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MALLARD'S EDGE

DECLARATION OF RESTRICTIONS, RESERVATIONS AND COVENANTS

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SCHEDULE OF EXHIBITS:

- Exhibit "A" - Legal Description of the Real Estate
- Exhibit "B" - Reduced sized drawing of the Plat of Mallards Edge Subdivision No. 1
- Exhibit "C" - Reduced sized drawing of the Mallards Edge Development Plan

**MALLARD'S EDGE DECLARATION OF
RESTRICTIONS, RESERVATIONS AND COVENANTS**

This Declaration of Restrictions, Reservations and Covenants ("Declaration") made this ~~18th~~ day of SEPTEMBER, 2012, by Mallard's Edge, Ltd., an Ohio limited liability company ("Developer" or "Declarant").

W I T N E S S E T H

WHEREAS, Developer is the owner of the real property described in Exhibit "A" attached hereto and hereby made a part hereof; and

WHEREAS, Declarant desires to provide for the preservation of the value and amenities of the Land (as hereinafter defined) and Residences (as hereinafter defined) and for the maintenance of each Entry Way (as hereinafter defined), Hub (as hereinafter defined), Island Area (as hereinafter defined), Common Area (as hereinafter defined), Golf Course Property (as hereinafter defined), Detention Area (as hereinafter defined), and Recreation Facilities (as hereinafter defined) and other appurtenances, as described herein, and in connection therewith, to subject and benefit, as the case may be, the Land and Residences to the Covenants and Restrictions (as hereinafter defined), and each and all of the same are hereby declared to be and are for the benefit of the Land, Declarant and future Owners (as hereinafter defined); and

WHEREAS, Declarant has deemed it desirable for the preservation of the values and amenities of the Land and the Residences to establish entities to which, at the time set forth herein, will be assigned the powers, duties, obligations and authority for maintaining and administering each Entry Way, Hub, Island Area, Common Area, Detention Area, Recreation Facility, and other appurtenances, for enforcing the terms of this Declaration and for collecting and disbursing funds to pay the Association Expenses (as hereinafter defined) as hereinafter provided.

NOW, THEREFORE, Declarant shall and does hereby declare that the Land and Residences are and shall be held, used, owned, occupied, transferred, sold and conveyed subject to the Covenants and Restrictions provided in this Declaration, which Covenants and Restrictions shall run with the Land and shall be binding upon and inure to the benefit of all persons and entities having any right, title or interest in any part of the Land, their heirs, personal representatives, successors and assigns, as hereinafter set forth.

ARTICLE I **DEFINITIONS**

- 1.01 ASSOCIATION.** The term "Association" shall mean Mallard's Edge Homeowners' Association Inc. (or such other name as may hereafter be designated by the Declarant), an Ohio corporation not for profit to be organized by Declarant to provide for the ownership and maintenance of the Detention Areas, Common Areas, and the Recreation Facilities to be provided or installed for the benefit of the occupants of all dwellings situated within the Mallard's Edge Development, and for the administration of this Declaration and the enforcement of the Covenants and Restrictions contained in this Declaration, as hereinafter set forth.
- 1.02 BOARD OF TRUSTEES.** The term "Board of Trustees" shall mean the Board of Trustees of the Association.
- 1.03 BY-LAWS.** The term "By-Laws" shall mean the by-laws of the Mallard's Edge Homeowners' Association Inc., as adopted by the corporation and amended from time to time in accordance with this Declaration, the Association Articles of Incorporation and Ohio law.
- 1.04 ASSOCIATION EXPENSES.** The term "Association Expenses" shall mean all costs, fees and charges incurred by the Association in carrying out its powers, duties, obligations and authority, including, but without limitation:
- (a) Any cost incurred by the Association in the installation, maintenance, repair, replacement or improvement of any portion of a Detention Area, Island Area, or Common Area for the purpose of identifying the development, including, but not limited to, any signs, lighting, underground sprinkling system, walls, structures, fences, columns, grass, trees, shrubs and other plants and any other landscaping and/or related costs, including the cost of electricity, water and/or natural gas;
 - (b) Any payments by the Association to employees, agents, or contractors for services in the care, repair, replacement and operation of the Recreation Facilities;
 - (c) Any cost incurred by the Association in the installation, maintenance, repair or replacement of any improvement within or to any Common Area or Detention Area, including but not limited to, any Recreation Facilities, signs, lighting, underground sprinkling system, walls, structures, bike paths, walkways, fences, columns, grass, trees, shrubs, and landscaping, including the cost of electricity, water and/or natural gas used for such purposes within or for the benefit of the Common Areas or Detention Areas;

- (d) Any cost incurred by the Association in the installation, maintenance, repair, use, and/or replacement of any signs, lighting, underground sprinkling system, electrical system, walls, structures, fences, columns, grass, trees, shrubs and other plants and other landscaping of any Entry Way, Island Area or Hub, including any cost of electricity, water and/or natural gas and any other cost incurred by the Association in maintaining and caring for the Entry Way(s), Island Area(s) and cul-de-sac Hub(s), including, but not limited to, the costs incurred pursuant to the terms and conditions of any Indemnity Agreement or Agreements that may hereafter be entered into between the Developer and Eaton Township or Lorain County (the "Indemnity Agreement");
- (e) Any cost incurred in maintaining and caring for the Common Areas, including, without limitation, any cost incurred in the maintenance, repair and/or replacement of any structure, sign, fence, entry way, landscaping, bike path, and other improvements, if any, in any area hereafter designated as a Common Area by the Developer or on the Plat of any real property hereinafter added to the Land by the Developer, and any cost incurred in the operation, maintenance, repair and/or replacement of any equipment used to perform such maintenance, repair, and/or replacement of the landscaping and other improvements;
- (f) Any cost incurred by the Association in the installation, maintenance, repair or replacement of the common and/or multi party mail box(s) now or hereafter required by the U. S. Postal Service for U. S. Mail delivery service in the Mallards Edge Development, including, but not limited to, any, lighting, structures and walkways now or hereafter constructed or used for U. S. Mail delivery within the Mallards Edge Development.
- (g) Any taxes or assessments with respect to any real or personal property owned by the Association;
- (h) Any premiums for public liability and/or property insurance;
- (i) Any legal and professional fees of the Association;
- (j) Any management fees or charges;
- (k) Any cost of performing any obligation of an Owner that such Owner has failed to perform, to the extent the Association fails to obtain reimbursement from such Owner therefor;

- (l) Any cost of any service desired by the Association which is not provided by a municipality without charge to the Owners or the Association.

- 1.05 TRUSTEE.** The term "Trustee" shall mean a member of the Board of Trustees.
- 1.06 MEMBER.** The term "Member" shall mean each owner of a Lot within the Mallard's Edge Development; provided, however, the ownership by the Developer of any Lot(s), unoccupied residential dwelling(s) and/or any other block of land located within the Mallard's Edge Development shall not require that the Developer become a member of the Association; nor shall the Developer have any right or obligation to become a member of the Association and/or to use the Recreation Facilities owned by the Association unless the Developer should lease or rent a residential dwelling(s), in which event Developer shall assume Association membership with respect to each such residential dwelling during the period of tenancy. In such event, Developer shall be responsible for payment of Dues during the period of tenancy.
- 1.07 CONTROL PERIOD.** The term "Control Period" shall mean the period commencing on the date hereof and ending on the earlier of: December 31, 2027; or, one (1) year after the date that construction of all Residences within the Mallard's Edge Development have been completed, including Residences on additional real estate which Developer may, from time to time, elect to add to the land comprising Mallard's Edge, as provided in this Declaration.
- 1.08 COVENANTS AND RESTRICTIONS.** The term "Covenants and Restrictions" shall mean the covenants, restrictions, obligations, easements, reservations, conditions, limitations, agreements and rights set forth in this Declaration.
- 1.09 DECLARATION.** The term "Declaration" shall mean this instrument, as the same is from time to time amended as hereinafter provided.
- 1.10 DEVELOPER.** The term "Developer" shall mean Mallard's Edge, Ltd, or its successors, assigns or designated representative.
- 1.11 COMMON AREA.** The term "Common Area(s)" shall mean and include that part of the Land within the Mallard's Edge Development from time to time made available for the general benefit of Mallard's Edge Lot Owners. The Common Areas will be deeded by Developer to the Association, no later than the date upon which seventy five percent (75%) of the permitted Residences to be constructed on Lots within the Mallard's Edge Development have been completed, including Residences on additional real estate which Developer may, from time to time, elect to add to the Mallard's Edge Development, as provided in this Declaration. However, in no event shall the Developer be obligated to transfer any specific parcel or block of real property to the Association, unless and until

such area has been added to the Land, designated as a Common Area, and at least seventy five percent (75%) of the permitted Residences to be constructed on Lots within the phase of the Mallard's Edge Subdivision which includes such Common Area have been completed and transferred to bona fide purchasers for valuable consideration.

- 1.12 DETENTION AREA.** The term "Detention Area" shall mean those portions of Block A, Block B and Block C of the Mallard's Edge Subdivision that have been improved for the purpose of retaining and/or detaining storm water runoff within the Mallard's Edge Development including, the portions of Willow Creek which run along the northwestern edge of Block C, and any area hereafter delineated as a Detention Area in any existing or future phase of the Mallard's Edge Development, or any portion of the land that is now or hereafter used for the purpose of storm water retention and/or detention within the Mallard's Edge Development. However, any portion of a pond, lake, creek, ditch or storm water detention area that is located on or within the Golf Course Property is not part of the land and therefor is not subject to the Declaration except as otherwise specifically set forth in the Declaration.
- 1.13 DEVELOPMENT PLAN.** The term "Development Plan" shall mean the drawing depicting the general plan for the development of the parcels of real property contemplated to be a part of the of the Mallard's Edge Development. A reduced sized copy of the Development Plan has been designated as Exhibit "C" to this Declaration and is attached hereto.
- 1.14 GOLF COURSE.** The golf course improvements and the golf cart paths situated on the Golf Course Property.
- 1.15 GOLF COURSE PROPERTY.** Golf Course Property shall mean the land abutting, adjacent to, or in the vicinity of the Mallard's Edge Subdivision, upon which there currently are, or may hereafter be situated, various structures and improvements, including but not limited to, all or any part of, (i) a golf course; (ii) golf driving range, (iii) practice putting green, (vi) golf cart paths; and (v) a clubhouse facility and golf pro shop, locker room facilities, food and beverage facilities, parking lots and other facilities which are or will be operated as a golf course. The Golf Course Property is not part of the Land, nor is it governed by the provision of this Declaration, except as expressly and specifically provided herein. No Owner or Occupant, nor the Association, nor any member of the Association, shall have any rights in and to, or obligations with respect to, the Golf Course Property, except as expressly and specifically provided herein. The Golf Course Property includes, but is not limited to, the parcels of real property currently designated as Permanent Parcel Nos. 11-00-015-000-018, 11-00-015-000-020, 11-00-015-000-021, 11-00-026-000-047 and 11-00-026-000-048.

- 1.16 GOLF COURSE PROPERTY OWNER.** Golf Course Property Owner shall mean the record title holder, whether one or more persons or legal entities (including, specifically, the Developer) of the fee simple title to the Golf Course Property; provided, however, the Golf Course Property Owner shall be deemed to be the person or legal entity then operating the Golf Course if the Developer has entered into a contract with such person or entity to operate the Golf Course. The term "Golf Course Property Owner" shall not mean or refer to any mortgagee of the Golf Course Property unless and until such mortgagee has acquired title to the Golf Course Property pursuant to foreclosure or any proceeding in lieu of foreclosure.
- 1.17 HUB.** The term "Hub" shall mean the island hub within any cul-de-sac of any publicly owned road or drive within Mallard's Edge Development.
- 1.18 ISLAND AREA.** The term "Island Area" shall mean the non-paved area within any publicly owned entryway, road or drive within Mallard's Edge that is otherwise surrounded by pavement and is not a Hub.
- 1.19 LAND.** The term "Land" shall mean the real estate from time to time subject to the provisions of this Declaration. Initially, the Land shall consist of the real estate described in Exhibit "A", however, specifically excluded from the real estate included as a part of the Land is the real property designated as Lot 27 on the Plat of Mallards Edge Subdivision No. 1, of part of original Eaton Township Lots 15 and 16 as recorded February 10, 2012 in Plat Book 97 pages 33, 34 and 35 of Lorain County Records, and any real property currently or hereafter designated as Golf Course Property. Developer shall have the right, during the Control Period, to amend this Declaration for the purpose of adding additional real property to the Land and/or for the purpose of withdrawing real property from the Land and thereby subject such additional real property or withdrawing such real property from the operation of this Declaration.
- 1.20 LOT.** The term "Lot" shall mean any plot of the Land shown as a numbered lot upon any recorded Plat (as hereinafter defined) except that the term "Lot" shall not include Lot No. 27 of Mallard's Edge Subdivision No. 1, nor any Common Area, Detention Area, Golf Course Property or any other "Block" reflected on a recorded Plat, such as, by way of example and not by way of limitation, Block "A", Block "B", Block "C", Block "D" and Block "E". Developer reserves the right to amend this Declaration to change any of the references to particular Lot numbers contained herein in order to make this Declaration consistent with any revised or amended Plat and/or any revised numbering of Lots on any revised or amended Plat.
- 1.21 MALLARD'S EDGE DEVELOPMENT.** The term "Mallard's Edge Development" shall mean the Land and all improvements thereon and appurtenances thereto.

- 1.22 OFFICIAL APPROVAL.** The term "Official Approval" shall mean the written approval of Developer, or after the Control Period, the written approval of at least a majority in number of the Trustees of the Board of Trustees.
- 1.23 OWNER.** The term "Owner" shall mean any person or entity who acquires fee simple title to a Lot.
- 1.24 PLAT.** The term "Plat" shall mean the drawing describing the portion of the Land and the easements encumbering the Land and appurtenant to the Land identified as Mallard's Edge Subdivision No. 1, recorded in Plat Volume ____, Pages ____ through ____, inclusive, of the Lorain County Records and as depicted on Exhibit "B"; provided however, in the event any additional real estate is added to the Mallard's Edge Development by Developer, then the term "Plat" shall include such revised or additional plat(s) as are hereafter recorded with any revisions or changes, as the same may be amended or supplemented from time to time to reflect additions to or withdrawals from the Land, as provided in this Declaration.
- 1.25 RECREATION FACILITIES.** The term "Recreation Facilities" shall mean any improvement that may hereafter be constructed or installed in a Common Area by the Developer or the Association that is intended to be made available to the Owners and occupants of the Lots and Residence located within the Mallard's Edge Development, and their invited guests, for recreational or leisure activities. Although the Declarant currently anticipates that a walking path will hereafter be constructed within the Mallard' Edge Development, nothing herein shall impose any obligation, burden or duty upon the Declarant or the Developer to establish any walking path in any specific location or of any minimum length, size, or type, nor does it impose any obligation, burden or duty upon the Declarant to install or construct any other type of recreation facilities.
- 1.26 RESIDENCE.** The term "Residence" shall mean each single family dwelling from time to time constructed within the Mallard' Edge Development, whether it is a single family home, a residential condominium unit, a detached cluster home, or attached cluster home. Although the current plan for the Mallard's Edge Development contemplates that one hundred and thirty two (132) Lots and Residences will be included within the Mallard's Edge Development when all phases of the development have been completed, the plat for the first phase of the development contains twenty seven (27) designated lots of which only Lots No. 1 through 26 will be included within the Land and subject to this Declaration. However, the Developer reserves the right to add additional Land and Lots to the development and more than one hundred and thirty two (132) Lots and Residences may be included in the Mallard's Edge Development so long as the applicable zoning laws of the Eaton Township are complied with and the required governmental variances, permits and approvals are obtained.

1.27 SUBDIVISION. The term "Subdivision" shall mean Lots No 1 through 26 inclusive, of the Mallard's Edge Subdivision No. 1, and any additional Land that may hereafter be made a part of the Mallard's Edge Development, in Eaton Township, Lorain County, Ohio. The Developer has intentionally determined that the real property designated as Lot No. 27 on the Plat of Mallard's Edge Subdivision No. 1, shall not be included as a part of the Land and therefore shall not be subject to the provisions of this Declaration. However, Developer has the right to amend the Declaration, the Articles of Incorporation of the Association and the By-Laws, to expand or to reduce the number of Lots and other Residences within the Subdivision and the number of voting members of the Association. The Developer may develop and plat the Subdivision in phases, and to record the Declaration for each phase of Lots at the time each such phase is developed.

ARTICLE II

RESTRICTIONS ON LOTS AND RESIDENCES

2.01 ALCOHOLIC BEVERAGES. No spirituous, vinous and/or fermented liquor shall be manufactured (except so called "home manufacture" for on-premises consumption by the Owner) or sold, either at wholesale or retail, upon any part of the Land, and no place of public entertainment of any character shall be established, conducted or suffered to remain upon any part of the Land. This provision shall not be applicable to any portion of the Golf Course Property or any portion of the Land that may hereafter be designated as part of the winery property or otherwise licensed by the State of Ohio as part of the premises authorized to manufacture or produce wine.

2.02 ANIMALS. Household pets such as domesticated dogs, cats and birds may be kept on Lots by Owners so long as such pets do not become a nuisance to the Owners of other Lots. No exotic wild animals, livestock, chickens, pigs, cattle, horses, pigeons or other fowl shall be kept upon any Lot. Household pets shall not be kept, bred or maintained for commercial purposes.

2.03 APPROVAL OF PLANS. No building or structure, nor any addition thereto, nor alteration thereof, shall be erected, altered, reconstructed, placed or suffered to remain upon any Lot, Block or other parcel of Land within the Mallard's Edge Development unless and until the size, location, type, style, exterior shape, height, materials of construction thereof, the exterior color scheme therefor, the grading plan (including the grade elevations of the Residence), and a plot plan showing the proposed locations of the Residence or structures on the Lot, and the plans and specifications for the Residence and/or Structure (collectively, the "Plans"), shall have received Official Approval from the Developer or (after the Developer Control Period has ended) the Association. During the Developer Control Period the Developer any building or structure constructed by the Developer, or by any contractor or other entity under the direction and control of the

Developer, shall be assumed to have been undertaken with Official Approval, regardless of whether or not such approval is in writing. A true copy of the Plans shall be lodged permanently with the entity granting Official Approval. No building or structure, nor any addition thereto or exterior alteration thereof, except such as conform to the Approved Plans, shall be erected, altered, reconstructed, placed or suffered to remain within the Mallard's Edge Development unless Official Approval is obtained therefor. All landscaping with respect to a Lot, as reflected in the Approved Plans, shall be promptly completed, or as soon thereafter as weather and soil conditions permit, after the Residence on such Lot has been completed.

- 2.04 ARCHITECTURAL GUIDELINES.** All buildings and structures, and any addition or alteration thereof, that are erected, altered, reconstructed or placed upon any Lot, Block or other Common Area within the Mallard's Edge Development, shall be constructed and maintained in accordance with the general Architectural Guidelines that have been established by the Developer and incorporated into the Mallards Edge Cluster Overlay Agreement between the Developer and the Eaton Township Trustees. The Architectural Guidelines may be amended and/or supplemented by the Developer or (after the Developer Control Period) by the Association, provided any such amendment and/or supplement does not conflict in any material respect with the Architectural Guidelines that have been incorporated into the Mallards Edge Cluster Overlay Agreement or that are otherwise hereafter approved by the Eaton Township Planning Commission.
- 2.05 BUILDING PERMITS.** No building permit shall be sought from a governmental authority for the construction or alteration of any structure within the Mallard's Edge Development unless and until the applicant has filed with the required governing authority the Plans, which Plans must, when filed, show the receipt of Official Approval. Notwithstanding the foregoing, construction undertaken by Developer shall not be required to have Official Approval.
- 2.06 COLOR.** Developer shall approve the color for the exterior of each building and Residence within the Mallard's Edge Development. No Owner may change the color of the exterior of a building or Residence without Official Approval, which Official Approval may not be unreasonably withheld.
- 2.07 COMMERCIAL RELIGIOUS OR PROFESSIONAL USES.** With the exception of the business of the Declarant in developing, constructing and selling the Lots and Residences, no industry, business, trade or full-time occupation or professions of any kind, commercial, religious, educational or otherwise, whether or not designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any Lot or Residence; provided, however, an Owner may incidentally use an immaterial portion of such Owner's Residence for such Owner's office or studio, provided that the activities therein shall not interfere with the quiet enjoyment of any other Owner, that

such use does not result in any Residence becoming principally an office, school or studio as distinct from a Residence, that such use is not advertised, listed or otherwise held out to be a business office to the general public and that there is no indicia visible from the exterior of the Residence which could indicate that the same is being utilized other than as a Residence. However, in no event, shall a day care center be operated from any Residence. Nothing in this section shall be deemed to place any restrictions on the use, maintenance, repair, modification or redesign of all or any portion of the Golf Course or any portion of the Golf Course Property or facilities.

- 2.08 EATON TOWNSHIP REGULATIONS.** An Owner who acquires title to a Lot shall take such Lot subject to all applicable restrictions, limitations and requirements (collectively, the "Provisions") of Eaton Township, including the Eaton Township Zoning Code (the "Zoning Code"), as it currently exists or is hereafter amended. Where the applicable Provisions or the Zoning Code are more restrictive than those contained in this Declaration, the applicable Provisions or the Zoning Code, shall prevail, and where the provisions contained in this Declaration are more restrictive than the applicable Provisions or the Zoning Code, the provisions of this Declaration shall prevail.
- 2.09 FENCES, HEDGES AND TREES.** Except: (I) as provided in this Section 2.09, and (ii) for Common Areas and Entry Ways, no natural, artificial or manmade fence, hedge, wall (other than a wall which is part of the Residence), trellis, arbor or any similar natural, artificial or manmade means of screening or physically separating one or more Residences from any other portion of the Land or from any portion of the Golf Course Property shall be Permitted without first obtaining Official Approval. Notwithstanding the foregoing, the Owner of a Lot shall be permitted to screen with living trees or shrubs, to the extent necessary for reasonable privacy, any patio or deck which abuts or is attached to a Residence. The Owner of any Lot may also plant evergreen trees (such as spruces, hemlocks, pines, furs, and other similar types of evergreen trees) to provide a physical or visual block between Lots. However, the rights enumerated in this section are subject to the additional limitations and restrictions set forth in Section 2.11 and 2.16 for Lots and Common Areas facing or abutting Golf Course Property. The Association, in addition to the general limitations set forth herein, may adopt additional rules, regulations and guidelines which set forth and limit the types, sizes, color, appearance and location of any permitted fence, hedge, wall, trellis arbor or similar items and the extent and types of screening and other landscaping permitted or required. However, in no event, shall any fence be erected or located within the area of any front, side or rear yard or in any location which would be in violation of the Eaton Township Zoning or Building Code or impede access to or from the Golf Course Property.
- 2.10 GARBAGE AND REFUSE DISPOSAL.** No owner, occupant or tenant of any Lot or Residence shall deposit or leave garbage, waste, putrid substances, junk or other waste materials on any Lot, exterior portion of a Residence, or any other exterior portion of the

Mallard's Edge Development, including but not limited to, the Recreational Area, the Detention Area, the Common Area, any public street, other public property, or in any water course, pond, stream or creek, nor permit any other person to deposit any of such materials on any property owned by or in the possession of such person. A Lot owner, occupant or tenant may keep such garbage and refuse as shall necessarily accumulate from the last garbage or 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 for the period commencing at dusk on the day prior to the day scheduled for garbage and rubbish collection and thereafter throughout the day scheduled for garbage and rubbish collection for such Lot, shall be kept from public view.

As used in this Article, "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, grass clippings, 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, 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 Article, "junk" shall mean abandoned, inoperable, partially dismantled or wrecked vehicles of any kind, whether bus, bicycle, commercial tractor, agricultural tractor, house trailer, truck, trailer, semi-trailer, pole trailer, railroad train, railroad car, street car or trackless trolley, aircraft, lighter-than-air craft, water craft or any other form of device for the transportation of person 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.

2.11 GENERAL CONSTRUCTION AND IMPROVEMENT LIMITATIONS.

- (a) No oil or gas well or derrick shall be drilled or maintained upon any part of the Land. No elevated or exterior tank of any kind shall be erected, placed or permitted upon any part of the Land.
- (b) No exterior aerial, satellite dish or antenna, including short-wave, television or radio, shall be permitted on any Lot or Residence except for one (1) satellite dish for the Residence that does not exceed eighteen inches in diameter and is

substantially screened from view so it is not readily visible from the street or by the adjoining property owners.

- (c) Except as otherwise provided in this Section 2.11(c) no carport, detached garage, tent, tree house, tree fort, doll house, play house, detached utility shed, barn, shack, temporary building, outbuilding or guest home of any kind, shall be erected, placed or suffered to remain upon any Lot except has hereinafter set forth in this paragraph; provided, however, Developer, and those persons, firms and corporations employed by Developer, shall have the right to erect temporary structures to accommodate construction and/or sales activities with respect to the development and marketing of all or any part of the Mallard's Edge Development. Further, nothing herein contained shall prohibit the installation of a decorative "gazebo", in the rear yard of any Residence if Official Approval for such gazebo, including the Plans (as hereinafter defined) therefor is first obtained.
- (d) No swimming pool shall be allowed on any Lot.
- (e) No trampoline shall be permitted on any Lot, Block, Common Area or other portion of the Land.
- (f) No jungle gym, swing set, monkey bar, slide, climbing rope, rope swing, rope ladder, suspension bridge, or other type of playground equipment (all of which is hereafter collectively referred to as "Playground Equipment") shall be allowed on any Lot, Block or Common Area, except as hereinafter allowed. No Playground Equipment of any kind may be located within ten (10) feet of any Lot or property line nor may any such equipment be located within twenty five feet (25) of any portion of the Golf Course Property. The primary components and structural framework of all Playground Equipment shall be constructed of wood or other materials which have been manufactured to have an appearance similar to the appearance of wood. All Playground Equipment shall be stained or painted in subdued natural colors. No bright colored materials of any type shall be permitted. All Playground Equipment shall be screened with evergreen trees, shrubs, bushes, landscaping and other plantings which substantially screen such equipment from the view of those individuals who use or reside on the adjoining and surrounding property. It is the intent of this section that any Playground Equipment hereafter placed upon any Lot, Block or Common Area or other portion of the Land shall have an esthetically pleasing appearance, and shall, to the extent possible, blend with the surrounding landscaping and structures. All Playground Equipment shall be maintained in superior condition at all times. The Association, in addition to the general limitations set forth herein, may adopt additional rules, regulations and guidelines which set forth and limit the types, sizes, color, appearance and location of permitted Playground Equipment and the

extent and types of screening and other landscaping required in conjunction with Playground Equipment.

- (g) All outdoor firewood storage areas, garbage and trash containers, pumps, service meters and HVAC units shall be screened from the view of adjoining residences, streets and Common Areas by appropriate natural screening.

2.12 GENERAL RESTRICTIONS. No Residence shall be erected, altered, placed, or suffered to be upon any Lot such Residence shall meet the applicable requirements of this Article II.

2.13 GRADES. Declarant, during the Control Period, and thereafter the Board of Trustees, shall have the exclusive right to establish grades and slopes on any part of the Land and to fix the grade at which any building or structure hereafter shall be erected or placed upon any part of the Land so that the same may conform to a general plan wherein the established grade and slope of Lots are part of the improvements, so that the same correspond to the grade of the portion of the Land on either side, having due regard for the natural contours and drainage of that portion of the Land.

2.14 LANDSCAPING PLAN APPROVAL. In addition to the other provisions set forth in this Article, the landscaping for any Lot, Block, Recreation Area and Common Area which is adjacent to any portion of the Golf Course Property shall, for that portion of such Lot, Block, Recreation Area, Unit or Common Area, which is within ten (10) feet of the Golf Course Property, be in general conformity with the overall landscaping plan of the Golf Course, and shall be subject to the Golf Course Property Owner's prior right of approval, which approval shall not be unreasonably withheld or delayed.

2.15 LIGHTING. The owner of each Lot, upon the construction of a Residence on such Lot, shall be required to install a minimum 6' high light post with a lamp head of the type and style selected by the Developer or (after the Developer Control Period) by the Association. The light post shall be operated on a photo cell and located six (6) feet behind the sidewalk and six (6) feet off the side of the driveway toward the primary entry located within the front facade of the Residence. The Developer or (after the Developer Control Period) the Association may alter or change the required location, type and/or style of the light post and lamp head provided the Lot owners a given a reasonable time period within which to replace their existing light posts and lamps.

2.16 LIMITATIONS ON FENCES AND HEDGES ABUTTING GOLF COURSE. To promote a suitable and attractive open space atmosphere, no hedge, fence, wall, building, or other structure will be permitted on any Lot, Block or Common Area within 20 feet of any portion of the Golf Course Property. Any fence installed in accordance with this section must also be in general conformity with the landscaping plan of the golf course

and shall be in conformity with any rules and guidelines which may hereafter be adopted by the Association for fences and hedges within the Mallard's Edge Development. Prior to the installation of any fence, hedge or other structure pursuant to this section the Owner of the Lot must first obtain Official Approval and the prior written approval of the Golf Course Property Owner. In order to obtain Official Approval the Owner proposing a fence, hedge or other structure must provide drawings and any other relevant information to the Association and the Golf Course Property Owner which shows the height, location, layout, style, design, materials and color of any proposed fence, hedge or other structure.

- 2.17 MOWING.** The Owner of each Lot shall mow or cause to be mowed, all grass or vegetation thereon to a height of six (6) inches or less. This requirement shall not include decorative landscaping, ground cover, garden plants, vegetable gardens trees, bushes or shrubbery.
- 2.18 NOXIOUS ACTIVITIES.** No noxious or offensive activity shall be carried on upon or within any Lot or Residence, nor shall any Lot or Residence be used in any way or for any purpose which may endanger the health or unreasonably disturb the quiet of the neighborhood.
- 2.19 REPAIR OF VEHICLES.** No powered vehicle of any kind shall be constructed or repaired on any Lot, Block, Common Area or other portion of the Land, except for normal maintenance performed by an Owner entirely within the garage that is appurtenant to the Residence of such Owner.
- 2.20 RESTRICTIONS ON THE USE OF THE COMMON AREAS.** No Owner shall construct, build, place or erect any structure, building, or improvement of any kind under, over or upon any area designated as part of a Common Area, including, but not limited to, any portion of the Common Area which is used or designated as a Detention Area . In addition thereto no individual Owner shall plant any hedges, shrubs, trees, plants, flowers or other vegetation within said areas. No Owner shall in any way obstruct, interfere with or impair the use of any Common Area or Detention Area in violation of the restrictions set forth in this Declaration or by any governmental agency or governing body. Any Owner who has violated this provision may, upon the written request of the Developer, the Association, Eaton Township or other governmental agency, be required to remove such obstruction, interference or impairment at the responsible Owner's sole cost and expense.
- 2.21 RESTRICTIONS ON SUBDIVISION.** No portion of a Lot shall be subdivided unless and until a Plat showing such proposed subdivision shall have first received Official Approval. Before any such subdivision becomes effective, the Plat for the same must have endorsed thereon evidence of Official Approval. The Plat showing such approval must be recorded in the Recorder's Office of Lorain County, Ohio.

- 2.22 SIGNS.** Except with respect to signs within the Common Areas which have been or are hereafter installed by the Developer or by the Association, and except with respect to any signs identifying Mallard's Edge Development, no sign, billboard or other advertising device (except a reasonable sign not larger than six (6) square feet offering the Lot or Residence for sale or rent and except any security system sign not more than one (1) square foot in size) shall be erected, placed or suffered to remain upon any Lot, Residence or other portion of the Land. Notwithstanding the foregoing, Developer and any person, firm and/or corporation approved by Developer shall have the right to engage in commercial construction, marketing, leasing and sales activities, including, but not limited to, the maintenance of such signs on the Land as Developer or such approved entity may deem advisable.
- 2.23 STORAGE OF MATERIAL.** No lumber, metals, bulk material, refuse or trash shall be burned, whether in indoor incinerators or otherwise (excluding the burning of wood in a fireplace), kept, stored or allowed to accumulate on any portion of the Land, except normal residential accumulation of trash pending pick-up (as set forth above), reasonable amounts of racked firewood for normal residential use and building materials during the course of construction or reconstruction of any approved building or structure.

ARTICLE III

MAINTENANCE, ACCESS, UTILITIES AND GOLF COURSE EASEMENTS

- 3.01 EXISTING EASEMENTS.** The Land is subject to all easements, rights-of-way, conditions and restrictions of record existing as of the date of the recording of this Declaration.
- 3.02 MAINTENANCE AND ACCESS EASEMENTS.** Declarant hereby reserves to itself during the Control Period, and hereby grants to the Association perpetual, non-exclusive easements and rights-of-way over all portions of each Lot and Block, (excluding only the Residences thereon) in common with the Owner thereof for the following purposes: (a) to perform any obligation that the Association is obligated to perform or that the Owner of such Lot or Residence is obligated to perform, but which the Owner has failed to do and which the Association has the right to perform pursuant to this Declaration; and (b) for all other purposes which may be necessary or desirable to maintain Mallard's Edge Development as a first class residential community. No Owner shall in any way obstruct, interfere with or impair the easement rights retained by Declarant and granted to the Association by this Section, and any such obstruction, interference or impairment may be eliminated by Declarant or the Association at the expense of the Owner causing same.

3.03 UTILITIES. Declarant reserves to itself, during the Control Period, the sole and exclusive right to grant to gas companies, electric companies, telephone companies, cable television companies, water and sewer companies or authorities and/or other public or private utilities, governmental authorities, other Owners and to any other person or entity, any consents, rights, licenses, easements and rights-of-way for the installation, extension, construction, maintenance, repair, replacement, operation and removal of utility facilities, including electric, light, cable television, internet, telephone and telegraph poles, lines and conduits, gas, water and sewer lines, mains and connections, in, upon and through any portion of the Land, including, but not limited to, the public roads (subject to obtaining any necessary approval from Eaton Township and/or the appropriate office or department of Lorain County) which Developer may deem necessary or desirable. Developer also reserves to itself, during the Control Period, the sole and exclusive right to modify any of such consents, rights, licenses, easements and rights-of-way, including the relocation of any thereof; provided, however, such relocation shall not unreasonably interfere with existing utility connections to the Residences. Each Owner does hereby consent to, affirm and constitute Developer as such Owner's attorney-in-fact to grant and modify such consents, rights, licenses, easements and rights-of-way during the Control Period. After the Control Period, the right to grant and modify such consents, rights, licenses, easements and rights-of-way are hereby automatically assigned to the Board of Trustees. If the Board of Trustees shall cease to exist, then the right to grant and modify such consents, rights, licenses, easements and rights-of-way shall be automatically vested in the Board of Trustees of Eaton Township, Ohio.

3.04 RIGHTS AND EASEMENTS FOR THE BENEFIT OF THE GOLF COURSE PROPERTY. There is hereby reserved for the benefit of the Golf Course Property Owner, its successors, assigns and successors-in-title with respect to the Golf Course Property, the following alienable, transferrable, and perpetual rights and easements:

- (a) **GOLF COURSE MAINTENANCE.** The non-exclusive right of access and easement over and across the portions of the Common Areas which abut or are adjacent to any portion of the Golf Course Property. This reserved right and easement shall permit, but shall not obligate, the Golf Course Property Owner and its agents, employees, successors, and assigns with respect to the Golf Course Property, to go upon any such portions of the Common Areas which abut or are adjacent to any portion of the Golf Course Property, to maintain or landscape the area encumbered by such easement. Such maintenance and landscaping shall include planting of grass, watering, application of fertilizer, mowing, and the removal of underbrush, stumps, trash or debris, and trees having a trunk diameter of six (6) inches or less at a point one foot above ground level. The area encumbered by this easement shall be limited to the portion of the Common Areas which are within twenty five (25) feet of those boundary lines of the Common Areas which abut or are adjacent to the Golf Course Property or abut or are

adjacent to lakes, ponds, or other bodies of water abutting the Golf Course or Golf Course Property.

- (b) **WATER AND SANITARY SEWER TIE-INS.** The Golf Course Property Owner shall have the right to tie restrooms, snack shops and other facilities situated or to be situated on the Golf Course Property into the waterlines, storm sewers and/or sanitary sewer lines situated on the Land so long as: (i) such tie-ins are made in accordance with the requirements of the Eaton Township or other governmental authority or utility company having jurisdiction; (ii) such tie-ins do not overburden the water, storm sewer and/or sanitary sewer lines; (iii) such tie-ins are at the expense of the Golf Course Property Owner; (iv) such tie-ins shall not materially impair or interfere with the reasonable use and enjoyment of any Residence; (v) the lines installed by the Golf Course Property Owner through the Land are maintained by the Golf Course Property Owner; and (vi) any areas disturbed by such tie-ins and the repair and maintenance thereof are restored to substantially the condition in which they were found.
- (c) **CROSS-EASEMENTS.** The right is hereby reserved by the Declarant to grant cross-easements for: (a) the creation and/or preservation of lakes, ponds, creeks and streams, which may lie in part on the Golf Course Property and/or in part on the Land; and (b) for any utilities, storm sewers, storm water drainage systems, sanitary sewers or other facilities that will serve both the Golf Course Property and the Land or either of said properties.
- (d) **ENVIRONMENTAL EASEMENT.** There is hereby reserved for the benefit of Declarant, the Golf Course Property Owner and their respective agents, employees, successors, and assigns, an alienable, transferrable, and perpetual right and easement on, over, and across all Lots, Blocks and Common Areas, for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated or instituted by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, and the right to dispense pesticides and the right to maintain designated "wetland" areas.

3.05 RIGHTS AND EASEMENTS FOR THE BENEFIT OF EATON TOWNSHIP.

There is hereby reserved for the benefit of Eaton Township the following perpetual rights and easements with respect all portions of the Land that have been or are hereafter designated as Common Area within the Mallards Edge Subdivision:

- (a) **COMMON AREA MAINTENANCE.** The non-exclusive right of access and easement over and across each Block or other portion of the Land now or

hereafter designated as a Common Area for the following purposes: (a) to perform any maintenance or repair obligation that affects the public health, safety and welfare that the Association (or the Developer, during the Developer Control Period) is obligated to perform, but which the Developer (during the Developer Control Period), or the Association, after notice from Eaton Township as hereinafter set forth, has failed to perform and which the Developer, or the Association, has the right to perform pursuant to this Declaration; and (b) for emergency purposes during the period of the emergency.

- (b) Eaton Township shall not be obligated to maintain or repair any portion of the Common Area or any of the improvements located within the Common Area. However, in the event the Developer (during the Developer Control Period) or thereafter, the Association, fails to maintain or repair the Common Area or any improvements located within the Common Area, including but not limited to any Detention Area, and such failure affects the public health, safety or welfare, then Eaton Township may provide the Association with written notice of the maintenance work or repairs that need to be completed. In the event the Association fails to commence the needed maintenance work or repairs within thirty (30) days after the Association's receipt of such written notice, Eaton Township shall have the right, at the expense of the Association, to enter the Common Area and perform such maintenance and repairs as are required. Such right shall be in addition to any other remedies available to Eaton Township at law or in equity.
- (c) In the event the Association, after its receipt of the required written notice from Eaton Township, fails to commence the necessary repairs within the 30 day period set forth above, or having commenced such repairs within said 30 day period, fails to thereafter complete the required maintenance and repairs within a reasonable time period, and Eaton Township thereafter incurs costs and expenses required to perform the required maintenance or repairs, the Association shall reimburse the Association for such expenses and costs within thirty (30) days after receiving a detailed written statement from Eaton Township which itemizes the type and amount of the expenses and costs incurred.
- (d) In the event the Association fails to pay Eaton Township as set forth above, then Eaton Township shall have the right to file a lien upon the Common Area parcel(s) upon which the maintenance and repairs were performed for the amount of the costs and expenses, if any, which remains unpaid by the Association after the thirty day period set forth above has expired. Individual liens may also be filed against each of the Lots in the Mallards Edge Subdivision, provided the lien placed upon any Lot is not more than such Lot's proportional share (based upon the total number of Lots in the Mallards Edge Subdivision) of the total amount

owed to Eaton Township for the repairs and maintenance performed by the township.

ARTICLE IV

GOLF COURSE PROPERTY OWNERSHIP AND USE

- 4.01 OWNERSHIP OF THE GOLF COURSE PROPERTY.** No person or entity, by reason of their ownership of a Lot, Block, Residence or any other portion of the Land within the Mallard's Edge Subdivision, shall obtain any ownership rights in, or have any right or economic interest in or to, the Golf Course, the Golf Course Property and/or to its facilities and/or the use or enjoyment thereof except as may otherwise be set forth in this Declaration.
- 4.02 QUIET ENJOYMENT OF GOLF COURSE PROPERTY.** Owners of Lots, as well as their families, tenants, guests, invitees and pets shall be obligated to refrain from any actions which would distract from the playing qualities of the golf course located on the Golf Course Property. Such prohibited activities shall include, but not be limited to, burning materials where the smoke will cross over or upon the Golf Course Property, maintenance of dogs or other pets under conditions which interfere with Golf Course play due to their loud or continuous barking or other actions, playing of loud radios, televisions, stereos, or musical instruments, running, walking, sitting or laying on the Golf Course, picking up golf balls, or similar interference with play.
- 4.03 NON-USE OF GOLF COURSE PROPERTY.** Use of the Golf Course Property is only available to customers, guests and invitees of the Golf Course Property Owner. Ownership of a Lot within Mallard's Edge does not give to any Owner a vested right or easement, prescriptive or otherwise, to enter upon or use the Golf Course Property or the Golf Course cart paths and does not grant any ownership or membership interest in the Golf Course or Golf Course Property.
- 4.04 USE OF THE NAME "MALLARD CREEK".** No person shall use the words "Mallard's Creek" or any derivative thereof, in any printed or promotional material without the prior written consent of Declarant and the Golf Course Property Owner. However, Owners may use the name "Mallard's Edge" in printed and promotional material where such words are used solely to specify that particular property is located within the Mallard's Edge Development.
- 4.05 LAKES, STREAMS AND WATER BODIES.** All lakes, ponds, and streams within the Golf Course Property, are for the primary use and benefit of the Golf Course Property Owner. Neither the Declarant, the Developer nor the Golf Course Property Owner shall be responsible for any loss, damage, or injury to any person or property arising out of the

authorized or unauthorized use of lakes, ponds, or streams within the Golf Course Property.

- 4.06 EASEMENT.** A perpetual easements to permit the doing of every act necessary and proper to the playing of golf on the Golf Course Property is hereby granted and established upon each Lot and Common Area that abuts or is adjacent to any portion of the Golf Course Property. The acts permitted in this easement shall include, but not be limited to, the flight of golf balls over and upon such Lots and Common Areas, the use of necessary and unusual equipment upon such Golf Course and Golf Course Property, the usual and common noise level created by the playing of the game of golf and the noise level associated with the construction, maintenance, repair and rebuilding of the golf course and the golf course improvements on the Golf Course Property, together with all the other common and usual activities associated with the game of golf and with all the normal and usual activities associated with the use, operation and maintenance of a Golf Course, including, but not limited to mowing the grass located on the golf course and the Golf Course Property.
- 4.07 ASSUMPTION OF RISK ASSOCIATED WITH THE GAME OF GOLF.** Upon the purchase, occupancy or use of any Lot which is subject to this Declaration, each Owner, for themselves and the their family members, visitors, and invited quests, assumes the risks which are associated with the game of golf and the flight of golf balls over and upon such Lot or other property, including but not limited to, the possibility of damage to their property, real or personal, and injury to themselves, their family, friends, invited guests, visitors, or any other person on their property and agrees to hold harmless the Declarant, the Developer and the Golf Course Property Owner, and their respective successors and assigns, from any and all claims arising from an damage or injury which occurred by reason of the operation of the golf course, the flight of a golf ball, the use of a golf cart or from being hit by a golf ball or other instrument associated with the game of golf.
- 4.08 NOTICE OF EXISTENCE AND OPERATION OF GOLF COURSE.** Upon the purchase or occupancy of a Lot or other property which is subject to this Declaration, each Owner, for themselves and the members of their family, acknowledges that a golf course currently exists on the Golf Course Property. Each Owner further acknowledges that the Lots, Blocks and Common Areas which abut or are adjacent to the Golf Course Property will be subject to all risks associated with the game of golf. Each Owner further acknowledges that golf holes currently exist on the Golf Course Property and that as the golf holes are currently designed and constructed it is foreseeable and likely that golf balls will from time to time be hit onto the Lots, Blocks and Common Areas in the Mallard's Edge Development. In many instances, the golf balls will have sufficient force and velocity to cause serious bodily injury to a person or damage to the Residences, buildings, structures, automobiles, and other items of personal property located upon or in the vicinity of the Lots, Blocks, Common Areas, Residences, and street right of ways

which abut, are adjacent to, or within the general vicinity of, the Golf Course Property. The Owner of each Lot, upon the purchase of such property, waives any and all rights such person may have against the Declarant, the Developer or the Golf Course Property Owner, to the extent permissible by law, for any injury resulting from the negligent design or construction of the Golf Course, or the location of said Lot, Block, Common Area, or Residence in relation to the Golf Course or the Golf Course Property. Each Owner agrees to hold the Declarant, the Developer, and the Golf Course Property Owner harmless against all claims or demands for compensation for personal injury or property damage arising from any damage or injury which may hereafter occur on or to such Owner's Lot or Residence or upon any Block, Common Area, or other land within the development, which was caused in all or part from the use, operation or maintenance of the Golf Course Property, including, but not limited to, damage or injury from golf balls hit from the Golf Course Property.

- 4.09 NON-INTERFERENCE WITH OPERATION OF GOLF COURSE.** The Owner of each Lot and Unit hereby agrees that neither they, nor any member of their family or household, will in any way prevent, limit, interfere with, or attempt to prevent, limit, or interfere with, the construction, repair, maintenance, use or operation of a Golf Course on the Golf Course Property or in any way prevent the normal and customary activities associated with the ongoing repair, maintenance, and use of the Golf Course Property. The Owner of each Lot and Unit, upon the purchase of such Lot or Unit, waives any claim or right they may have to the effect that any normal, customary or required activity associated with the construction, use, operation, repair, rebuilding, upkeep or maintenance of the Golf Course or the Golf Course Property is a nuisance or should be limited or restricted to any specific months, weeks, time or day or number of hours per day.

ARTICLE V

TREE LAWNS, ISLAND AREAS AND HUBS

- 5.01 CARE OF TREE LAWNS.** Except as hereinafter provided, each Owner of a Lot shall be responsible for all maintenance and care of the tree lawn abutting such Owner's Lot. The Association shall be responsible for all maintenance and care of the tree lawns abutting any block or other property owned by the Association.
- 5.02 HUBS AND ISLAND AREAS.** The Association shall have the responsibility for maintaining and caring for the Island Areas and the Hubs. The Association or the Developer may hereafter enter into an agreement with Eaton Township setting forth the terms, conditions and obligation of the Association and the Developer in conjunction with the Association's use, maintenance and care of the cul-de-sac Hubs and street Island

Areas. The obligations of the Developer pursuant to any such agreement will hereafter be assigned to and become the obligation of the Association.

ARTICLE VI **COMMON AREA**

6.01 ACCEPTANCE AND OWNERSHIP OF THE COMMON AREA. The Developer shall hereafter transfer to the Association ownership of the Common Areas, including the areas designated as Block "A", Block "B", Block "C" Block "D" and Block "E" on the Plat. Such areas hereby being designated as "Common Area" by the Developer. The Common Areas will be deeded by Developer to the Club, no later than the date upon which seventy five percent (75%) of the permitted Residences to be constructed on Lots within the Mallard's Edge Development have been completed, including Residences on additional real estate which Developer may, from time to time, elect to add to the Mallard's Edge Development, as provided in this Declaration. However, in no event shall the Developer be obligated to transfer any Common Area blocks to the Association, unless and until such area has been added to the Land, designated as a Common Area, and at least seventy five percent (75%) of the permitted Residences to be constructed on Lots within the phase of the Mallard's Edge Subdivision which includes such Common Area have been completed and transferred to bona fide purchasers for valuable consideration. Thereafter, the Association shall be the sole, absolute and unconditional owner of the Common Area (subject to the easements as shown on any recorded Plat of any current or future phase of the Mallard's Edge Development), as well as the sole, absolute and unconditional owner of any equipment, systems, facilities, sprinkler systems or other improvements located thereon, which Developer has installed or may hereafter install, within such Common Area. After transfer of the ownership of a Common Area block to the Association, the Developer shall have no right or economic interest in and to such Common Area and/or to its facilities and/or the use or enjoyment thereof except as set forth herein, and all of the same are hereby reserved, on a non-exclusive basis, for all of the owners, occupants and residents of the Mallard's Edge Development. Except that the grant of said property to the Association shall be subject to all legal highways, easements, conditions and restrictions of record.

6.02 COST OF REPAIR OR REPLACEMENT OF FACILITIES. The cost of any major repair or replacement of any equipment, system, apparatus or facilities located in the Common Area and owned by the Association, or the expansion or addition of any Association facilities in excess of such facilities or apparatus that the Developer may install in said Common Area shall be paid by an assessment to the members of the

Association. The amount of the assessment shall be computed and determined by the Board of Trustees; and each member of the Association shall be assessed their proportionate share, based upon the total number of Lots at the time of such assessment (less any vacant Lots or unoccupied Residences then owned by the Developer, if any).

- 6.03 OBLIGATION OF DEVELOPER.** Developer shall be responsible for all costs of the installation of the equipment, systems, apparatus and facilities which the Developer may hereafter construct or install in the Common Area prior to or after the transfer of ownership of said property to the Association. However, there shall be no obligation on the Developer to install any equipment, systems, apparatus or facilities in addition to those in existence as of the date of this Declaration is originally filed of record with the Lorain County Recorder or the date the Plat of any additional Land hereafter subjected to this Declaration is filed of record with the Lorain County Recorder.
- 6.04 USE AND CARE OF THE COMMON AREA.** Developer hereby reserves, for itself and for the benefit of all Lot Owners and the Association, that portion of the Land, if any, hereafter made available for the general benefit of Mallard's Edge Lot Owners, including the right of access to and from each Common Area to install, use, maintain, repair and replace utilities, facilities, apparatus, sprinkler systems, landscaping, pathways, or any other similar or related items within each Common Area. No owner shall have the right to be permitted to care for or maintain the Common Area; such right and obligation of care and maintenance being that of Developer until such time as Developer assigns such right and obligation to the Association; whereupon such right and obligation of care and maintenance shall be that of the Association. If, in conjunction with the care or maintenance of the Common Area, any portion of any Lot is damaged, the Association shall be responsible for repairing such damage at the sole cost and expense of the Association. It is the intent of this Section that the Common Area is for the general benefit of all Lot Owners in Mallard's Edge Subdivision.
- 6.05 ESTABLISHMENT OF RECREATION FACILITIES.** The Developer has reserved the right to install limited Recreation Facilities in one or more of the Common Areas. However, nothing in this Declaration shall create an obligation on the Developer, or any other entity, whereby the Developer is required to provide any specific type, size or number of Recreation Facilities. The Developer, at its sole election, shall determine whether or not any Recreation Facilities are provided, and the size, shape and location of the Recreation Facilities. However, in the event the Developer elects to provide any Recreation Facilities as a part of the development, the ownership of the Recreation Facilities shall be transferred to the Association and the maintenance and use of the Recreation Facilities shall be subject to the terms and conditions of this Declaration.
- 6.06 OBLIGATION OF DEVELOPER.** Developer shall be responsible for all costs of the installation of the recreation facilities which the Developer may hereafter construct or

install in the Common Area prior to or after the transfer of ownership of said property to the Association. The Developer currently anticipates the construction of limited Recreation Facilities in the Mallard's Edge Development consisting of a walking path. However, if and when the walking path is installed, the Developer reserves the right to establish the size and location of the walking path and the type of materials used to construct said path.

ARTICLE VII

THE ASSOCIATION

7.01 ADMINISTRATION BY THE ASSOCIATION. Subject to the rights retained by Developer pursuant to this Declaration, the administration, maintenance and management of each Common Area, Detention Area, Hubs and Island Areas and the administration and enforcement of the Covenants and Restrictions contained in this Declaration which directly relate to such areas shall be by the Association in accordance with the terms and provisions of this Declaration.

7.02 BOARD OF TRUSTEES.

- (a) The Board of Trustees shall initially consist of three (3) persons. Trustees need not be members of the Association. Each Trustee shall serve for a term of three (3) years, or until his successor is duly designated and qualified. Each Trustee shall be entitled to one (1) vote, the total of votes of all voting Trustees being three (3).
- (b) Until December 31, 2027, Mallard's Edge, Ltd., its successors and assigns, shall have the right to appoint all three of the Trustees. However, Mallard's Edge, Ltd., may, at any time prior to October 1, 2026, by written notice to the Association, waive its right to appoint any or all of said three (3) Trustees.
- (c) After December 31, 2027, or at such earlier time as Mallard's Edge, Ltd., has waived its right to appoint all three of the Trustees in accord with the provisions of Section 13.02(b) above, the Lot Owners, in accordance with the Association By-Laws, shall be entitled to elect all of the Trustees of the Association, or if applicable, prior to December 31, 2027, those trustees that Developer has waived its right to appoint. The Trustees shall be elected and/or appointed as provided in the Association By-Laws.

7.03 COMPLIANCE BY OWNERS. Each Owner of a Lot, and each tenant and/or occupant of any Lot, shall comply with the terms and provisions of this Declaration, the By-Laws of the Association and all other reasonable rules and regulations of the Association or their representatives, all as lawfully amended from time to time. The failure to comply

with any such terms, provisions, rules, regulations or decisions shall be grounds for an action to recover sums due as and for damages, and/or for injunctive and/or other appropriate relief.

7.04 FORMATION OF THE ASSOCIATION. Declarant shall cause to be formed an Ohio not for profit corporation to be known as the Mallard's Edge Homeowner's Association, Inc., or such other name as may hereafter be designated by the Declarant, (referred to herein as the "Association ") to provide for ownership of the Common Areas and Recreation Facilities and the maintenance of the Island Areas, Hubs, Common Areas, Detention Area and Recreation Facilities. In addition the Association will provide for the administration of this Declaration and the enforcement of the Covenants and Restrictions contained in this Declaration. The Association will be established for the use and benefit of the owners and residents of Mallard's Edge Development, including the Owners of Lots in Mallard's Edge Subdivision No. 1, and all other Lots and Residences hereafter made a part of the Mallard's Edge Development, including all future phases of lots, if any, hereafter developed and included within the Mallard's Edge Development.

7.05 MEMBERSHIP IN THE ASSOCIATION. With the exception of the Developer, each Owner of a Lot, upon acquisition of the record title to such Lot, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of the fee simple interest in the Lot, at which time the new Owner of such Lot shall automatically become a member of the Association.

Membership in the Association shall automatically grant to resident members, or their tenants, and their immediate families and other occupants residing with them and permitted guests, the right to use the Recreation Facilities in common with the other resident members of the Association, or their tenants, and their immediate families and other occupants residing with them and permitted guests, subject to and in accordance with the rules and regulations from time to time adopted by the Association Board of Trustees; and each member shall pay the Dues and Assessments in the manner hereinafter set forth and as set forth in the Articles of Incorporation and By-Laws of the Association.

Except as hereinafter provided with respect to rental units and/or dwellings, the Developer and its Agents shall not be required to become members of the Association or to pay Association Dues and Assessments. The ownership by the Developer and its Agents of any unoccupied Residence(s) or vacant land located within the Mallard's Edge Development shall not require that the Developer become a member of the Association; nor shall the Developer and its Agents have any right or obligation to become members of the Association and/or to use the Recreation Facilities owned by the Association unless the Developer should lease or rent such Residence(s), in which event Developer shall

assume Association membership with respect to each such Lot during the period of tenancy.

Other than the Developer, no Owner of a Lot in the Mallard's Edge Development may be exempted or excused from membership in the Association and/or from the payment of the Dues and Assessments due to the Association by virtue of such person's non-use of the Recreation Facilities owned by the Association, or for any other reason.

ARTICLE VIII

ASSOCIATION ASSESSMENTS

- 8.01 ABANDONMENT.** No Owner shall be exempt from liability for such Owner's share of the Association assessments by the abandonment of the Owner's Lot.
- 8.02 ASSOCIATION ASSESSMENTS.** Each Owner of a Lot (other than Developer, except as specifically set forth in Section 8.09 hereof), hereby agrees to pay to the Association : (a) the annual assessments levied by the Association ; and (b) such special assessments which may be levied by the Association as hereinafter provided. The annual assessments and special assessments shall be used to pay the Association Expenses. In addition, the annual assessments may be used to fund reasonable reserves which may be required to pay future Association Expenses.
- 8.03 DISPUTE AS TO ASSESSMENTS.** Any Owner who believes that the portion of any assessments levied with respect to such Owner's Lot or Unit, for which a certificate of lien has been filed by the Association , has been improperly charged against such Lot or Unit may bring an action in the Court of Common Pleas for Lorain County, Ohio, for the discharge of such lien. In any such action, if it is finally determined that such portion of the assessments has been improperly charged, the Court shall make such order as is just, which may provide for a discharge of record of all or a portion of such lien.
- 8.04 INTEREST.** Delinquent assessments shall bear interest at the rate of ten percent (10%) per annum or such other interest rates as are from time to time established by the Association (which interest rate shall not exceed the maximum legal interest rate allowed to be charged to an individual under the laws of the State of Ohio then in effect). The Association shall also have the right to establish a late charge for delinquent payments in addition to interest charges.
- 8.05 LEGAL FEES AND COSTS OF COLLECTION.** In the event an Owner is delinquent in the payment of any assessment, whether annual or special, or in the event an Owner fails to perform any obligation or pay any cost, expense, damage reimbursement, or other amount required of an Owner pursuant to this Declaration, then such Owner shall pay all

costs incurred by the Association to collect the amount owed or to enforce the provisions of this Declaration with respect to such Owner. The collection and/or enforcement costs may include, but shall not necessarily be limited to, any and all legal fees and other costs incurred by the Association to enforce this Declaration and/or collect the amount owed by such Owner. The collection costs, at the election of the Association, may be assessed and enforced against the applicable Lot(s) as a special assessment.

8.06 LIABILITY UPON VOLUNTARY CONVEYANCE. In a voluntary conveyance of a Lot, the grantee of the Lot, shall be jointly and severally liable with the grantor thereof for all unpaid Association assessments levied with respect to the Lot up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from Board of Trustees setting forth the applicable amount of all unpaid assessments levied with respect to the Lot and such grantee shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid applicable assessments in excess of the amount set forth in such statements for the period reflected in such statements. As used in this Section "grantor" shall include a decedent and "grantee" shall include a devisee or intestate heir of said decedent.

8.07 LIEN OF ASSOCIATION. The Association shall have a lien upon the estate or interest in any Lot (except Lots owned by Developer), for the payment of the assessments chargeable against such Lot which remain unpaid for thirty (30) days after the same have become due and payable, together with the interest and late charges assessed in accordance with Section 8.04 hereof and collection and enforcement costs assessed in accordance with Section 8.05 hereof. The lien shall take effect from the time a certificate therefor, signed by an authorized officer or agent of the Association, is filed with the Recorder of Lorain County, Ohio, pursuant to the authority given by the Board of Trustees. Such certificate shall contain a description of the Lot, and the name or names of the record Owner or Owners thereof, and the amount of such unpaid portion of the assessments. Such lien shall remain valid for a period of five (5) years from the time of filing thereof, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of the court in an action brought to discharge such lien as hereinafter provided. In addition, the Owner of the Lot shall be personally liable for the assessments chargeable to the Lot for the period of such Owner's ownership of the Lot. No portion of the Land which does not consist of a Lot shall be subject to a lien for Association assessments.

8.08 NON-LIABILITY FOR PAST DUE ASSESSMENTS. If the holder of a first mortgage of record, or other purchaser of a Lot acquires title to the Lot as a result of foreclosure of the first mortgage, or if the mortgagee accepts a deed in lieu of foreclosure, then such acquirer of title, its successors and assigns, shall not be liable for the share of

the Association assessments levied with respect to such Lot which became due prior to the acquisition of title to same by such acquirer. Such unpaid share of such assessments shall be deemed to be a Association Expense collectible from all Owners, including that of such acquirer, its successors and assigns.

8.09 PAYMENT OF ASSESSMENTS.

- (a) Until the Board of Trustees of the Association increases or decreases the annual assessment, the annual assessment shall be One Hundred and Fifty Dollars (\$150.00) per Lot. The Board of Trustees shall have the right to require that the annual assessment be paid in monthly or other periodic installments during the year. Except as hereinafter provided, Developer shall not be required to pay the annual assessment for any Lots, owned by Declarant or the Developer in the Mallard's Edge Development. Each year the Board of Trustees will establish a budget setting forth the estimate by the Board of Trustees of the Association Expenses for the following year. The annual assessment shall be equal to the estimate of the Association Expenses for the following year, together with a reasonable addition to the reserves of the Association. Each Owner (other than Developer) shall be responsible for and shall pay that portion of the annual assessment equal to the total annual assessment divided by the number of Lots within the Mallard's Edge Development, exclusive of any Lots owned by Developer.
- (b) In lieu of the Developer paying any annual or special assessment, until the year in which Developer has sold a combined total of at least fifty (50) Lots, or January 1, 2016, whichever occurs earlier, Developer shall make up the difference between (i) an amount equal to the number of Lots not owned by Developer in the Mallard's Edge Development multiplied by One Hundred Fifty Dollars (\$150.00), and (ii) the actual expenses of the Association in connection with the Hubs, the Common Areas, the Detention Area and the Recreation Facilities. Once Developer has sold at least fifty (50) of the Lots within the Mallard's Edge Development, Developer shall not have any obligation to make any contribution in connection with the maintenance of the Hubs, Common Areas, Detention Areas or the Recreation Facilities or to pay any annual assessment with respect to Lots owned by the Declarant or the Developer.

8.10 PRIORITY OF THE ASSOCIATION'S LIEN. The lien provided for in this Article X for assessments shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments, and such lien may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association or by any authorized officer of the Association pursuant to the authority given to such officer by the Board of Trustees. In any such foreclosure action, the Owner

or Owners of the Lot shall be required to pay a reasonable rental for the Lot during the pendency of such action, and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. In any such foreclosure action, the Association, or its agent, duly authorized by action of the Board of Trustees, shall be entitled to become a purchaser at the foreclosure sale.

8.11 RIGHTS OF FIRST MORTGAGEES. Any first mortgagee of any Lot shall have the right to notify the Association in writing that such mortgagee desires to receive notice from the Association of any delinquency in the payment by the Owner of a Lot which is encumbered by the mortgage held by the mortgagee and upon such written request, the Association shall notify the first mortgagee if and to the extent that such Owner is more than thirty (30) days delinquent in the payment of applicable assessments.

8.12 SPECIAL ASSESSMENTS. The Association shall have the right, by action of its Board of Trustees, from time to time, to levy special assessments to pay any Association Expense which is extraordinary and nonrecurring. Each Owner (other than Developer) shall be responsible for and shall pay that portion of a special assessment equal to the special assessment divided by the number of Lots within the Mallard's Edge Development, exclusive of any Lots owned by Developer. Developer shall not be responsible for the payment of any special assessments for Lots or Residences owned by Developer.

ARTICLE IX

OBLIGATIONS OF OWNERS

9.01 REPAIR OBLIGATIONS. If any portion of the Common Area, the Golf Course Property, the Recreational Area, Island Areas, or the Hubs, is damaged or destroyed as a result of any negligent or willful act or as a result of neglect of an Owner, or such Owner's guests, tenants or grantees, then the Association shall repair, at such Owner's cost and expense, all such items for which the Association is responsible to maintain.

9.02 MAINTENANCE AND REPAIR OF RESIDENCE AND APPURTENANT AREAS. Each Lot Owner shall maintain and keep in good condition and repair, at such Owner's cost and expense, the entire exterior of such Lot Owner's Residence, including any mailbox, and cause the same to be repainted periodically in the color permitted under the terms of this Declaration and/or resurfaced and/or otherwise maintained in a first-class high quality manner. Each Lot Owner shall also be responsible for the maintenance, repair and replacement, at the Owner's cost and expense, of the tree lawn and sidewalk, if any, which is adjacent to, contiguous with or is within all or any part of the Owner's Lot (including any portion of such tree lawn lying within a right-of-way). Each Lot Owner shall also be responsible, at the Owner's cost and expense, for the repair, maintenance and

replacement of the driveway, and the driveway apron situated outside of the Owner's Lot. After a Residence is constructed on a Lot, the Owner of such Lot shall promptly landscape the Lot containing such Residence in accordance with the provisions of Section 2.03 this Declaration and at all times thereafter maintain such landscaping and lawn in a slightly state and condition and in accordance with the restrictions set forth in this Declaration.

- 9.03 ASSOCIATION LIEN.** If an Owner shall fail to perform or observe the Owner's obligations under this Article IX, then the Association shall have the right to perform the same and charge the entire cost and expense thereof to the Owner and such cost and expense so charged by the Association shall be deemed to be a lien of the same class and character as a lien against the Lot of such Owner for the nonpayment of Association assessments.

ARTICLE X

ENFORCEMENT

- 10.01 OBLIGATION OF LOT OWNER.** Each Owner of a Lot in the Mallard's Edge Development (except the Developer), by the acceptance of a deed to a Lot and the acceptance of the ownership of the Lot, covenants and agrees with the Association and all of the members of the Association, that the Lot owner shall pay, as and when due, the full amount of all dues and assessments due to the Association; and if the same are not paid, the same shall constitute a lien against the Lot, and such Lot may not be transferred, sold or assigned unless and until the amount of all dues and assessments due the Association attributable to that Lot have been paid in full. As provided in the By-Laws of the Association, if the annual dues or a special assessment, or installment of a special assessment, are not paid within thirty (30) days after the due date, such delinquent amount shall bear interest from the due date at the rate of ten percent (10%) per annum, or such other rate as hereafter established by the Association, and the Association may, after such thirty (30) days, bring an action at law against the owner of said Lot and (additionally or alternatively) may foreclose the lien against the Lot; and in the event a judgment is obtained, such judgment shall include interest on the delinquent amount as above provided, together with the cost of the action. The Association may file in the office of the County Recorder a notice of lien to evidence any delinquent dues or assessments, 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 Owner, against the Lot or against any other person responsible for such payment.

10.02 OBLIGATION OF OWNER. Each Owner of a Lot in the Mallard's Edge Development (except the Developer), by the acceptance of a deed to a Lot, covenants and agrees with the Association and all of the members of the Association, that the Owner of the Lot shall pay, as and when due, the full amount of all dues and assessments due to the Association; and if the same are not paid, the same shall constitute a lien against the Lot, and such Lot may not be transferred, sold or assigned unless and until the amount of all dues and assessments due the association have been paid in full. As provided in this Declaration, or in the Association By-Laws, if the annual Association dues or a special assessment, or installment of a special assessment, are not paid within thirty (30) days after the due date, such delinquent amount shall bear interest from the due date at the rate of ten percent (10%) per annum, or such other rate as hereafter established by the Association, and the Association may, after such thirty (30) days, bring an action at law against the owner of said Lot and (additionally or alternatively) may foreclose the lien against the Lot; and in the event a judgment is obtained, such judgment shall include interest on the delinquent amount as above provided, together with the cost of the action, including, but not limited to, the Association's legal fees and other expenses of litigation. The Association may file in the office of the County Recorder a notice of lien to evidence any delinquent dues or assessments, 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 owner, against the Unit or against any other person responsible for such payment.

10.03 RIGHT OF DEVELOPER AND/OR ASSOCIATION TO ENFORCE TERMS OF THE DECLARATION. Developer reserves to itself during the Developer Control Period, and thereafter assigns to the Association the right, in case of any violation or breach of this Declaration, to restrain such violation or breach, to recover damages therefor, and/or to enter the property upon or as to which such violation or breach exists and summarily abate and eliminate same at the expense of the Owner thereof. Developer and/or the Association shall not by reason of the foregoing action be deemed guilty of any manner of trespass for such entry, abatement or elimination. Failure of Developer or the Association to enforce any provision of this Declaration shall in no event be construed, taken or held to be in any manner a waiver thereof, or acquiescence in or consent to any further or succeeding breach or violation of the same or any other provision of this Declaration. Developer and/or the Association shall at any and all times have the right to enforce the terms hereof and to prevent any other violation or breach of this Declaration. However, the failure, refusal or neglect of Developer and/or the Association to enforce the provisions of this Declaration and to prevent any violation or breach thereof shall in no manner and to no extent whatsoever make the Developer or the Association liable therefor. Developer and/or the Association may exercise the right of enforcement hereunder independently and severally.

10.04 LEGAL FEES AND COSTS OF COLLECTION. In the event an Owner is delinquent in the payment of any assessment, whether annual or special, or in the event an Owner fails to perform any obligation or pay any cost, expense, damage reimbursement, or other amount required of an Owner pursuant to this Declaration, then such Owner shall pay all costs incurred by the Association to collect the amount owed or to enforce the provisions of this Declaration with respect to such Owner. The collection and/or enforcement costs may include, but shall not necessarily be limited to, any and all legal fees and other costs incurred by the Association to enforce this Declaration and/or collect the amount owed by such Owner. The collection costs, at the election of the Association, may be assessed and enforced against the applicable Lot(s) and/or Unit(s) as a special assessment.

ARTICLE XI

DEVELOPER'S NON-COMPLIANCE AND CONSTRUCTION OF RESIDENCES

During the course of developing, improving and constructing the Mallard's Edge Development and the Residences and other improvements within the Mallard's Edge Development, Developer and those persons and entities designated by Developer or acting at Developer's direction shall have the right not to conform to the provisions of this Declaration; such nonconformity to include, but not be limited to, the construction and maintenance of models of Residences; sales and leasing activities; construction activities; the posting of signs advertising Lots and Residences for sale or lease; and the temporary establishment of workhouses, sheds, trailers and other facilities for temporary housing of construction and sales activity. Such nonconformity by Developer and those designated by Developer or acting at Developer's direction shall not be deemed to be a violation or breach of this Declaration and shall not operate in any manner whatsoever to relieve the Owners other than Developer, or the person or entity designated by Developer or acting at Developer's direction, from the strict observance of the terms of this Declaration.

ARTICLE XII

INSURANCE

12.01 INSURANCE LIMITATION. Except as is otherwise provided in this Article, the policies of insurance maintained by the Association pursuant to this Article XIII, shall not insure against liability for personal or bodily injury or property damage arising out of or relating to the individual Lots or Residences. Each Owner shall be responsible for obtaining such Owner's own insurance with respect to such Owner's Lot and/or Residence and the contents thereof, including the private Tree Lawn abutting such Owner's Lot, and with respect to the Owner's personal liability to the extent not covered by the liability insurance referred to in this Article.

12.02 MAINTENANCE OF LIABILITY INSURANCE. The Association, as an expense of the Association, shall insure itself, the Board of Trustees of the Association, Developer, all Owners and other persons residing with them in the Residences, their tenants, and all persons lawfully in possession or control of the Lots, Residences and Land, against liability for bodily or personal injury or death and for injury to or destruction of property occurring upon, in or about or arising from each Common Area, Detention Area, Island Area or Hub; such insurance to afford aggregate protection with combined limits of not less than One Million Dollars (\$1,000,000.00) with respect to bodily or personal injury or death suffered by one or more persons and damage to or destruction of property arising out of any one incident.

12.03 OTHER INSURANCE. The Association, at the discretion of the Board of Trustees, shall have the right to maintain such property or extended coverage insurance insuring the Association's property and each Recreation Area, Detention Area, Common Area, Island Area and Hub, in such amounts, against such perils, for such time periods and under such circumstances as the Association, through the Board of Trustees, determines is appropriate and in the best interest of the Association and Mallard's Edge, Ltd.

12.04 RESIDENCE INSURANCE. The Association shall not have any responsibility or liability to obtain or maintain any type of insurance upon any Lot or Residence and such insurance shall be the sole responsibility of the Owner and the amount, nature and extent thereof shall be determined by the Owner of the Lot or Residence.

12.05 WAIVER OF SUBROGATION. To the extent the Association maintains insurance for damage or injury to property upon all or any portion of any Detention Area,, Common Area, Island Area or Hub, and to the extent that the following provision does not invalidate any policy or policies of insurance maintained by the Association, the Association shall and does hereby waive and release Developer and each Owner and their respective officers, trustees, agents, tenants, families and guests from and against any and all liability for any loss, damage or injury to property resulting from any act or peril covered by such policies of insurance maintained by the Association .

ARTICLE XIII

REAL ESTATE TAXES AND ASSESSMENTS

Developer shall use reasonable efforts to obtain from the Auditor of Lorain County separate tax parcel numbers for each Lot so that each Lot shall be separately taxed and assessed by the appropriate governmental authority of the State of Ohio. The Owner of each Lot shall be responsible for and pay all taxes and assessments, general and special, levied or imposed upon such Lot and all improvements thereto; and the other

Owners shall not be responsible for or required to pay the taxes and assessments separately assessed and charged to a Lot or any improvements thereto.

ARTICLE XIV **MISCELLANEOUS**

14.01 ACCEPTANCE OF DEED. Each grantee of any interest in any Lot, or any part of the Land, or any improvement thereon, by the acceptance of a deed or other instrument of conveyance, accepts the same subject to all Covenants and Restrictions created, granted, reserved or permitted by the terms of this Declaration, and all conditions, restrictions and easements of record. The Covenants and Restrictions shall be deemed to be covenants running with the Land, and shall bind any person having at any time any interest or estate in the Land, or any improvements thereon, and shall inure to the benefit of Developer and each Owner as though the provisions hereof were recited and stipulated at length in each and every deed of conveyance.

14.02 AMENDMENTS. This Declaration may be amended only as follows:

- (a) During the Control Period, this Declaration may be amended by Developer for the purpose of adding real property to the Land and subjecting such additional real property to the provisions of this Declaration by an instrument in writing signed by Developer and/or the purpose of withdrawing real property from the Land and/or from the provisions of this Declaration.
- (b) During the Control Period, this Declaration also may be amended by Developer for any other purpose not inconsistent with the development of Mallard's Edge Development as a first class residential community by an instrument in writing signed by Developer.
- (c) At any time this Declaration may be amended by Developer to correct typographical errors, to conform the Declaration to then existing laws or government regulations, or to correct errors in references to Articles and Sections within the Declaration.
- (d) During the Control Period, this Declaration may be amended for any reason other than as set forth in paragraphs (a) or (b) hereof, by an instrument in writing signed by Declarant and a majority of the Board of Trustees.
- (e) After the Control Period, the provisions of this Declaration may be amended by an instrument in writing signed by Owners owning at least seventy-five percent (75%) of the total number of Lots, except that in no event may any amendment

impose any additional duties, obligations or liabilities upon Developer or limit, restrict or eliminate any rights of Developer without the written consent of Developer.

Each Owner hereby irrevocably appoints Developer, and thereafter upon the conclusion of the Developer Control Period, the Association Board of Trustees, as such Owner's attorney-in-fact, to execute, deliver and record amendments to this Declaration in accordance with the foregoing, which power of attorney is hereby declared to be coupled with an interest. No amendment to this Declaration shall be effective unless it is in recordable form and until it has been filed for record with the Lorain County Recorder.

- 14.03 DISTRIBUTION OF COPIES.** At the request of any Owner, during the period in which Developer has the right to amend this Declaration, Developer shall provide the Owner, at the Owner's expense, with a copy of this Declaration together with all amendments, certificates and other writings executed, delivered and recorded in connection with and/or pursuant to the terms of this Declaration.
- 14.04 ENFORCEABILITY OF COVENANTS AND RESTRICTIONS.** The invalidity of any term, covenant, restriction, condition, obligation or provision hereof shall not impair or affect in any manner whatsoever the validity, enforceability or effect of the rest of the Covenants and Restrictions.
- 14.05 ENFORCEABILITY.** The Covenants and Restrictions set forth in this Declaration shall be deemed as covenants and not as conditions hereof, and are to run with the Land and the title thereto and shall be binding on all Owners and all persons claiming under them. The Covenants and Restrictions set forth in this Declaration shall be for the benefit of and run in favor of, and shall be enforceable by any person, and by the heirs, executors, administrators, successors and assigns of such person, who is or becomes a title holder to any part of the Land, as well as each Owner and Developer, their successors or assigns, and the Association, as aforesaid. It is understood and agreed that all of the foregoing are a part of a common and general plan for the development of the Mallard's Edge Development and the protection of Developer and all present and future Owners.
- 14.06 INTERCHANGEABILITY OF TERMS.** The singular of any word shall also include the plural of such word, and the masculine gender shall also include the neuter and feminine, as the intent may require.
- 14.07 LIBERAL CONSTRUCTION.** The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a residential development.

- 14.08 LIMITATION OF LIABILITY.** Each Owner covenants and agrees that no shareholder, director or officer of the Declarant or the Developer, nor any employee or agent of the Declarant or the Developer, shall have any liability personally for the performance or observance of any term, covenant, restriction, condition or provision contained in this Declaration. Each Owner covenants and agrees that the Owner shall not commence or participate in any action, suit or proceeding against the Declarant or the Developer arising out of any claim or breach by Developer of any term, covenant, restriction, condition or provision of this Declaration. The liability of Developer shall be limited solely and exclusively to its interests in the Land as the same shall then be encumbered, and no other asset of Developer shall be liable for any claim under or in connection with this Declaration.
- 14.09 NON-LIABILITY OF DECLARANT.** Neither the Declarant nor the Developer, nor their respective directors, officers, shareholders, employees, agents or representatives, shall be liable for any claim whatsoever arising out of or by reason of any omission or failure to act or any action performed pursuant to any authority granted or delegated to them by or pursuant to the terms of this Declaration, whether or not such claim shall be asserted by any Owner, occupant of a Residence, the Association or any person or entity claiming by, through or under any of them, nor on account of injury to persons or damage to or loss of property wherever located and however caused. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of any part of the Mallard's Edge Development being or becoming out of repair, or containing any patent or latent defects; by reason of any act or neglect of any Lot Owner, any occupant of a Residence, the Mallard's Edge Homeowners Association, and their respective agents, employees, guests, and invitees; by reason of any neighboring property or personal property located on or about the Mallard's Edge Development; or by reason of the maintenance or interruption of any utility service.
- 14.10 NON-WAIVER OF COVENANTS AND RESTRICTIONS.** No term, covenant, restriction, condition, obligation or provision contained herein shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.
- 14.11 RULE AGAINST PERPETUITIES.** If any of the Covenants and Restrictions established hereby and/or contained in the Association's Code of Regulations shall be unlawful or void for violation of the rule against perpetuities or some analogous statutory provision, the rule restricting restraints on alienation, or any other statutory or common law rule imposing time limits, then such provision shall continue only one (1) day prior to the end of the twenty-first (21st) year after the death of the survivor of the now living descendants of George H. W. Bush, former President of the United States, and George Voinovich, United States Senator for the State of Ohio.

EXHIBIT "A"
TO
MALLARD'S EDGE DECLARATION OF RESTRICTIONS,
RESERVATIONS AND COVENANTS

Description of the Land

The real estate included within the term "Land" in Section 1.19 of the Declaration is described as follows:

Lots 1 through 26, inclusive, as shown on the Plat of Mallards Edge Subdivision No. 1, being part of original Eaton Township Lots 15 and 16, as recorded February 10, 2012 in Plat Book 97, Pages 33, 34 and 35 of Lorain County Records.

**EXHIBIT " B"
TO
MALLARD'S EDGE DECLARATION OF RESTRICTIONS,
RESERVATIONS AND COVENANTS**

Reduced sized Drawings of the Plat

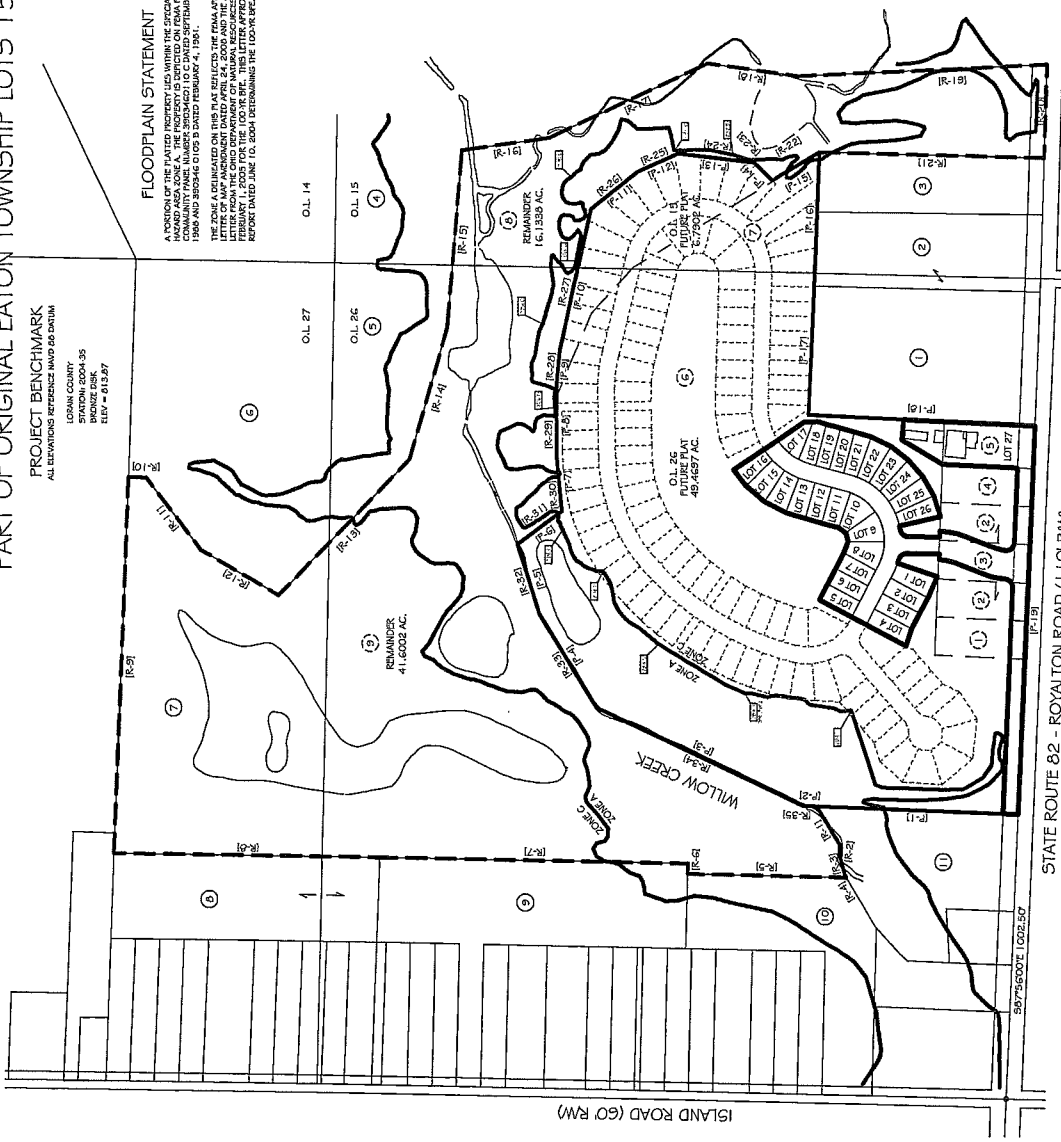
MALLARDS EDGE SUBDIVISION, NO. 1

SITUATED IN THE TOWNSHIP OF EATON, COUNTY OF LORAIN, STATE OF OHIO
PART OF ORIGINAL EATON TOWNSHIP LOTS 15 & 26

PROJECT BENCHMARK
ALL ELEVATIONS REFERENCE NAVD 83 DATUM
LORAIN COUNTY
STATION: 2004-35
NAD 83
ELEVATION: 418.87

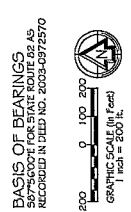
FLOODPLAIN STATEMENT

A PORTION OF THE PLATTED PROPERTY LIES WITHIN THE SPECIAL FLOOD HAZARD AREA AS SHOWN ON THE FLOODPLAIN MAP OF THE TOWNSHIP OF EATON, COUNTY OF LORAIN, STATE OF OHIO, DATED FEBRUARY 4, 1991. THE ZONE A DELINEATED ON THIS PLAT REFLECTS THE FEMA APPROVED LETTER MAP FLOODPLAIN DATED APRIL 24, 2009 AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) LETTER APPROVED THE FLOODPLAIN MAP DATED APRIL 24, 2009 FOR THE 100-YEAR FLOOD. THIS LETTER APPROVES THE MAP DATED JUNE 10, 2004 DETERMINING THE 100-YEAR FLOOD.

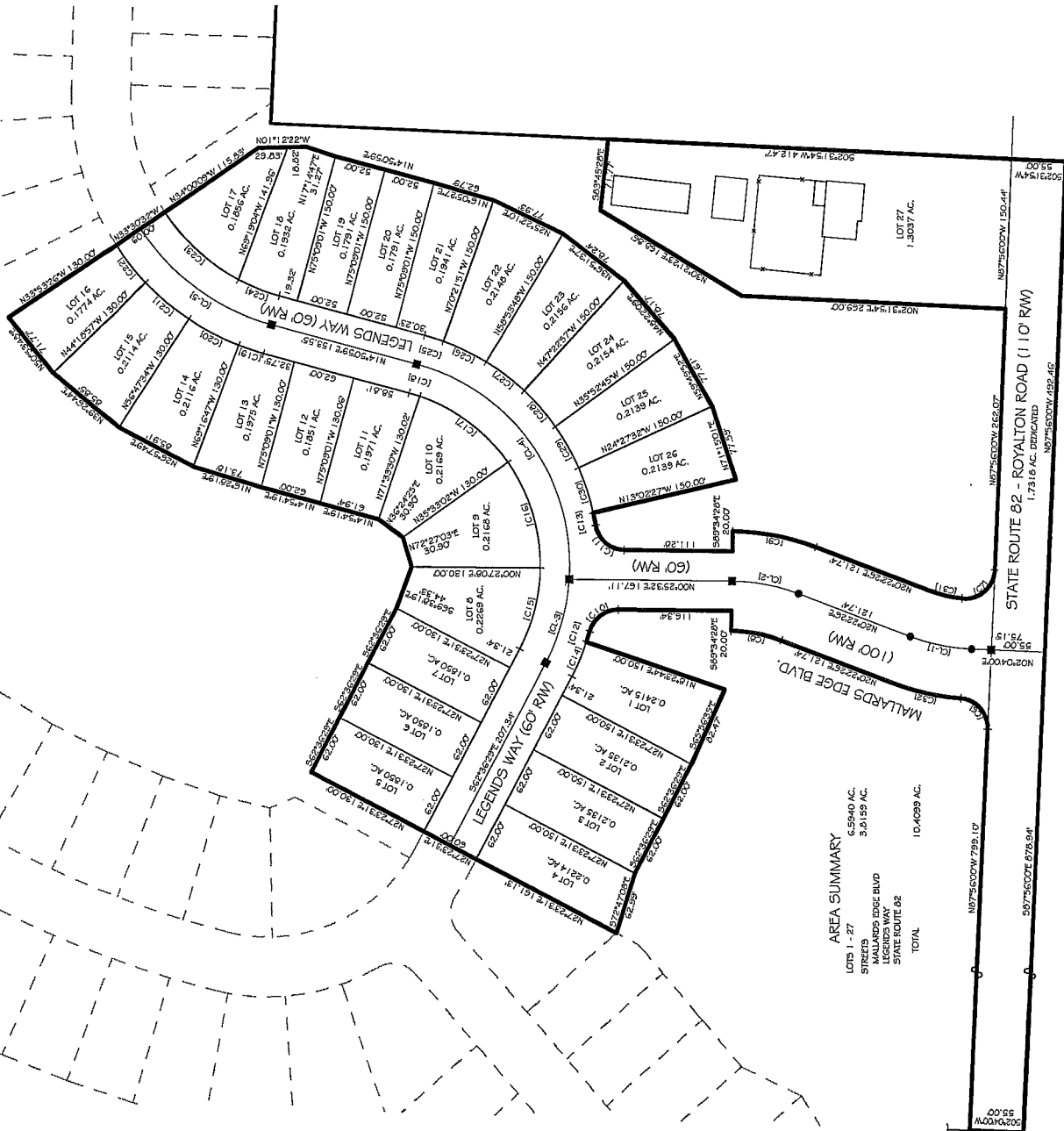
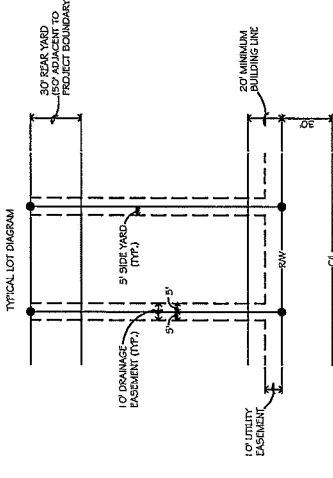


REMANINDER PARCEL LINE TABLE		REMANINDER PARCEL LINE TABLE		
LINE	BEARING	LENGTH	BEARING	
R-1	S02°49'49"E	580.49'	R-1	S55°05'14"W
R-2	N89°20'11"W	328.13'	R-2	N82°10'00"E
R-3	N01°11'40"E	504.10'	R-3	S75°41'34"W
R-4	S82°05'11"W	195.65'	R-4	S59°28'00"W
R-5	N84°23'57"E	499.28'	R-5	N01°02'28"E
R-6	N02°01'01"E	275.90'	R-6	S00°52'32"E
R-7	N24°09'09"W	156.97'	R-7	N01°02'59"E
R-8	N77°53'11"W	505.17'	R-8	N07°55'49"E
R-9	N77°53'11"W	505.17'	R-9	S08°12'05"E
R-10	N04°41'42"W	117.10'	R-10	S01°27'59"W
R-11	S89°48'59"W	229.37'	R-11	S52°29'01"W
R-12	S84°12'50"W	191.03'	R-12	S29°47'20"W
R-13	N52°01'51"W	195.15'	R-13	S45°43'08"E
R-14	N82°05'29"W	390.20'	R-14	S08°12'05"E
R-15	S02°04'00"W	51.30'	R-15	S07°52'46"E

- PARCELS INTO PLAT SUMMARY
- 1) PARCEL NO. 11-00-026-000-023 MALLARDS EDGE, LTD. DEED NO. 2011-0376099, PARCEL #1 1.00 AC. (R)
 - 2) PARCEL NO. 11-00-026-000-029 MALLARDS EDGE, LTD. DEED NO. 2011-0376099, PARCEL #2 1.00 AC. (R)
 - 3) PARCEL NO. 11-00-026-000-032 O.E. HKS, 573 FC, 144 1.00 AC. (R)
 - 4) PARCEL NO. 11-00-015-000-020 RONALD L. PALMER DEED NO. 2005-0046791 19.24 AC. (R)
 - 5) PARCEL NO. 11-00-026-000-045 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 16.79 AC. (R)
 - 6) PARCEL NO. 11-00-026-000-046 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 6.77 AC. (R)
 - 7) PARCEL NO. 11-00-027-000-019 JIMMY C. & PATRICIA KUMATH DEED NO. 1990 FC, 971 5.58 AC. (R)
 - 8) PARCEL NO. 11-00-026-000-040 CONNELLUS P., JR. & PATRICIA KUMATH DEED NO. 1990 FC, 971 5.58 AC. (R)
 - 9) PARCEL NO. 11-00-015-000-013 JIMMY C. & PATRICIA KUMATH DEED NO. 2004-0354691 3.71 AC. (R)
 - 10) PARCEL NO. 11-00-026-000-039 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 16.79 AC. (R)
 - 11) PARCEL NO. 11-00-015-000-019 JIMMY C. & PATRICIA KUMATH DEED NO. 1990 FC, 971 5.58 AC. (R)
 - 12) PARCEL NO. 11-00-026-000-046 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 6.77 AC. (R)
 - 13) PARCEL NO. 11-00-015-000-013 JIMMY C. & PATRICIA KUMATH DEED NO. 2004-0354691 3.71 AC. (R)
 - 14) PARCEL NO. 11-00-026-000-039 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 16.79 AC. (R)
 - 15) PARCEL NO. 11-00-026-000-046 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 6.77 AC. (R)
 - 16) PARCEL NO. 11-00-015-000-019 JIMMY C. & PATRICIA KUMATH DEED NO. 1990 FC, 971 5.58 AC. (R)
 - 17) PARCEL NO. 11-00-026-000-046 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 6.77 AC. (R)
 - 18) PARCEL NO. 11-00-015-000-013 JIMMY C. & PATRICIA KUMATH DEED NO. 2004-0354691 3.71 AC. (R)
 - 19) PARCEL NO. 11-00-026-000-039 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 16.79 AC. (R)
 - 20) PARCEL NO. 11-00-026-000-046 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 6.77 AC. (R)
 - 21) PARCEL NO. 11-00-015-000-019 JIMMY C. & PATRICIA KUMATH DEED NO. 1990 FC, 971 5.58 AC. (R)
 - 22) PARCEL NO. 11-00-026-000-046 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 6.77 AC. (R)
 - 23) PARCEL NO. 11-00-015-000-013 JIMMY C. & PATRICIA KUMATH DEED NO. 2004-0354691 3.71 AC. (R)
 - 24) PARCEL NO. 11-00-026-000-039 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 16.79 AC. (R)
 - 25) PARCEL NO. 11-00-026-000-046 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 6.77 AC. (R)
 - 26) PARCEL NO. 11-00-015-000-019 JIMMY C. & PATRICIA KUMATH DEED NO. 1990 FC, 971 5.58 AC. (R)
 - 27) PARCEL NO. 11-00-026-000-046 PALMER ENTERPRISE, LTD. DEED NO. 2005-0046790 6.77 AC. (R)



MALLARDS EDGE SUBDIVISION, NO. 1
 SITUATED IN THE TOWNSHIP OF EXTON, COUNTY OF LEBAN, STATE OF OHIO
 PART OF ORIGINAL EXTON TOWNSHIP LOTS 15 & 26



CURVE	LENGTH	RADIUS	CURVE TABLE CHORD	DELTA	TANGENT
ICL-1	63.90	200.00	511°13'13"W	63.63°	1871.822'
ICL-2	69.63	200.00	N10°23'35"E	69.25°	1955.554'
ICL-3	87.74	210.00	S74°34'40"E	87.11°	2375.622'
ICL-4	168.08	210.00	N84°09'04"E	166.03°	4712.239'
ICL-5	288.63	210.00	S35°27'19"W	286.41°	803.6
IC9	46.07	30.00	N45°04'31"E	41.67°	875.5859'
IC7	49.59	30.00	S40°34'41"E	44.13°	944.239'
IC8	52.22	150.00	N10°23'35"E	51.96°	1955.554'
IC9	87.04	95.00	N10°23'35"E	86.00°	1955.554'
IC10	39.13	30.00	N85°52'50"W	36.42°	754.403'
IC11	41.65	30.00	S40°12'56"W	36.39°	793.9347'
IC12	11.39	240.00	S72°57'24"E	11.39°	2421.7'
IC13	12.69	240.00	N79°29'26"E	12.69°	301.146'
IC14	37.48	240.00	S67°06'22"E	37.44°	859.47'
IC15	64.63	180.00	S76°04'41"E	63.90°	2035.623'
IC16	113.11	180.00	N72°27'03"E	111.25°	3600.009'
IC17	113.12	180.00	N85°26'44"E	111.27°	3600.028'
IC18	11.29	180.00	N15°39'45"E	11.29°	393.929'
IC19	27.15	265.00	S17°47'05"W	27.14°	578.2013'
IC20	57.75	265.00	S66°57'49"W	57.64°	1222.913'
IC21	57.71	265.00	S39°26'44"W	57.59°	1229.39'
IC22	46.22	265.00	S50°59'40"W	46.15°	1079.59'
IC23	102.49	265.00	S41°40'35"W	101.37°	2937.44'
IC24	44.79	205.00	S81°06'33"W	44.70°	1293.103'
IC25	20.05	240.00	N17°14'34"E	20.04°	4471.0'
IC26	49.03	240.00	N85°22'10"E	47.95°	1129.03'
IC27	48.39	240.00	N82°51'37"E	48.15°	1190.91'
IC28	49.19	240.00	N49°23'39"E	49.19°	1120.13'
IC29	47.84	240.00	N89°49'24"E	47.75°	1129.03'
IC30	47.83	240.00	N71°15'01"E	47.75°	1129.03'
IC31	35.67	150.00	S158°52'24"W	35.51°	1593.968'
IC32	71.08	250.00	S121°15'44"W	70.94°	1617.829'

LEGEND
 ● SET LONG, 150' FROM IRON ROD
 ○ SET LONG, 150' FROM IRON ROD
 ■ IRON ROD SET IN NEW MONUMENT BOX
 NOTE: IRON ROD SET AT ALL SUBLOT & ROW CORNERS

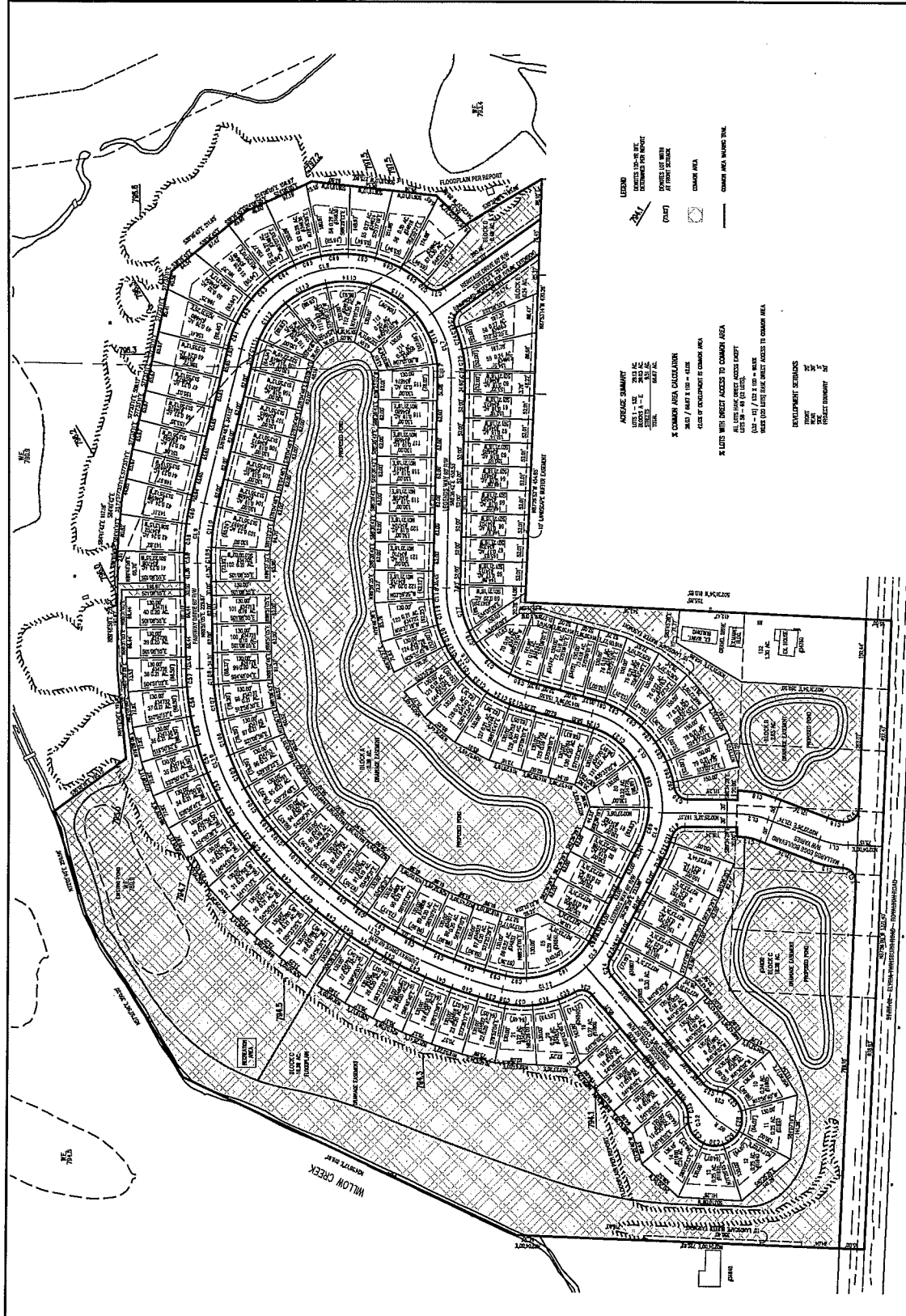
BASIS OF BEARINGS
 507°56'00" FOR STATE ROUTE 82 AS RECORDED IN DEED NO. 2003-0372570

GRAPHIC SCALE (in Feet)
 1 inch = 50 ft.

EXHIBIT "C"
TO
MALLARD'S EDGE DECLARATION OF RESTRICTIONS,
RESERVATIONS AND COVENANTS

Reduced sized drawing of the Development Plan

LINE	DATE	BY	CHKD	DESCRIPTION
01	01/15/01	JR	ML	INITIAL DESIGN
02	01/15/01	JR	ML	INITIAL DESIGN
03	01/15/01	JR	ML	INITIAL DESIGN
04	01/15/01	JR	ML	INITIAL DESIGN
05	01/15/01	JR	ML	INITIAL DESIGN
06	01/15/01	JR	ML	INITIAL DESIGN
07	01/15/01	JR	ML	INITIAL DESIGN
08	01/15/01	JR	ML	INITIAL DESIGN
09	01/15/01	JR	ML	INITIAL DESIGN
10	01/15/01	JR	ML	INITIAL DESIGN
11	01/15/01	JR	ML	INITIAL DESIGN
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15	01/15/01	JR	ML	INITIAL DESIGN
16	01/15/01	JR	ML	INITIAL DESIGN
17	01/15/01	JR	ML	INITIAL DESIGN
18	01/15/01	JR	ML	INITIAL DESIGN
19	01/15/01	JR	ML	INITIAL DESIGN
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53	01/15/01	JR	ML	INITIAL DESIGN
54	01/15/01	JR	ML	INITIAL DESIGN
55	01/15/01	JR	ML	INITIAL DESIGN
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58	01/15/01	JR	ML	INITIAL DESIGN
59	01/15/01	JR	ML	INITIAL DESIGN
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73	01/15/01	JR	ML	INITIAL DESIGN
74	01/15/01	JR	ML	INITIAL DESIGN
75	01/15/01	JR	ML	INITIAL DESIGN
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94	01/15/01	JR	ML	INITIAL DESIGN
95	01/15/01	JR	ML	INITIAL DESIGN
96	01/15/01	JR	ML	INITIAL DESIGN
97	01/15/01	JR	ML	INITIAL DESIGN
98	01/15/01	JR	ML	INITIAL DESIGN
99	01/15/01	JR	ML	INITIAL DESIGN
100	01/15/01	JR	ML	INITIAL DESIGN



LEGEND

- 10' EASEMENT
- 20' EASEMENT
- 30' EASEMENT
- 40' EASEMENT
- 50' EASEMENT
- 60' EASEMENT
- 70' EASEMENT
- 80' EASEMENT
- 90' EASEMENT
- 100' EASEMENT
- COMMON AREA
- COMMON AREA BOUNDARY

ADDITIONAL INFORMATION

- ALL LOTS WITH DIRECT ACCESS TO COMMON AREA
- ALL LOTS WITH INDIRECT ACCESS TO COMMON AREA
- ALL LOTS WITH NO DIRECT ACCESS TO COMMON AREA
- ALL LOTS WITH NO INDIRECT ACCESS TO COMMON AREA
- ALL LOTS WITH NO ACCESS TO COMMON AREA

Subdivision Plan

