their due date, the Association shall have a lien upon the Lot or Living Unit for which such assessment has not been paid. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

#### SECTION 2. Annual Assessments.

The Annual assessment shall be determined by the Trustees of the Association and levied annually by the Association prior to the date of the annual meeting of the Members, in such amounts as in its discretion shall be reasonably necessary to meet expenses anticipated during the ensuing year and to accumulate reasonable reserves for anticipated future operating or capital expenditures. At the annual meeting of the Members, the amount of the annual assessment as levied by the Trustees may be increased or decreased by the affirmative vote of Members entitled to exercise a majority of the voting power of the Association. Any builder who purchases a Lot from Developer shall have no liability to pay any general or special assessment for a period of one (1) year from the transfer of title to such Lot to such builder.

#### SECTION 3. Special Assessments.

Special assessments may be levied by the Association from time to time at a meeting of the Members by the affirmative vote of Members entitled to exercise a majority of the voting power of the Association and, if there be more than one class of membership, then by the affirmative vote of Members entitled to exercise a majority of the voting power of each class of membership, provided that written notice shall be given to each Member at least thirty (30) days in advance of the date of such meeting stating that a special assessment will be considered at and discussed at such meeting. Special assessments may, if so stated in the Resolution authorizing such assessment, be payable in installments over a period of years.

#### SECTION 4. Due Dates of Assessments; Defaults.

The due date of the annual assessments shall be January 1 in each year. The due date of any special assessment or installment thereof shall be fixed in the Resolution of the Members authorizing such assessment, and written notice of such special assessment or installment thereof shall be given to each Owner subject thereto at least sixty (60) days in advance of such due date.

If any annual or special assessment, or installment of a special assessment, is not paid within ten (10) days after the due date, such delinquent assessment or installment shall bear interest from the due date at the prime rate then being charged by Society Bank plus three percent (3%) per annum, and the Association may after such thirty (30) day period bring an action at law against the Owner responsible for the payment of such assessment, and (additionally or alternatively) may foreclose the lien against the property, and in the event a judgment is obtained, such judgment shall include interest on the assessment or installment amount as above provided, together with the costs of the action and reasonable attorneys' fees.

The Association may file in the office of the County Recorder a Notice of Lien to evidence any delinquent assessment or installment, but the Association shall not be under any duty to file such Notice of Lien and its failure or omission to do so shall not in any way impair or affect the Association's lien and other rights in and against the property and against the Owner of such property.

SECTION 5. Statement of Unpaid Assessments of Charges.

Any prospective grantee or mortgagee of a fee or undivided fee interest in a Lot or Living Unit may rely upon a written statement from the President, Vice-President or Treasurer of the Association setting forth the amount of unpaid assessments or charges with respect to such fee or undivided fee interest. In the case of a sale of any such interest, no grantee shall be liable for, nor shall the interest purchased be subject to a lien for, any unpaid assessments which became due prior to the date of such statement and which are not set forth in such statement; nor shall the membership privileges of such grantee (or his household or guests) be suspended by reason of any such unpaid assessment. In the case of the creation of any mortgage, any lien of the Association for unpaid assessments which became due prior to the date of such statement and which are not set forth in such statement shall be subordinate to such mortgage.

SECTION 6. Exempt Property.

The following property shall be exempted from the assessments and lien created herein:

- (a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- (b) The Common Properties as defined in Article I, Section 1 hereof;
- (c) All properties exempted from taxation by the laws of the State of Ohio.

Notwithstanding any provisions herein, except as otherwise specifically provided in this Article V, no Lot or Living Unit devoted to residential use shall be exempt from said assessments or liens.

SECTION 7. Association's Duty of Maintenance and Repair.

The Association shall have the duty to maintain and repair and to comply with all applicable governmental laws, ordinances and regulations pertaining to any Easement Area, including, but not limited to, the sanitary/storm sewer facilities servicing the Properties if the City of Strongsville does not assume the obligation of maintenance and repair of said sanitary/storm sewer facilities and for the Association's performance of its other functions and responsibilities.

SECTION 8. Rights of City.

After the transfer of title to the Common Properties to the Association, the City shall have the right, but not the obligation, to impose any special assessments for improvements made by the City which would otherwise be a lien on the Common Properties, on the Living Units within the Properties or the real property on which said Living Units are located, on an equitable basis to be determined by the City.

ARTICLE VI

PROTECTIVE COVENANTS

SECTION 1. Land Use.

No industry, business, trade, occupation or profession of any kind whether for commercial, religious, educational, charitable, or other purposes shall be conducted, maintained or permitted on any Lot or in any Living Unit except such as may be permitted by the Association, and except that:

(a) The Developer may perform or cause to be performed such work and conduct such activities as are incident to the completion of the development and construction of the Properties, and to the sale or lease of Lots or Living Units, including but not limited to the maintaining of model houses, and sales offices by the Developer; nothing herein contained shall restrict the right of the Developer to delegate or assign its rights hereunder to an authorized builder, building company or other person, firm or entity; and

(b) An Owner, the Association, or its agent or representative may perform or cause to be performed any maintenance, repair or remodeling work with respect to any Lot or Living Unit; and

(c) Any business, trade, occupation or profession (the conduct of which does not violate any ordinance of the City), provided, however, that the business, trade, occupation or profession does not involve visits by business invitees to the Lot or Living Unit and does not involve any activities outside of the Living Unit and does not involve any activities (except for deliveries by the United States Postal Service or United Parcel Service or Federal Express or similar delivery services) or any thing visible outside of the Living Unit and does not involve any sounds, vibrations or odors noticeable outside of the Living Unit.

SECTION 2. Architectural Control.

(a) No building, fence, wall or other structure shall be commenced, erected or maintained upon any lot or living unit except by the developer, or its authorized builder of building company or except as hereinafter provided.

No exterior addition to or change or alteration therein shall be made until the plans and specifications showing the nature, kind, shape, heights, materials and location of the same (the "Plans") have been submitted to and approved in writing as to harmony or external design and location in relation to surrounding structure and topography by the Board of Trustees of the Association, or by an Architectural Review Committee composed of three (3) or more representatives appointed by the Board. Notwithstanding anything to the contrary herein, no Lot shall be architecturally approved with a detached single family house if such detached single family house to be constructed thereon has less than 2,000 square feet of living area for a one-story home and 2,100 square feet for a home in excess of one story and in any event, all one-story home and 2,100 square feet for a home in excess of one story and in any event, all one-story detached single family homes must have a minimum of 6/12 roof pitch. Said Plans must be submitted, together with the completed Architectural Review Committee Approval Application, as to exterior color, materials used, front door selection, roof color and garage door design, etc. No such limitations contained herein shall be applicable to Unit Cluster Parcels or Condominium Properties. In the event the Board of Trustees or the Architectural Review Committee or the Developer, whichever then has authority, fails to approve or disapprove such design and location within thirty (30) days after said Plans have been submitted to it, the request shall be deemed to have been denied and the Plans disapproved.

Neither Developer, the Association, the Board of Trustees nor the Architectural Review Committee shall bear any responsibility of ensuring the marketability, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither developer, the Association, the Board of Trustees, the Architectural Review Committee, nor member of nay of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any dwelling or other structure.

As an additional requirement, antennas, defined as any device used for reception of video programming services, including direct broadcast satellite (DBS), television broadcast, and multi-print distribution service (MDS), a reception antenna that has limited transmission capability designed for the viewer to select or use video programming provided it meets Federal Communications Commission standards for radio frequency emission, may be installed only as permitted through antenna rules, authorized through this paragraph adopted by the Board of Trustees. The antenna rules shall be enforced in the same manner as the Covenants and Restrictions of the Declaration are enforced.

Notwithstanding any contrary provision to these Covenants and Restrictions, any restriction of the items described in this paragraph by these Covenants and Restrictions or by any rules of the Board of Trustees shall not be more restrictive than permitted under any Federal statute or any rule of the Federal Communications Commission.

(b) Not in limitation of the foregoing, the Architectural Review Committee may, but is not obligated to, approve screening improvements (only on property lines and with such dimensions and designs and constructed of such materials as it deems appropriate, which do not enclose any area) on Lots, on Common Properties or on Unit Cluster Parcels which are adjacent to real estate which is not subject to these covenants and restrictions.

SECTION 3. Nuisances.

No noxious or offensive activity shall be carried on or upon any Lot or Living Unit nor shall anything be done thereon or therein, either willfully or negligently which may be or become an annoyance or nuisance to any other Lot or Living Unit.

SECTION 4. Accessory or Detached Structures.

No temporary or permanent buildings or structures (including, without limitation, tents, shacks, and storage sheds) shall be erected or placed upon any Lot or Living Unit without the prior approval of the Board of Trustees of the Association. No such building or structure nor any trailer, basement, tent, shack, garage, barn or other building shall be used on any Lot or Living Unit at any time as a residence either temporarily or permanently. Nothing herein contained shall prohibit the erection and maintenance of temporary structures as approved by the Developer incident to the development and construction of the Properties.

SECTION 5. Garage and Parking Facilities.

Every detached single-family residence shall include or have provided for it, on the Lot or Living Unit on which it is located, an attached garage sufficient to store at least one full-size automobile, and an accessory paved driveway; and no such garage shall be converted by alteration or use so as to diminish its area below that required for such purpose unless in conjunction with such conversion a garage with equivalent space is provided and approved under the provisions of Section 2 of this Article VI.

SECTION 6. Storage and Parking of Vehicles.

No commercial vehicle, truck, tractor, mobile home or trailer (either with or without wheels) or any other transportation device of any kind except as hereinafter provided for shall be stored or kept within the Properties. Automobiles may be stored in a garage. If an automobile is then registered with the Ohio Bureau of Motor Vehicles and is without governmental, commercial or not-for-profit agency logos, lettering or other symbols or designs, the automobile may be parked in a driveway when incidental to the residential use of the Lot or Living Unit to which the driveway is attached. Boats and travel trailers when incidental to the residential use of any Owner may be stored in a garage upon the Lot or Living Unit to which the garage is attached. Commercial, governmental or not-for-profit agency vehicles of any nature may be stored or parked in a garage when incidental to the residential use of the Lot or Living Unit to which the garage is attached. "Automobiles" shall include light trucks having a load capacity of less than 1.5 tons.

Subject to the Rules of the Association, vehicles otherwise permitted to be parked within visitor or guest parking spaces shall not be parked within any guest or visitor parking spaces anywhere within the Common Properties for more than three (3) consecutive days no more often than three (3) times per calendar year; provided, however, that this restriction shall not apply with respect to any Condominium Property or Unit Cluster Parcel, the restrictions applicable to which address the use of visitor or guest parking spaces.

SECTION 7. Signs.

No signs of any kind shall be displayed to the public view by the Owner on any Lot or Living Unit except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by the Developer or authorized by Developer to advertise the Property during the construction and sales periods for such Lot.

SECTION 8. Oil and Mining Operations.

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot or Living Unit nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or Living Unit. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or Living Unit.

SECTION 9. Livestock, Poultry, Exotic and Other Animals.

No animals or birds of any kind shall be raised, bred or kept on any Lot or Living Unit except that dogs, cats and other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes nor permitted to cause or create a nuisance or disturbance.

SECTION 10. Garbage and Refuse.

No Owner or Occupant of any Lot or Living Unit shall deposit or leave garbage, waste, putrid substances, junk or other waste materials on any Lot, Living Unit or on any Common Properties or on any public street or other public property or in any lake, pond or water course nor permit any other person to deposit any of such materials on any property owned by, or in the possession of, such Owner or Occupant. An Owner or Occupant of any Lot or Living Unit may keep such garbage and refuse as shall necessarily accumulate from the last garbage and rubbish collection provided any such garbage is kept in sanitary containers which shall be subject to regulation by the Association, which containers and refuse, except on the day scheduled for garbage and rubbish collection, shall be kept from public view.

As used in this Section 10, "waste material" shall mean any material which has been discarded or abandoned or any material no longer in use; and without limiting the generality of the foregoing, shall include junk, waste boxes, cartons, plastic or wood scraps or shavings, waste paper and paper products and other combustible materials or substances no longer in use, or if unused, those discarded or abandoned; metal or ceramic scraps or pieces of all types, glass or other non-combustible materials or substances no longer in use, or if unused, those discarded or



abandoned; and machinery, appliances or equipment or parts thereof no longer in use, or if unused, those discarded or abandoned.

As used in this Section 10, "junk" shall mean abandoned, inoperable, partially dismantled or wrecked vehicles of any kind, whether motor vehicle, automobile, motorcycle, emergency vehicle, school bus, bicycle, commercial tractor, agricultural tractor, house trailer, truck, bus, trailer, semitrailer, pole trailer, railroad train, railroad car, street car or trackless trolley, aircraft, lighter-than-air-craft, watercraft or any other form of device for the transportation of persons or property; and without limiting the generality of the foregoing, with respect to any automobile or other transportation device of any kind the operation of which requires issuance of a license by the United States Government or any agency thereof or by the State of Ohio or any agency or political subdivision thereof, any such automobile or other transportation device shall be deemed to be junk unless a current valid license has been issued for the operation of such automobile or other transportation device and (if required by law) is displayed upon such automobile or other transportation device.

SECTION 11. Mowing.

The Owner of each Lot shall mow or cause to be mowed all grass or other vegetation thereon, except decorative landscaping, ground cover and garden plants, to a height not exceeding four inches.

SECTION 12. Sight Distance at Intersections.

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot or Living Unit within the triangular area formed by the street property lines and a line connecting them at points fifteen (15) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitation shall apply on any Lot or Living Unit within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

SECTION 13. Land Near Parks and Water Courses.

No building shall be placed nor shall any material or refuse be placed or stored on any Lot or Living Unit within twenty (20) feet of the property line or any park or edge of any open water course, except that clean fill may be placed nearer provided that the natural water course is not altered or blocked by such fill.

SECTION 14. Exterior Maintenance.

The Owner of each Lot or Living Unit shall provide reasonable exterior maintenance or replacement upon each such Lot or Living Unit as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, drains, catch basins, sewers, traps, driveways, sidewalks and all other exterior improvements.

#### SECTION 15. Easements.

Easements for installation and maintenance of utilities and drainage facilities are reserved in favor of the Developer until the expiration of the Development Period, and thereafter in favor of the Association, over the rear ten (10) feet of each Lot and where required on each Unit Cluster Parcel or Condominium Property within the Properties. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels or which may obstruct or retard the flow of water through Drainage channels. The Easement Area of each Lot and Unit Cluster Parcel and all improvements therein shall be maintained continuously by the Owner thereof except for those improvements therein for which a public authority or public utility is responsible. The Developer, until the expiration of the Development Period, and thereafter, the Association shall be empowered to assign such easements to the municipality or to the appropriate public authorities or public utilities. Such easements shall entitle the holder thereof to enter upon and across each Lot or Unit Cluster Parcel or Condominium Property at any place as required in order to make any such installation or maintenance within the easement.

#### SECTION 16. Lawn Ornaments and Lighting.

Notwithstanding any contrary provisions of this Declaration, no more than three (3) lawn ornaments may be located on a Lot and no lawn ornaments may be located within fifteen (15) feet of any boundary of a Lot and no lawn ornament may be greater than three (3) feet high nor more than three (3) feet wide nor more than three (3) feet deep.

A "lawn ornament" shall include statues, ornaments, and all other objects and structures (except for buildings authorized pursuant to this Declaration and approved by the Developer or the Association, (whichever has approval authority) and except for landscaping installed by the Developer or the Association. Unless installed by the Developer or the Association, no mechanical devices, electronic devices, lights, or illuminated or self-illuminated objects may be located at any time on a Lot, outside of a Living Unit, except for traditional holiday lighting and illuminated or self-illuminated decorations that may be located on a Lot from November 15 through January 31 and decorative landscaping illumination that may be located in landscape areas year round.

#### SECTION 17. Post Lamps.

Notwithstanding any provision to the contrary in the Declaration, as amended, each Home Site Owner shall be solely and exclusively responsible for all repair, replacement and maintenance of the post lamp located within the Lot, or, in the event the post lamp is not located within the Home Site Owner's Lot, the post lamp that serves the Lot regardless whether the post lamp is in an area otherwise dedicated as Common Property.

#### SECTION 18. Driveways.

Notwithstanding any provision to the contrary in the Declaration, as amended, each Home Unit Owner shall be solely and exclusively responsible for any and all repair, replacement and

maintenance of the driveway located within the owner's Home Site and the extension of the driveway located on Common Property.

SECTION 19. Irrigation Systems.

Notwithstanding any provision to the contrary in the Declaration, as amended, each Home Site Owner shall be solely and exclusively responsible for all repair, replacement and maintenance of any irrigation system installed by the Home Site Owner (or a predecessor in title to the Home Site Owner) within the Home Site Owner's Lot and any extension of said irrigation system on Common Property. The foregoing provisions shall not be deemed to authorize the installation or extension of an irrigation system on Common Property.

SECTION 20. Electric Fences and Pet Control Devices.

Not in limitation of any other prohibition, no electrified fence (whether above or below ground) or other pet control devices, herein called "Electric Fences", may be installed or maintained on any Lot except in the portion of the Lot between the rear wall of the Living Unit and the rear boundary of the Lot and if the entire Electric Fence and all related appliances are underground or located within the Living Unit. The term "Electric Fences" shall include, but not be limited to, any fence or other appliances or improvements intended for the purpose of restraining animals or the demarcation of an area to which pets are or are intended to be restricted.

SECTION 21. Correction by Association of Breach of Covenant.

If the Board of Trustees of the Association, after giving reasonable notice to the Owner of the Lot or Living Unit, Unit Cluster Parcel or Condominium Property involved and reasonable opportunity for such owner to be heard, determines by the affirmative vote of three-fourths (3/4) of the authorized number of Trustees that a breach of any protective covenant has occurred and that it is necessary in order to prevent material deterioration of neighborhood property values that the Association correct such breach, then after giving such Owner notice of such determination by certified mail, the Association, through its duly authorized agents or employees, shall enter upon the Lot or Living Unit, Unit Cluster Parcel or Condominium Property involved and correct such breach of covenant by reasonable means. The cost of such correction of a breach of covenant shall be assessed against the Lot or Living Unit, Unit Cluster Parcel or Condominium Property upon which such corrective work is done, and shall become a lien upon such Lot or Living Unit, Unit Cluster Parcel or Condominium Property and the obligation of the Owner thereof, and immediately due and payable, in all respects as provided in Article V hereof.

Any Owner of a Lot or Living Unit, Unit Cluster Parcel or Condominium Property affected by such a determination of the Trustees to correct a breach of covenant may, within ten (10) days after the date of the mailing of the certified mail notice of such determination, appeal such determination to the membership by sending a Notice of Appeal to the President or Secretary of the Association by registered or certified mail at the address of such officer as it appears on the records of the Association at the time of such mailing. No action shall be taken or authorized by the Association pursuant to any such determination until after ten (10) days have elapsed from the date the certified mail notice to the Owner involved was mailed, and, if Notice of Appeal has not been received by the President or Secretary (or other officer in the absence of the President or Secretary) within such ten (10) day period, then the Association may take or

authorize the taking of action pursuant to such determination; but if within such period such Notice of Appeal has been received, or if after such period but before the taking of such action a Notice of Appeal is received which has been mailed within such ten (10) day period, then no action shall be taken pursuant to such determination until such determination has been confirmed at a meeting of the Members by the affirmative vote of Members entitled to exercise a majority of the voting power of the Association, and if there be more than one class of membership, then by the affirmative vote of Members entitled to exercise a majority of the voting power of each class of membership, provided that written notice shall be given to all members at least thirty (30) days in advance of the date of such meeting, stating that such determination and Notice of Appeal will be considered at such meeting.

SECTION 22. Additional Remedies for Breach of Covenant and Restrictions.

In addition, for each day of any violation of any of the covenants hereinafter the expiration of ten (10) days written notice to the Owner of such alleged violation, there shall be due and payable by the Owner a fine of Fifty Dollars (\$50.00) and such fine shall be subject to collection and secured in the same manner as assessments not paid by the Owner under Article V hereof.

Notwithstanding any provision to the contrary, if the Association takes any action to collect any said Assessments, a Special Assessment, or to enforce the provisions of this Declaration or antenna rules or any rules of the Association, including, but not limited to an action at law, it shall be entitled to recover its reasonable costs and expenses of such action, including but not limited to attorney's fees, administrative expenses incurred by the Association and interest from the due date at the prime rate than being charged by any major bank plus three (3%) percent per annum, or such other rate as may be set by the Board of Trustees.

In addition, any Owner who is in violation of any covenant hereof or any rules of the Association, may as determined by the Board of Trustees of the Association shall be prohibited from the use of or receipt of any benefits with respect to the Common Properties or any portion thereof as determined by the Board of Trustees.

ARTICLE VII

DURATION, WAIVER AND MODIFICATION

SECTION 1. Duration and Provision for Periodic Modification.

The covenants and restrictions of this Declaration and any Supplemental Declaration shall run with the land and shall inure to the benefit of and be enforceable by and against the Association, the Developer and any other Owner and their respective legal representatives, heirs, devisees, successors and assigns until December 31, 2042, after which time, said covenants and restrictions shall be automatically renewed for successive periods of five (5) years each unless modified or canceled, effective on the last day of the then current term or renewal term, at a meeting of the Members by the affirmative vote of Members entitled to exercise three-fourths (3/4) of the voting power of the Association, provided that such meeting shall be held at least one (1) year in advance of such effective date, and written notice of such meeting shall be given to each Member at least sixty (60) days in advance of the date of such meeting, stating that such

modification or cancellation will be considered at such meeting. Promptly following the meeting at which such modification or cancellation is enacted, the President and Secretary of the Association will execute and record an instrument reciting such modification or cancellation.

SECTION 2. Modification by Developer.

Until the expiration of the Development Period, or when the total votes outstanding in the Class A Membership of the Association equal the total votes outstanding in the Class B Membership as provided in Article III, Section 2 hereof, whichever event first occurs, the Developer shall be entitled to modify any of the provisions of these covenants and restrictions or to waive any such provisions either generally or with respect to particular properties if in the judgment of the Developer, the development or lack of development of the Properties requires such modification or waiver or if in the judgment of the Developer, the purposes of the general plan of development will be better served by such modification or waiver. Promptly following any modifications of the covenants and restrictions of this Declaration adopted by the Developer, pursuant to this Section 2, the Developer shall execute and record an instrument reciting such modification. The Developer shall have the right to assign its rights hereunder.

SECTION 3. Other Modifications.

(a) The covenants and restrictions of this Declaration may be modified effective on the ninetieth (90th) day following a meeting of the Members held for such purposes by the affirmative vote of Members entitled to exercise seventy-five percent (75%) of the voting power of the Association provided that written notice shall be given to every Member at least sixty (60) days in advance of the date of such meeting stating that such modification will be considered at such meeting. Promptly following the meeting at which such modification or cancellation is enacted, the President and Secretary of the Association shall execute and record an instrument reciting such modification or cancellation.

(b) At any time and from time to time, Developer or any of one (1) or more successor Developers may assign all or any portion of the rights and/or obligations of Developer hereunder. Any such assignment shall be effective upon the filing for record of an instrument executed by the Developer making the assignment specifying the successor Developer and rights and/or obligations assigned.

SECTION 4. Duration of Common Properties Obligations.

Notwithstanding anything in these covenants and Restrictions to the contrary, the duties and obligations of either the Developer or Association, as they relate to the Common Properties and the authority to enforce these duties and obligations shall be of unlimited duration, shall be non-modifiable and shall be non-waiverable without the prior written consent of the City.

ARTICLE VIII

GENERAL PROVISIONS

SECTION 1. Notices.

Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, post paid, to the last-known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

SECTION 2. Enforcement.

Enforcement of the covenants and restrictions of this Declaration or any supplemental declaration shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, or both, and against the land to enforce any lien created by the restrictions and covenants of this Declaration, and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 3. Service Provided by Association.

The Association, in addition to its performance of the functions and responsibilities hereinabove provided for it, may, but shall not be required to, provide other services determined by the Trustees to be of general benefit or utility to the Owners of the Properties, including, without limitation, the services of refuse collection and disposal in lieu of or supplementary to municipal refuse collection and disposal, and the expense of any such service or services shall be met by the levy of assessments pursuant to Article V.

SECTION 4. Perpetuities and Restraints on Alienation.

If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of survivor of the now living descendants of Richard A. Puzzitiello, Jr.

IN WITNESS WHEREOF, Kingswood Group, Inc., has, by its authorized officer, executed this Declaration this 4th day of April, 2003.

KINGSWOOD GROUP, INC.

By: Chris A. Bender SVP

STATE OF OHIO

COUNTY OF CUYAHOGA

} SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named KINGSWOOD GROUP, INC., by and through Chris A. Bender, its authorized Sr. Vice President, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed individually and as such Officer and the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Straterville, Ohio, this 4th day of April, 2003.

Ann M. Barlow  
Notary Public

ANN M. BARLOW  
NOTARY PUBLIC -- STATE OF OHIO  
Recorded in Cuyahoga County  
My Comm. Expires Feb. 2, 2005

*This Instrument Prepared By:*  
Attorney Robert P. Ellis, Jr.  
WICKENS, HERZER, PANZA, COOK & BATISTA  
A Legal Professional Association  
35765 Chester Road  
Avon, OH 44011-1262

CUYAHOGA COUNTY RECORDER  
200304090289 PAGE 23 of 23

CUYAHOGA COUNTY  
OFFICE OF FISCAL OFFICER - 10  
DECL 3/26/2018 11:03:17 AM  
**201803260317**

AMENDMENTS TO THE  
AMENDED AND RESTATED DECLARATION OF  
COVENANTS AND RESTRICTIONS  
FOR  
WATERFORD CROSSING SUBDIVISIONS

PLEASE CROSS MARGINAL REFERENCE WITH THE AMENDED AND  
RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
WATERFORD CROSSING SUBDIVISIONS RECORDED AT INSTRUMENT NO.  
200304090289 OF THE CUYAHOGA COUNTY RECORDS.



**AMENDMENTS TO THE**  
**AMENDED AND RESTATED DECLARATION OF COVENANTS AND**  
**RESTRICTIONS FOR WATERFORD CROSSING SUBDIVISIONS**

**WHEREAS**, the Amended and Restated Declaration of Covenants and Restrictions for Waterford Crossing Subdivisions (the "Declaration") was recorded at Cuyahoga County Records, Instrument No. 200304090289, and the Bylaws of Waterford Crossing Homeowners' Association (the "Bylaws") were recorded at Cuyahoga County Records Instrument No. 201108170387, and

**WHEREAS**, the Waterford Crossing Homeowners' Association (the "Association") is a corporation consisting of all Owners in Waterford Crossing and as such is the representative of all Owners, and

**WHEREAS**, Declaration Article VII, Section 3 authorizes amendments to the Declaration and Bylaws Article XI authorizes amendments to the Bylaws, and

**WHEREAS**, a meeting, including any change, adjournment, or continuation of such meeting, of the Association's Owners was held on or about December 19, 2017, and, at such meeting and any adjournment, Owners representing at least 75% of the voting power of the Association executed, in person or by proxy, an instrument in writing setting forth specifically the matters to be modified (the "Amendments"), and

**WHEREAS**, the Association has in its records the signed, written consents to Amendment A signed by Owners representing 80.2% of the Association's voting power, together with the minutes from said meeting and any continuation thereof, and

**WHEREAS**, the Association has in its records the power of attorney signed by Owners representing 80.2% of the Association's voting power authorizing the Association's officers to execute Amendment A on their behalf, and

**WHEREAS**, the Association has in its records the signed, written consents to Amendment D signed by Owners representing 75.3% of the Association's voting power, together with the minutes from said meeting and any continuation thereof, and

**WHEREAS**, the Association has in its records the power of attorney signed by Owners representing 75.3% of the Association's voting power authorizing the Association's officers to execute Amendment D on their behalf, and

**WHEREAS**, the Association has in its records the signed, written consents to Amendment E signed by Owners representing 80.4% of the Association's voting power, together with the minutes from said meeting and any continuation thereof, and

**WHEREAS**, the Association has in its records the power of attorney signed by Owners representing 80.4% of the Association's voting power authorizing the Association's officers to execute Amendment E on their behalf, and

**WHEREAS**, the Association has in its records the signed, written consents to Amendment G signed by Owners representing 79.6% of the Association's voting power, together with the minutes from said meeting and any continuation thereof, and

**WHEREAS**, the Association has in its records the power of attorney signed by Owners representing 79.6% of the Association's voting power authorizing the Association's officers to execute Amendment G on their behalf, and

**WHEREAS**, the proceedings necessary to amend the Declaration as required by the Declaration have in all respects been complied with.

**NOW THEREFORE**, the Amended and Restated Declaration of Covenants and Restrictions for Waterford Crossing Subdivisions and Bylaws of Waterford crossing Homeowners' Association are amended by the following:

#### **AMENDMENT A**

**INSERT a new DECLARATION ARTICLE VI, SECTION 23 entitled, "Occupancy Restriction."** Said new addition, to be added on Page 20 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200304090289, is as follows:

**SECTION 23.**

**Occupancy Restriction.**

A person who is classified a Tier III or Tier II sexual offender/child-victim offender, or any future equivalent classification, and for whom the County Sheriff or other government entity must provide community notification of the sex offender's residence is prohibited from residing in or occupying a Living Unit or remaining in or on the Properties for any length of time. The classification of a sexual offender/child-victim offender and determination of whether notice is required is made by a court of law pursuant to the Ohio Sex Offenders Act, as may be amended or renamed from time to time, or similar statute from another jurisdiction. The Association is not, however, liable to any Owner or occupant, or anyone visiting any Owner or the Association, as a result of the Association's alleged failure, whether negligent, intentional, or otherwise, to enforce the provisions of this restriction.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this restriction on the occupancy of Living Units. The invalidity of any part of the above provision does not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Owners of record at the time of such filing have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge must be brought in the court of common pleas within one year of the recording of this amendment.

**AMENDMENT B**

*Intentionally Left Blank - Amendment Proposal Did Not Pass as of the Recording of These Amendments*

**AMENDMENT C**

*Intentionally Left Blank - Amendment Proposal Did Not Pass as of the Recording of These Amendments*

AMENDMENT D

DELETE DECLARATION ARTICLE VIII, SECTION 1 entitled, "Notices" in its entirety. Said deletion to be taken from Page 22 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200304090289.

INSERT a new DECLARATION ARTICLE VIII, SECTION 1 entitled, "Notices." Said new addition, to be added on Page 22 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200304090289, is as follows:

SECTION 1.            Notices.

Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by Ohio and Federal law, as well as by the Board, now or in the future: (1) any notice required in the Declaration or Bylaws to be sent or received; (2) any signature, vote, consent, or approval required to be obtained; or (3) any payment required to be made, under the Declaration or Bylaws, may be accomplished or required using the most advanced technology available at that time provided such use is a generally accepted business practice. This includes, without limitation, the use of electronic mail or other electronic transmission in lieu of any Association required written notice to Owners, individually or collectively, to or from any Owner who has given the Association written consent to such use of electronic mail or other electronic transmission, and for the Association to properly and effectively receive any Owner's signature, vote, consent, or approval the Association needs or requires, subject to the following:

(a) For voting on the election of Board Members, the Association may provide for voting by electronic transmission. However, if the Association cannot guarantee the anonymity of an Owner's vote, the Association must provide the Owner with the option of casting an anonymous printed ballot.

(b) An electronic mail or other electronic transmission to a Owner is not considered delivered and effective if the Association's transmission to the Owner fails two consecutive times, e.g. the Association receives an "undeliverable" or similar

message, or the inability to deliver the transmission to the Owner becomes known to the person responsible for sending the transmission. If the electronic mail or other electronic transmission is not delivered or effective, the Association will deliver such notice or other communication to the Owner in writing by regular U.S. mail to the Owner's Living Unit or last known address, by hand delivery to the Owner, or by leaving the notice under or attached to the front door of the Owner's Living Unit.

(c) Any Owner who has not given the Association written consent to such use of electronic mail or other electronic transmission will receive notices, including any notice of delinquency of any payment due, either by personal delivery to the Owner, by leaving the notice under or attached to the front door of the Owner's Living Unit, or regular mail to the Owner's Living Unit or last known address.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment permitting the Association to use electronic communications to the extent permitted by Ohio and Federal law. The invalidity of any part of the above provision does not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Owners of record at the time of such filing have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge must be brought in the court of common pleas within one year of the recording of this amendment.

#### AMENDMENT E

DELETE BYLAWS ARTICLE VIII, SECTION 1 entitled, "Annual Meeting," in its entirety. Said deletion to be taken from Page 10 of the Bylaws, as recorded at Cuyahoga County Records, Instrument No. 201108170387.

INSERT a new BYLAWS ARTICLE VIII, SECTION 1 entitled, "Annual Meeting." Said new addition, to be added on Page 10 of the Bylaws, as recorded at Cuyahoga County Records, Instrument No. 201108170387, is as follows:

Section 1. Annual Meeting. The Association's Annual Meeting will be held at such time, at such place, and on such date during the second quarter of each calendar year as the Board determines and is stated in the meeting notice, for the election of Directors, the consideration of reports to be laid before the meeting, and the transaction of such other business as is set forth in the meeting notice.

Any conflict between the above provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment changing the time for holding the annual meeting. The invalidity of any part of the above provision does not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Owners of record at the time of such filing have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge must be brought in the court of common pleas within one year of the recording of this amendment.

#### AMENDMENT F

*Intentionally Left Blank - Amendment Proposal Did Not Pass as of the Recording of These Amendments*

#### AMENDMENT G

DELETE BYLAWS ARTICLE VI, SECTION 1 entitled, "Number and Qualifications," in its entirety. Said deletion to be taken from Page 7 of the Bylaws, as recorded at Cuyahoga County Records, Instrument No. 201108170387.

INSERT a new BYLAWS ARTICLE VI, SECTION 1 entitled, "Number and Qualifications." Said new addition, to be added on Page 7 of the Bylaws, as recorded at Cuyahoga County Records, Instrument No. 201108170387, is as follows:

Section 1. Number and Qualifications. The Board will consist of five persons, each of whom must be Members of the Association and a Member in good standing at the time of the Annual or Special Meeting held for the election of Board Members, except that in the

case of a Lot or Living Unit held by a corporation, partnership, fiduciary, or nominee, the designated representative will be eligible to serve as a Member of the Board. Good standing requires that the Member not be more than 30 days delinquent in the payment of any fees or Assessments owed to the Association. If a Board Member ceases to meet such good standing qualifications during their term, they may be removed by a majority vote of the remaining Board Members. Notwithstanding anything herein, no Lot or Living Unit may be represented by more than one person on the Board at any one time. If an Owner is not an individual, that Owner may nominate for the Board of Directors any principal, member of a limited liability company, partner, director, officer, or employee of that Owner.

DELETE BYLAWS ARTICLE VI, SECTION 8 entitled, "Removal of Trustees," in its entirety. Said deletion to be taken from Page 8 of the Bylaws, as recorded at Cuyahoga County Records, Instrument No. 201108170387.

INSERT a new BYLAWS ARTICLE VI, SECTION 8 entitled, "Removal of Board Members." Said new addition, to be added on Page 8 of the Bylaws, as recorded at Cuyahoga County Records, Instrument No. 201108170387, is as follows:

Section 8. Removal of Board Members. Except as otherwise provided in these Bylaws, the Board may remove any Board Member and create a vacancy in the Board, which may be filled in accordance with Bylaws Article VI, Section 2, if by order of court the Member is found to be of unsound mind, or if the Member files for bankruptcy or has been adjudicated bankrupt, or not a Member in good standing as defined in Article VI, Section 1, or if the Member is physically incapacitated, or involved in any legal action against the Association, or if the Member fails to attend three meetings of the Board. At any Association meeting duly called at which a quorum is present, any one or more of the Board Members may be removed with or without cause by the vote of Owners entitled to exercise at least a 75% of the Association's total voting power, and a successor(s) to such Board Member(s) so removed may be elected at the same meeting for the unexpired term for each such removed Board Member. Any Board Member, whose removal has been proposed, will have an opportunity to speak and be heard at such meeting prior to the vote of their removal.

Any conflict between these provisions and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment regarding the qualifications and removal of Board Members. The invalidity of any part of the above provision will not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Owners of record at the time of such filing will have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge will be brought in the court of common pleas within one year of the recording of this amendment.

AMENDMENT H

*Intentionally Left Blank - Amendment Proposal Did Not Pass as of the Recording of These Amendments*


AMENDMENT I

*Intentionally Left Blank - Amendment Proposal Did Not Pass as of the Recording of These Amendments*

The Waterford Crossing Homeowners' Association has caused the execution of this instrument this 10 day of February, 2018.

**WATERFORD CROSSING HOMEOWNERS' ASSOCIATION**

By:   
\_\_\_\_\_  
DAVID GRILLO, its President

By:   
\_\_\_\_\_  
Robert Huse, its Secretary  
(Print Name)



STATE OF OHIO )  
 )  
COUNTY OF Loran ) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Waterford Crossing Homeowners' Association, by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 9 of 10, and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

I have set my hand and official seal in Strongsville, Ohio, this 10 day of February, 2018.

Krystal Hamman

NOTARY PUBLIC

**KRYSTAL HAMMAN**  
Notary Public, State of Ohio  
My Commission Expires Oct. 27, 2020

Place notary stamp/seal here:



This instrument prepared by:  
KAMAN & CUSIMANO, LLC, Attorneys at Law  
50 Public Square, Suite 2000  
Cleveland, Ohio 44113  
(216) 696-0650  
ohiohoalaw.com

MY Commission Expires Oct 23, 2050  
NOTARY PUBLIC, State of Ohio  
KRISTAL HAMMAN

