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DECLARATION OF COVENANTS
EASEMENTS, RESTRICTIONS AND ASSESSMENT LIENS
FOR
ELMONT PLACE
(WALDEN PONDS)

CONVEYANCE TAX
EXEMPT
M SSAL
JOSEPH W. TESTA
FRANKLIN COUNTY AUDITOR

TRANSFERRED
NOT NECESSARY
AUG 24 2001
JOSEPH W. TESTA
AUDITOR
FRANKLIN COUNTY, OHIO

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**DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS
AND ASSESSMENTS FOR ELMONT PLACE**

This is a declaration of covenants, easements, restrictions and assessment liens ("the Declaration") made on or as of this 23rd day of August, 2001, by The Stonehenge Land Company, an Ohio corporation, (hereinafter "Stonehenge") and Crossmann Communities of Ohio, Inc., an Ohio corporation, (hereinafter "Crossmann"), jointly referred to as the "Declarants", and David Hinzman, an individual, and the sole owner of Lot 25, who joins herein for the sole purpose of submitting his Lot to the provisions hereof.

Background

- A.** Stonehenge is the owner in fee simple of the following real estate:

Situated in the State of Ohio, County of Franklin, Village of Groveport, and described as follows:

Being Lots 1, 2, 4 through 12, inclusive, 19, 26, 27, 29, 31 through 41, inclusive, 43, 45 through 80, inclusive, and Reserves A, B, C, D and E, inclusive, of Walden Ponds, Section I (also known as Elmont Place, Section I) as the same are numbered, lettered and delineated on the recorded plat thereof, of record in Plat Book 86, Pages 35-36, records of the Recorder of Franklin County, Ohio, and being all of the property in Walden Ponds Section I (also known as Elmont Place Section I) subdivision.

- B.** Crossmann is the owner in fee simple of the following real estate:

Situated in the State of Ohio, County of Franklin, Village of Groveport, and described as follows:

Being Lots 3, 13 through 18, inclusive, 20 through 24, inclusive, 28, 30, 42, and 44 of Walden Ponds, Section I (also known as Elmont Place Section I) as the same are numbered, lettered and delineated on the recorded plat thereof, of record in Plat Book 86, Pages 35-36, records of the Recorder of Franklin County, Ohio, and being all of the property in Walden Ponds Section I (also known as Elmont Place Section I) subdivision.

- C.** David Hinzman is the owner in fee simple of the following real estate:

Situated in the State of Ohio, County of Franklin, Village of Groveport, and described as follows:

Being Lot 25 of Walden Ponds, Section I (also known as Elmont Place Section I) as the same are numbered, lettered and delineated on the recorded plat thereof, of record in Plat Book 86, Pages 35-36, records of the Recorder of Franklin County, Ohio, and being all of the property in Walden Ponds Section I (also known as Elmont Place Section I) subdivision.

- D.** The above described property ("Elmont Place") is being developed and built as a subdivision of lots with single-family homes to be built on them, with public streets and associated improvements, and natural, open, landscaped and green areas in various of the Reserves.

For deed
Reference
See:
Instrument No
200108220193748

E. Contiguous to Elmont Place is property that may be platted and developed as a subdivision of lots with single-family homes to be built on them, and subjected to the plan and restrictions created hereby. This property is referred to herein as the "Additional Property." In this instrument Elmont Place and all Additional Property subjected to the plan and restrictions created hereby shall constitute and be known collectively, at any time, as "Elmont Place."

F. Each of the Lots in Elmont Place ("Lot," and collectively "the Lots") is designed and planned to have constructed on it one single-family residence.

G. Reserves C, D, and E, inclusive, of Elmont Place as shown on the recorded subdivision plat, and their improvements, are designed to benefit all of Elmont Place and the owners and Occupants of the Lots, and the single-family residences thereon, and will consist of storm water management facilities, green and landscaped areas, natural preservation areas, open spaces, and like improvements and facilities.

H. Reserves A and B, inclusive, of Elmont Place as shown on the recorded subdivision plat, and their improvements, are presently contemplated to be dedicated or otherwise conveyed to the Village of Groveport for roadway purposes, provided that in the event that roadways are not constructed on Reserves A and B or the proposed roadways are not bonded by April 22, 2002, Reserves A and B may be utilized as buildable Lots and Dwellings may be constructed thereon.

I. Declarants desire hereby to provide for the preservation of the values of and amenities in Elmont Place, for the benefit of the present and future owners and Occupants of the Lots and single-family residences on them.

J. Declarants deem it desirable for the accomplishment of these objectives to create an agency to which is delegated and assigned the non-exclusive right and obligation to administer and enforce the provisions hereof, to own and administer Reserves C, D, and E and improvements thereon, and to collect and disburse the funds necessary to accomplish these objectives. Accordingly, Declarants shall cause to be incorporated ELMONT PLACE HOMEOWNERS' ASSOCIATION ("the Association"), as a nonprofit corporation, under and pursuant to the laws of Ohio, whose members are and will be all of the Owners of a Lot or Lots in Elmont Place.

COVENANTS, EASEMENTS, RESTRICTIONS AND ASSESSMENT LIENS

NOW THEREFORE, Declarants, and David Hinzman with respect to his Lot, hereby declare that all of the property in Elmont Place shall be held, sold, conveyed and occupied subject to the following covenants, easements, and restrictions, which are for the purpose of protecting the values and desirability of, and which shall run with the title to, each part of Elmont Place, and be binding on all parties having any right, title or interest therein, and each part thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of and be enforceable by Stonehenge, Crossmann, each owner of property in Elmont Place, the Association, and the respective personal representatives, heirs, successors and assigns of each.

ARTICLE I

DEFINITIONS

The following terms used hereafter in this document shall have these meanings, unless the context requires otherwise:

1. **"Additional Property"** means property that may in the future be subject to the plan provided hereby, and includes property contiguous to property subject to the provisions hereof, at any time, as Stonehenge, in its sole discretion, may from time to time determine.

2. **"Architectural Review Board"** means the committee of the Association, appointed as, and with the power and authority, hereinafter provided, and whose consent, generally, must be obtained to make or change Improvements or Dwellings.
3. **"Articles"** and **"Articles of Incorporation"** mean the articles, when filed with the Secretary of State of Ohio, incorporating Elmont Place Homeowners' Association as a corporation not-for-profit under the provisions of Chapter 1702 of the Revised Code of Ohio ("Chapter 1702") (the State of Ohio's enabling nonprofit corporation act).
4. **"Association"** means Elmont Place Homeowners' Association, which shall be an Ohio non-profit corporation to be formed by Declarants forthwith, and whose members will be all owners of a fee simple interest in a Lot or Lots in Elmont Place.
5. **"Association Governing Documents"** means this Declaration, and amendments hereto, any plat of Elmont Place, other covenants, restrictions and easements of record, if any, on all or any part of Elmont Place, the Articles of Incorporation and Code of Regulations of the Association, and all rules, regulations, policies and procedures adopted by the Association or its Board from time to time.
6. **"Board"** and **"Board of Directors"** mean those persons who, as a group, serve as the Board of Directors of the Association.
7. **"Code of Regulations"** means the code of regulations of the Association (often referred to as "Bylaws") created under and pursuant to the provisions of Chapter 1702, providing certain operating rules and procedures for the Association.
8. **"Common Elements"** means all real and personal property (including easement rights and fixtures) now owned or hereafter conveyed to or acquired by the Association for the common use and the enjoyment of the Lot Owners, or for the operation of the Association and initially includes, among other things, Reserves C, D, and E, inclusive, and entryway easements located on Lots 1 and 45, respectively.
9. **"Crossmann"** means Crossmann Communities of Ohio, Inc., or such successor to its rights and authority hereunder as it may designate in writing.
10. **"Declarants"** means The Stonehenge Land Company and Crossmann Communities of Ohio, Inc., or such successors to their respective rights and authority hereunder as either may designate in writing.
11. **"Declaration"** means this instrument, by which Elmont Place is hereby submitted to the provisions hereof.
12. **"Design Guidelines"** mean such guidelines for construction, reconstruction, alteration, decoration, or improvements of Dwellings and Improvements as may be adopted from time to time by the Association, as hereinafter provided.
13. **"Director"** and **"Directors"** mean that person or those persons serving, at the time pertinent, as a member of the Board of Directors of the Association.
14. **"Dwelling"** means and includes all structures to be used for residential purposes, together with all projections and extensions thereof and accessory structures, whether or not connected or attached, including, but not limited to, garages, porches, canopies, shelters, and storage structures.
15. **"Eligible holder of a first mortgage lien"** means the holder of a valid recorded first mortgage on a Lot, which holder has given written notice to the Association stating the holder's name, address, and Lot or Lots subject to its mortgage.

16. **"Elmont Place"** means the subdivision that has been created and subjected hereto, and is the property described as being submitted to the provisions hereof by this instrument, and all rights and appurtenances thereto.

17. **"Exempt Property"** means the portion of the real property comprising Elmont Place, if any, now or hereafter dedicated to common public use or owned by the United States, the State of Ohio, Franklin County, the Village of Groveport, any school board, or similar governmental body, or any instrumentality or agency or any such entity, or the Association, for so long as any such entity or any such instrumentality or agency shall be the owner thereof, but only for so long as such property is not utilized as a residence.

18. **"Improvements"** means all buildings, outbuildings, garages and structures, and includes: all Dwellings; overhead, aboveground and underground installations, including without limitation, utility facilities and systems, lines, pipes, wires, towers, cables, conduits, poles, antennae and satellite dishes; flagpoles; tennis courts and swimming pools, and all other types of permanently installed recreational fixtures and facilities; roads, driveways, uncovered parking areas and other paved areas; fences, trellises, walls, retaining walls, exterior stairs, decks, patios and porches; planted trees, hedges, shrubs and other forms of landscaping; signs; watering systems; earth mounds and plantings; and all other structures of every type a part of or serving Elmont Place.

19. **"Lot"** means a discrete parcel of real property created for the purpose of construction or maintenance of a Dwelling thereon and subjected to the provisions of this Declaration as identified upon the recorded subdivision plat of Elmont Place, but also includes any discrete parcel of real property on which a Dwelling has been constructed and which has been subjected to the provisions of this Declaration.

20. **"Lot Owner"** means the holder of record title to the fee interest in any Lot, whether or not such title holder actually resides in a Dwelling on such Lot, and whether or not there is a Dwelling on that Lot, and includes any property subject to the provisions hereof on which a Dwelling has been constructed, and excludes those having an interest merely as security for the performance of an obligation.

21. **"Occupant"** means a person lawfully residing in a Dwelling on a Lot, regardless of whether that person is a Lot Owner.

22. **"Person"** means a natural individual corporation, partnership, trustee, or other legal entity capable of holding title to real property.

23. **"Reserve"** or **"Reserves"** mean one or more of the Reserves in Elmont Place, as delineated and shown on a recorded plat subjected to the provisions hereof. In the event a Dwelling is constructed on a Reserve, the same shall then be, and be deemed to be, a Lot and not a Reserve.

24. **"Stonehenge"** means The Stonehenge Land Company and or such successor to its rights and authority hereunder as it may designate in writing.

25. **"Turnover Date"** means the earlier of such time as (a) a Dwelling has been constructed on each Lot and each Lot has been sold and conveyed by Stonehenge or Crossmann, or their respective successors and assigns to unrelated purchasers in good faith and for value and (b) such time as control of the Association is turned over to members, as provided in the Code of Regulations.

26. **"Walden Ponds"** means the subdivision that has been created and subjected hereto, and is the property described as being submitted to the provisions hereof by this instrument, and all rights and appurtenances thereto, and is one and the same as Elmont Place.

ARTICLE II

THE PROPERTY

Section 1. Property Subject. The property which shall be held, transferred, sold, conveyed and occupied subject to the terms of this Declaration, shall consist of Elmont Place, including all of the Lots and Reserves thereof, and any and all rights appurtenant thereto.

Section 2. Additional Property. The right is reserved to Stonehenge, its successors and assigns, (and with respect to the Additional Property), to cause the Additional Property, or any portion thereof, to become subject to the provisions of this Declaration, and the owners of a Lot or Lots therein subject to the rights and obligations of members set forth herein and in the Articles and Code of Regulations of the Association. The execution by the fee simple owners of such property, with the same formalities as this Declaration, and the recording thereof in the records of the Recorder of Franklin County, Ohio, of a supplemental declaration or declarations, shall subject that property to the provisions hereof; provided that any such supplemental declaration may contain such supplementary additions and modifications hereof as may be necessary to reflect the different character, if any, of the property added, and as are not inconsistent with the overall scheme of this Declaration. Upon the addition of property to this plan, the property therein and the owners of that property shall be subject to and benefited by the provisions hereof applicable to Lots and the owners thereof; and the Common Elements therein, provided they meet the criteria for Common Elements hereinafter provided, shall be subject to and benefited by the provisions hereof applicable to the Common Elements.

Section 3. Common Elements.

(a) **Specification of Common Elements.** As previously defined, the Common Elements shall initially consist of Reserves C, D, and E, inclusive, of Elmont Place, and entryway easements located on Lots 1 and 45, respectively, and all improvements, rights and appurtenances thereto. Additional Common Elements may hereafter be established by a separate deed or deed of easement that creates or establishes Common Elements, and by supplemental declarations previously described, designating additional Common Elements, provided that all such Common Elements in Additional Property added shall be substantially of the type and nature of Common Elements in Elmont Place.

(b) **Conveyance to Association.** On or before the date of the closing of the sale of any Lot in Elmont Place to a bona fide residential home purchaser, Stonehenge shall convey Reserves C, D, and E, respectively, to the Association by transferable and recordable general warranty deed, free and clear of all liens and encumbrances except (i) restrictions, easements and agreements of record, including those set forth herein, (ii) utility easements, (iii) real estate taxes and assessments, if any, the installments of which are not then due and payable, and (iv) zoning and building laws and regulations. Similar areas in the Additional Property subjected to this plan shall be conveyed to the Association on or before the date of the closing of the sale of the first Lot in the property added to a bona fide residential home purchaser, by transferable and recordable general warranty deed, free and clear of all liens and encumbrances except as noted above.

(c) **Use of Common Elements.** The Common Elements shall not be used for any purposes other than those for which they are designed, subject to such reasonable rules and regulations as the Board of Directors may from time to time establish.

(d) **Repair and Maintenance.** The Common Elements shall be repaired and maintained by the Association. The responsibility to repair and maintain shall also include the payment of real estate taxes, if any, becoming due and payable during this time, and the carrying of such liability insurance as is reasonably prudent and customary with respect to similar properties. The cost of such repair and maintenance shall be borne by the Association.

(e) **Authority to Convey Common Elements.** Notwithstanding any other provision hereof, the Association shall have the power and authority to dedicate or convey Common Elements or to grant easements on, over, and across the Common Elements, for public use or a public purpose, and to grant easements thereon for the installation, operation and maintenance of utility services, all as may be determined from time to time by the Board of Directors.

(f) **No Dedication.** Nothing contained in this Article implies any right or license to the public to access to or to use the Common Elements.

ARTICLE III

THE ASSOCIATION

Section 1. Powers; Authority; Duties. The Association shall have all the rights, powers, and duties established, invested, or imposed pursuant hereto, its Articles of Incorporation, Code of Regulations, its duly adopted rules and regulations, and the laws of the State of Ohio applicable with respect to Ohio corporations not-for-profit. Among other things, the Association, through its Board of Directors, shall have the power to enforce and administer the restrictions set forth herein, adopt, amend and enforce the Design Guidelines, borrow money, pledge assets and receivables, levy and collect assessments, collect and maintain reserves for replacement or anticipated expenditures, enter into contracts, and take such other actions as it deems appropriate in fulfilling the Association's purposes.

Section 2. Membership. Each record owner of a fee interest in a Lot, at the time he, she or it acquires such fee interest, shall automatically become a member of the Association. The membership of the owner of a Lot shall automatically terminate at such time as that Lot Owner ceases to own a fee interest in a Lot.

Section 3. Voting Rights. Voting rights of members shall be as provided in the Association's Code of Regulations.

ARTICLE IV

ARCHITECTURAL REVIEW

Section 1. Architectural Review.

(a) **Establishment of Architectural Review Board.** The Architectural Review Board shall initially consist of the Board of Directors appointed by Stonehenge, or such persons as it designates. From and after the Turnover Date, the Architectural Review Board shall consist of such persons (who may but need not be members of the Board of Directors), in such number, have such terms, have such qualifications, and be subject to such restrictions and limitations, as the Board of Directors may from time to time determine, provided, the Board of Directors may determine not to designate a separate Architectural Review Board, in which case the Board itself shall serve that function.

(b) **Purposes.** The purposes of the Architectural Review Board shall be to:

(i) Establish, maintain and preserve design controls set forth herein and in such Design Guidelines as may be promulgated from time to time;

(ii) Review, approve and disapprove proposed plans for Improvements other than those installed by Stonehenge or their respective designated successors and assigns; and

(iii) Advise and recommend to the Board measures and actions to enforce the Design Guidelines and the covenants and restrictions set forth herein, and to cause such measures and actions to be taken when directed by the Board.

(c) **Design Guidelines.** The Architectural Review Board shall, from time to time, establish architectural, building, and environmental standards for all Improvements in Elmont Place, in order to assure that it will be developed and maintained as a high quality residential development with harmonious and pleasing appearance, and a safe and secure residential community. These Design Guidelines, among other things, shall contain architectural, building and environmental standards, and shall control and regulate external design, quality and types of construction, materials and colors to be utilized, setting, height, grade, finished ground elevations, landscaping, tree removal, and any and all other aspects of construction, or regarding safety, or related to visual appearance, of all Improvements. These standards shall also include all items necessary to conform to and comply with the lawful requirements of all public authorities, including, without limitation, lawful statutes, ordinances, rules and regulations, standards, directives, and zoning texts.

(d) **Responsibilities; Effect of Actions.** The Architectural Review Board shall exercise its best judgment to see that all improvements are built to conform to the Design Guidelines and the restrictions contained herein. The decisions of the Architectural Review Board as to conformity with the Design Guidelines and the restrictions contained herein shall be conclusive and binding on all parties, unless arbitrary or capricious. The Architectural Review Board may also periodically view all property in Elmont Place and actions taken with respect thereto and advise the Board of all violations of the covenants and restrictions imposed hereby, for further action by the Board of Directors on behalf of the Association.

Section 2. Plan Approval; Duty to Build.

(a) **Requirement of Plan Approval.** Except with respect to Improvements constructed by Stonehenge, Crossmann, or their respective successors and assigns, no Improvements visible to the exterior shall be commenced, erected, or maintained on any Lot, nor shall any exterior addition to or change or alteration of any such Improvements be made, nor shall any change in exterior color be made, nor shall any change be made in any landscaping visible to the exterior (excluding replanting of casual flowers and shrubs in beds and areas provided for the same), until the same shall have first been approved in writing by the Architectural Review Board in accordance with the Design Guidelines and as provided herein. Approval shall be requested by submission to the Architectural Review Board of plans and specifications, showing all areas of proposed construction or change, as required by the Architectural Review Board, which can include requests for drawings or descriptions of the following:

- (i) Existing and proposed land contours and grades;
- (ii) All buildings, and other improvements, access drives, and other improved areas, and the locations thereof on the site;
- (iii) All landscaping;
- (iv) Plans for all floors, cross sections and elevations, including projections and wing-walls;
- (v) Exterior lighting plans;
- (vi) Mail boxes, address markers, and exterior ornamentation;

- (vii) Walls, fencing, and screening;
- (viii) Patios, decks, gazebos, and porches;
- (ix) Signs and parking areas;
- (x) Swing sets, play areas, basketball boards, and similar improvements;
- (xi) Samples of materials to be used to the extent requested by the Architectural Review Board;
- (xii) Certification that the finished improvements will conform to the requirements of the Design Guidelines and the provisions hereof; and
- (xiii) Such other information, data, and drawings as may be reasonably requested by the Architectural Review Board.

Specifications shall describe types of construction and exterior materials to be used, including, without limitation, the colors and manufacturers thereof, and shall otherwise be prepared according to the Design Guidelines and the restrictions contained herein.

(b) **Basis of Approval; Commitment to Build.** Approval shall be based, among other things, upon conformity and harmony of the proposed plans with the Design Guidelines, the restrictions contained herein, and other structures in Elmont Place; the effect of the erection and use of improvements on neighboring property; and conformity of the plans and specifications to the purpose and intent of the provisions hereof. Approval of plans and specifications shall constitute the commitment of the owner to install the approved Improvements according to the approved plans and specifications within a reasonable time, not to be longer than one (1) year from the date of approval.

(c) **Failure to Approve or Disapprove.** If the Architectural Review Board fails either to approve or disapprove any such plans and specifications within sixty (60) days after the same have been delivered to it, it shall be conclusively presumed that the Architectural Review Board has approved those plans and specifications. In disapproving any plans or specifications the Architectural Review Committee shall specify the elements which are deemed objectionable.

(d) **Liability Relating to Approvals.** Neither Stonehenge, Crossmann, the Association, the Board of Directors, the Architectural Review Board, nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone submitting plans and specifications for approval by reason of mistakes in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve the same. Every person and entity who submits plans and specifications to the Architectural Review Board agrees, by submission thereof, that he, she, it or they will not bring any action or suit against any of the foregoing to recover any alleged damages.

ARTICLE V

PROTECTIVE COVENANTS AND RESTRICTIONS

Section 1. Uses.

(a) **Residential Uses.** Except as otherwise specifically provided in this Declaration and except for a Lot becoming Exempt Property, no Lot shall be used for any

purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no residence may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility. Notwithstanding the foregoing: (i) an Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business, making professional telephone calls or corresponding in or from a residence, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions; and (ii) during the construction and initial sales period Lots and Common Elements may be used for construction and sales purposes and sales models, by Stonehenge, Crossmann, and by builders and developers as approved by Stonehenge, in its sole discretion, until Dwellings have been constructed on all Lots, and all Lots and Dwellings have been conveyed to bona fide residential home purchasers.

(b) **Transient Uses.** No Dwelling on a Lot shall be rented or used for transient or hotel purposes, which is defined as: (i) rental for a period less than thirty (30) days, or (ii) rental under which Occupants are provided customary hotel services, such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services, or (iii) rental to roomers or boarders, that is, rental to one or more persons of only a portion of a residence on a Lot.

(c) **Temporary Structure Use.** No incomplete structure or structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be used at any time as a residence, either temporarily or permanently.

(d) **Hobbies.** Hobbies or activities that tend to detract from the aesthetic character of Elmont Place, and improvements used in connection with such hobbies or activities, shall not be permitted unless carried out or conducted as directed by the Board of Directors. This limitation has reference to, but is not limited to, such activities as automobile and boat repair.

(e) **Offensive Activities.** No activity noxious or offensive in the reasonable judgment of the Board of Directors shall be carried on or permitted upon any part of Elmont Place, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without limiting the generality of the foregoing:

(i) **Waste.** Except for the reasonably necessary activities of Stonehenge, Crossmann, or by builders and developers approved by Stonehenge during the active development of Elmont Place, no rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot or upon any portion of Elmont Place;

(ii) **Odors.** No odors shall be permitted to arise or to be emitted therefrom so as to render any portion of Elmont Place unsanitary, unsightly, offensive, or detrimental to any of the remainder of Elmont Place or to any Occupants thereof;

(iii) **Lighting.** No exterior lights, the principal beam of which shines upon portions of Elmont Place other than the Lot upon which they are located, or otherwise carry unreasonable interference with the use and enjoyment of any Lot by the Occupants thereof shall be permitted on any Lot, provided that lighting of model homes and the Common Elements, including but not limited to lighting of subdivision entryway features, shall not be prohibited nor constitute an unreasonable interference with the use or enjoyment of any Lot or Occupant; and

(iv) **Sound.** No speakers, horns, whistles, bells or other sound devices, shall be located, used or placed on any Lot, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof. Music, either live or by recording device, that is so loud as to disturb one's neighbors, is prohibited.

(f) **Service Screening, Storage Areas.** Garbage and refuse shall be placed in containers, which shall be concealed and contained within buildings until the time scheduled for pick up and disposal. Except during the active period of construction on any Lot, no materials, supplies or equipment shall be stored in Elmont Place except inside closed buildings.

(g) **Machinery and Equipment.** No commercial machinery or equipment of any kind shall be placed, operated or maintained in Elmont Place except such machinery or equipment reasonably necessary for use in connection with maintenance, or construction of improvements approved by the Architectural Review Board.

(h) **Vehicles, Trailers, Boats, Commercial Vehicles and Motor Homes.** The Board is granted the power and the authority to create and enforce reasonable rules and regulations concerning placement and the parking of any vehicle permitted on or in Elmont Place, so long as those rules and regulations are consistent with, and do not amend, any of the terms hereof. In addition to its authority to levy special individual assessments as administrative charges for the violation of the rules and regulations, the Board shall be authorized to cause the removal of any vehicle violating such rules and regulations.

Except as specified below, no trucks, no prohibited commercial vehicles, no boats, no trailers, no campers and no mobile homes shall be parked or stored on any street or on any Lot in Elmont Place (except in an enclosed structure shielded from view) for any time period longer than forty-eight (48) hours in any thirty (30) day period, provided, however, that nothing contained herein shall prohibit the reasonable use of such vehicles as may be necessary during construction of residences on the Lots.

For the purpose of this section, the terms "truck" and "prohibited commercial vehicle" shall include all vehicles that have a length of more than 21 feet; all vehicles that include any visible exterior storage of tools or materials except no more than two (2) visible ladders. Dump trucks, tow trucks, flat bed car hauling trucks, panel trucks and vans larger than one-ton capacity, pickup trucks larger than one ton capacity, and semi type tractors and trailers, shall in every instance be considered to be a prohibited truck and/or a prohibited commercial vehicle. For the purpose of this section, the word "trailer" shall include landscaping trailer, open bed trailer, trailer coach, house trailer, mobile home, automobile trailer, camp car, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit use and occupancy thereof, or for storage or the conveyance of personal property, whether resting on wheels, jacks, tires or other foundation.

(i) **Animals.** Except as hereinafter provided, no animals, livestock, birds, poultry or other fowl, snakes, reptiles, or species of insects, shall be raised, bred, kept, or maintained on any Lot, or any portion thereof. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a residence on a Lot provided that: (i) no more than three of any type of animal may be maintained in any residence (except when less than three months of age); (ii) the maintaining of animals shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the right to place limitations on the size and type of such pets, and the right to levy enforcement charges against persons who do not clean up after their pets; and (iii) the right to maintain any particular animal or any particular breed or species of animal shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of such animal, breed or

species constitutes a nuisance or creates a detrimental effect on other owners or Occupants, or Elmont Place as a whole.

(j) **Open Fires.** Open fires, leaf burning, trash burning, or the like, excepting only domestic use of indoor fireplaces and wood burning stoves, commercially made barbecue grills, and natural gas lights, are prohibited.

Section 2. Building, Improvement, and Other Limitations.

(a) **Lot Splits.** No Lot shall be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, unless approved by the Association and all governmental authorities having jurisdiction.

(b) **Dwelling Size.** No buildings shall be constructed on a Lot except one single-family dwelling that does not exceed two and one-half stories in height, and that, exclusive of basements, garages, attics, and open porches and patios has a minimum square foot floor area of not less than what is required by the applicable zoning and subdivision control ordinances of the Village of Groveport governing Lots located in Elmont Place.

(c) **Garages.** Each single-family residence must have at least a two-car garage.

(d) **Outbuildings, Temporary Improvements.** Except as otherwise provided, no outbuildings, storage sheds or temporary building or structure shall be permitted; provided, however, trailers, temporary buildings, barricades and the like shall be permitted for construction purposes during the construction period of a permanent building and for sales purposes during the sale of a Lot or Lots, provided, in addition, that the Board of Directors shall have theretofore approved in writing the design, appearance, and location of the same. Any temporary structure shall be removed not later than fourteen (14) days after the date of completion of construction of the building(s) for which the temporary structure was intended, and temporary structures shall be permitted for no longer than a period of one (1) year, unless a variance is granted by the Architectural Review Board. Notwithstanding the foregoing, one or more Lots may be used for model and sales purposes until all Lots have had Dwellings constructed on them and have been sold and conveyed to bona fide unrelated residential home purchasers.

(e) **Antennas.** No antenna or dish for transmission or reception of television signals, radio signals, or any other form of electromagnetic radiation shall be erected, used or maintained on any Lot outside any building, whether attached to an improvement or otherwise, including, but not limited to satellite dishes, unless approved by the Architectural Review Board, or unless required to be permitted by law, but subject to such lawful rules and regulations as the Board of Directors may from time to time adopt, and the further limitation that satellite dishes may not exceed twenty four (24) inches in diameter and must be erected or installed to minimize visibility from the street which the Dwelling on the Lot fronts.

(f) **Utility Service.** No lines, wires or other devices providing utility services, including telephone, television, data, and radio signals, or for transmission of electric current or energy, shall be constructed, placed or maintained anywhere in Elmont Place unless the same shall be in or by conduits or cables constructed, placed and maintained underground or concealed in, under or on buildings, or other approved improvements; provided, above ground electrical transformers and other equipment may be permitted if properly screened and approved by the Architectural Review Board. In addition, all gas, water, sewer, oil and other pipes for gas or liquid transmission shall also be placed underground or within or under buildings. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incident to the construction of approved improvements.

(g) **Improvement Location.** All Improvements shall be placed so that the existing topography and landscape shall be disturbed as little as possible, and so that the maximum number of desirable trees and other natural features will be preserved, unless the Architectural Review Board approves in writing some other placement. All Dwellings must be situated between the building setback lines, as shown on the plat of Elmont Place. For purposes hereof, eaves and steps shall not be considered part of a Dwelling, provided that this shall not be construed to permit any portion of any Dwelling to encroach on another Lot or a Reserve.

(h) **Sight Distance at Intersections.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street property lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight-lines.

(i) **Storage Tanks.** No storage tanks, including, but not limited to, those used for storage of water, gasoline, oil, other liquid or any gas, shall be permitted in Elmont Place outside a building, except (a) storage tanks used during the construction of residences; and (b) propane tanks having a capacity of thirty (30) pounds or less, for use to power a gas grill.

(j) **Improvement Exteriors.** All windows, porches, balconies and the exteriors of buildings and other improvements shall at all times be maintained in a neat, clean and orderly condition. No clotheslines or other outside drying or airing facilities shall be permitted on the exterior of any Dwelling, and no clothing or any other household fabrics shall be hung in the open on any Lot or Reserve.

(k) **Exterior Materials and Colors.** Finish building materials shall be applied to all sides of the exteriors of buildings. Colors shall be harmonious and compatible with colors of the natural surrounding and other adjacent buildings. The Architectural Review Board shall have the right to approve or disapprove exterior materials and colors.

(l) **Signs.** No signs of any character shall be erected, posted or displayed in Elmont Place except: (i) marketing signs installed by or with the consent of Stonehenge during the period of the initial sale of homes; (ii) street and identification signs installed by the Association, Stonehenge, or an appropriate governmental authority; and (iii) one temporary professional real estate sign on a Lot not to exceed five (5) square feet in area advertising that a Lot or residence is for sale.

(m) **Landscaping.** Elmont Place Lots and appropriate Reserves shall be landscaped according to the plans approved by Stonehenge or the Architectural Review Board, and by the appropriate governmental authorities. All shrubs, trees, grass and plantings of every kind shall be kept well maintained, properly cultivated and free of trash and other unsightly material. Each Lot Owner shall remove dead and diseased trees and limbs from that owner's Lot.

(n) **Maintenance.** Subject to limitations on use and maintenance as shown and set forth on a plat of Elmont Place, no Lot, building, or other improvement shall be permitted to become overgrown, unsightly or to fall into disrepair, and all buildings and improvements shall at all times be kept in good condition and repair and adequately

painted or otherwise finished in accordance with specifications established by the Architectural Review Board.

(o) **Drainage and Grading.** No drainage ditches, cuts, swales, impoundments, mounds, knobs, or hills, and no other physical improvements or elements of the landscape or terrain which control or determine the location or flow of surface water and drainage pattern, may be destroyed, altered or modified by or at the direction or with the consent of any Lot Owner without the prior consent of the Architectural Review Board. No Improvement shall be made in any manner whatsoever that is inconsistent with the master grading plans established by Stonehenge for Elmont Place, or any part thereof, without the prior written consent of the Architectural Review Board. The Association and its representatives shall have the right to enter upon any Lot and any portion of Elmont Place and remedy or repair any such destruction, alteration, modification, or improvement without being guilty of trespass and without liability to any owner with respect to the same or the consequences thereof.

(p) **Soil Removal.** No soil shall be removed from any Lot for commercial purposes.

(q) **Fences.** No fence, wall, or barrier of any kind may be erected on any Lot or Reserve, except as required by law or with the prior written approval of the Architectural Review Board. By way of example, and not limitation, compliance with the following standards shall be considered by the Architectural Review Board in reviewing fence applications:

(i) fences or walls shall be constructed of approved materials only, provided that in no event shall chain link fencing be permitted;

(ii) unless otherwise approved in writing by the Architectural Review Board, in its sole discretion, no fence or wall shall be constructed in excess of forty-eight inches (48") above finished grade, and

(iii) fences or walls shall not be located closer to the street than a line parallel to the street and extending from the midpoint between the front and rear corners of the Dwelling, and in no event shall fences be located closer to any street than the building line shown on the recorded plat, except for ornamental railings, walls or fences not exceeding three feet (3') in height which are located on or adjacent to entrance platforms or steps.

(r) **Swimming Pools.** Above-ground swimming pools and portable swimming pools (other than hot tubs) are not permitted. Swimming pools permitted, if any, shall be visually screened.

(s) **Solar Panels.** No solar panels shall be permitted.

(t) **Window Air Conditioning Units.** No window air conditioning unit shall be permitted in any front or side window of a Dwelling.

(u) **Storage.** No open storage of any kind is permitted. No accessory building, in addition to the actual Dwelling itself, shall be permitted on any Lot, for any purpose whatsoever.

(v) **Governmental Regulations.** Each building site is subject to all present and future applicable laws, ordinances, rules, regulations and orders of the United States Government, the State of Ohio, Franklin County, Village of Groveport and any other political subdivision and any administrative agency of any of the foregoing having jurisdiction thereof. Nothing herein shall be construed as permitting any action or condition prohibited by such applicable laws, ordinances, rule, regulations and orders. In

the event of any conflict between any such applicable laws, ordinances, rules, regulations and orders and these protective covenants, the most restrictive provisions shall govern and control.

ARTICLE VI

REPAIR AND MAINTENANCE RESPONSIBILITIES

Section 1. The Association. Subject to the provisions hereof, the Association shall, at its cost, maintain, repair and replace all Improvements constituting a part of the Common Elements initially including, but not limited to, entryway features located within entryway easement areas, Reserves C, D, and E, and landscaped, green and open areas outside of Lots.

Section 2. Lot Owners. The maintenance, repair, and replacement of a Dwelling and other Improvements on a Lot shall be the responsibility of the owner or owners of that Lot, at the cost of that Lot Owner or Owners. In the event the need for maintenance or repair of any part of the Common Elements is caused by the negligent or intentional act of any Lot Owner or Occupant, the Association may perform the same, and the cost thereof shall constitute a special individual assessment and charge, as hereinafter defined, on the Lot owned by that Lot Owner or Owners and on that Lot. The determination that such maintenance or repair is necessary and/or has been so caused, shall be made by the Board of Directors. In the interests of maintaining uniform appearance and standards of care and maintenance of lawns and landscaping for all of Elmont Place, the Association, through its Board of Directors, may, from time to time establish uniform rules and regulations, notice of which shall be given to all Lot Owners, regarding and establishing minimum requirements for lawn and landscape maintenance, such as, but not limited to, standards respecting types of permitted landscaping, mowing and trimming requirements, etc.

ARTICLE VII

UTILITY SERVICES

Each Lot Owner by acceptance of a deed to a Lot agrees to pay for utility services separately metered or separately charged by the utility company to that Lot, and to reimburse the Association for that owner's Lot's share of any utility cost or anticipated cost to be billed to the Association that the Board of Directors reasonably determines is or will be specifically attributable to use by that owner's Lot in a manner disproportionate to all other Lots. Any such share shall constitute a special individual assessment, as hereinafter provided. The Association shall arrange for the provision of utility services, if any, to the Common Elements and shall pay the costs of such services separately metered to the Association by the utility company.

ARTICLE VIII

INSURANCE; LOSSES; BONDS

Section 1. Fire and Extended Coverage Insurance. The Board of Directors shall have the authority to and shall obtain insurance for all buildings, structures, fixtures and equipment and common personal property, now or at any time hereafter constituting a part of the Common Elements, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard coverage endorsements, with such limits and coverage as is deemed appropriate by the Board. This insurance:

- (a) shall provide that no assessment may be made against a first mortgage lender, or its insurer or guarantor, and that any assessment under such policy made against others may not become a lien on a Lot and its appurtenant interest superior to the lien of a first mortgage;

(b) shall be obtained from an insurance company authorized to write such insurance in the State of Ohio, which has a current rating of Class B/VI, or better, or, if such company has a financial rating of Class V, then such company must have a general policy holder's rating of at least A, all as determined by the then latest edition of Best's Insurance Reports or its successors guide, or, if the insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has a B/VI or better rating;

(c) shall be written in the name of the Association;

(d) shall provide that the insurance carrier shall notify all first mortgagees named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy; and

(e) unless otherwise determined by the Board, shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Directors, and all Lot Owners.

Section 2. Liability Insurance. The Association shall obtain and maintain a comprehensive policy of general liability insurance covering all of the Common Elements insuring the Association, the Directors, and the Lot Owners and Occupants, with such limits as the Board of Directors may determine, but no less than the greater of (a) the amounts generally required by private institutional mortgage investors for projects similar in construction, location and use, and (b) \$1,000,000, for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of any Lot Owner or Occupant because of negligent acts of the Association, the Board, or other Lot Owners and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, and other legal liability, including liability under contractual indemnity clauses and liability arising out of lawsuits related to any employment contracts of the Association. Each such policy must provide that it may not be canceled or substantially modified by any party, without at least ten (10) days prior written notice to the Association and eligible holders of first mortgage liens on a Lot or Lots.

Section 3. Other Association Insurance. In addition, the Association may, in the Board's discretion, obtain and maintain contractual liability insurance, directors' and officers' liability insurance, fidelity bond coverage, and such other insurance as the Board may determine.

ARTICLE IX

GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS

Section 1. Easements of Enjoyment; Limitations. Every Lot Owner shall have an unrestricted right of access to and from his, her, its or their Lot, subject to the right of the Board of Directors to make reasonable rules and regulations concerning the use and management of the Lots and the Commons Elements, provided that no such rule or regulation shall limit or prohibit the right of ingress and egress of an Occupant or Lot Owner to a Lot, or any part thereof. Each Lot Owner shall be deemed to have delegated that Lot Owner's right of enjoyment of ingress and egress to the Occupants of that owner's Lot. In addition, all Lot Owners and Occupants of Dwellings on Lots, and their guests, shall have the right to enter and utilize the other Common Elements of Elmont Place, for the purposes for which they are designed and intended, provided that such uses shall be subject to the restrictions and covenants contained herein, restrictions set forth on a plat of Elmont Place, and all rules and regulations established by the Board of Directors, from time to time.

Section 2. Association Entry, Repair and Maintenance Easements. The Association shall have a right of entry and access to, over, upon and through all of the Lots to enable the Association to perform its obligations, rights and duties pursuant hereto with regard to enforcement of the covenants, restrictions and other provisions of this Declaration, and the maintenance, repair, and replacement of any Common Element.

Section 3. Easements for Encroachments. Each Lot and the Common Elements shall be subject to and benefited by easements for encroachments on or by any other Lot and upon the Common Elements created or arising by reason of overhangs, or by reason of deviations in construction, reconstruction, repair, shifting, settlement, or other movement of any portion of the Improvements. Valid easements for these encroachments and for the maintenance of same shall and do exist so long as the encroachments remain.

Section 4. Easement for Support. Every portion of a building or utility line or any Improvement on any portion of Elmont Place contributing to the support of another building, utility line or improvement on another portion of Elmont Place shall be burdened with an easement of support for the benefit of all other such buildings, utility lines, Improvements and other portions of Elmont Place.

Section 5. Easement for Services. Non-exclusive easements are hereby granted to all police, firemen, ambulance operators, mailmen, delivery men, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities and the Association, but not to the public in general, to enter upon the Common Elements in the performance of their duties, subject to such reasonable rules and regulations as the Board may establish, from time to time.

Section 6. Utility Easements and Building Setbacks. Each Lot is encumbered by utility easements and minimum building setbacks as shown on a plat of Elmont Place.

Section 7. Easements Reserved to Declarants. Non-exclusive easements are hereby reserved to Declarants and to their respective assigns (a) over and upon the Common Elements for (i) access for such time as is necessary to construct homes on all Lots, and sell the same, provided that such right of access shall be to the extent, but only to the extent, that access thereto is not otherwise reasonably available, (ii) the periods provided for warranties hereunder or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with home purchasers, and (b) for the period necessary to construct homes on all the Lots, and sell the same, to maintain and utilize one or more Lots, and Improvements thereon, for sales and management offices, for storage and maintenance, for model homes, for parking areas for sales and rental purposes, and for advertising signs. The rights and easements reserved pursuant to this section, shall be exercised and utilized, as the case may be, in a reasonable manner, and in such way as not to unreasonably interfere with the operation of the Association and the rights of Lot Owners and Occupants of Dwellings on Lots.

Section 8. Power of Attorney. Each Lot Owner, by acceptance of a deed to a Lot, appoints the Association or its designated representative, as his, her, its, or their attorney-in-fact, to execute, deliver, acknowledge and record, for and in the name of such Lot Owner, such deeds of easement, licenses, permits, and other instruments as may be necessary or desirable, in the sole discretion of the Board, or its authorized representative, to further establish or effectuate the foregoing easements and rights. This power is for the benefit of each and every Lot Owner, the Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

Section 9. General. Unless specifically limited herein otherwise, the easements described herein shall run with the land and pass with the title to the benefited properties, shall be appurtenant to the properties benefited thereby, shall be enforceable by the owners of the properties benefited thereby, and shall be perpetual. The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements and/or rights described in this declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said rights or easements but the same shall be deemed conveyed or encumbered, as the case may be, along with the Lot.

ARTICLE X

ASSESSMENTS AND ASSESSMENT LIENS

Section 1. Types of Assessments. Subject to the provisions of this Article, each Lot (other than a Lot, if any, becoming Exempt Property) shall be subject to the following assessments, the owner or owners of which Lot by acceptance of a deed to a Lot (whether or not it shall be so expressed in such deed) covenant and agree to pay to the Association: (a) operating assessments, (b) special assessments for capital improvements, and (c) special individual assessments, all of which are to be established and collected as hereinafter provided. In addition, by acceptance of a deed to a Lot the owner or owners covenant and agree that if the Association fails to repair or maintain the Common Elements, and the Village of Groveport finds it necessary to maintain it, the Village of Groveport shall succeed to the power of the Association to assess for such work done by the Village of Groveport.

Section 2. Operating Assessments. For the purposes of providing funds to pay:

- the cost of the maintenance, repair, replacement, and other services to be provided by the Association;

- the costs for insurance and bond premiums to be provided and paid for by the Association;

- the estimated cost for utility services charged to or otherwise properly payable by the Association;

- the estimated amount required to be collected to maintain a general operating reserve to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Board;

- an amount deemed adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained; and

- the estimated next periods costs for the operation, management and administration of the Association, including, but not limited to, fees for property management, landscaping, mowing, planting, lighting, pavement maintenance, snow and ice removal and mitigation, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and the salaries, wages, payroll charges and other costs to perform these services, and any other costs constituting common expenses not otherwise herein specifically excluded;

the Association shall establish and collect operating assessments determined as follows:

(a) **Initial Operating Assessments.** Commencing the first full month after a Lot with a Dwelling constructed thereon has been conveyed to a bona-fide purchaser, that Lot and the owners of that Lot shall be subject to and pay to the Association an operating assessment for the remainder of the calendar year 2001. Until January 1, 2002, the maximum operating assessment on any Lot shall be \$50.00 per year prorated in the proportion that the number of full calendar months remaining in the calendar year from the date of the closing of the conveyance of the Lot is to twelve.

(b) **Subsequent Operating Assessments.** Prior to January 1, 2002, and prior to January 1 of each calendar year thereafter, the Board of Directors of the Association shall establish a budget for anticipated operating expenses for the next following operating assessment period commencing January 1 and ending the following December 31, and apportion the amount so determined in equal shares among all Lots in Elmont Place that have had Dwellings constructed on them and that have been conveyed

to bona-fide unrelated purchasers, and assess each such Lot and its owners for the apportioned amount. Notwithstanding the foregoing, in the case of a Lot being conveyed to a bona-fide purchaser during the course of a calendar year, the same shall be subject to operating assessments commencing the first day of the first full month following the month in which the Lot was so conveyed. Operating assessments on Lots becoming subject to the same during a calendar year shall be prorated for the year during which they became subject in the proportion that the number of full calendar months remaining in the calendar year from the time they were subjected hereto is to twelve.

(c) **Payments.** All operating assessments shall be payable annually, in advance, and, in the case of a Lot and its owners becoming subject to the same during an annual operating assessment period, the prorated applicable portion thereof shall be payable at the time of the closing of the sale of the Lot.

(d) **Insufficient Collections.** Except as provided in subparagraph (a) of this section, if the amounts collected for operating expenses are, at any time, insufficient to meet all obligations for which these funds are to be used, the deficiency shall be assessed by the Board of the Association equally among all Lots subject to annual operating assessments.

Section 3. Special Assessments for Capital Improvements

(a) In addition to operating assessments, the Board may levy, at any time, special assessments to construct, reconstruct or replace capital improvements on or constituting a part of the Common Elements to the extent that reserves therefor are insufficient, provided that new capital improvements not replacing existing improvements shall not be constructed nor funds assessed therefor, if the cost therefor in any fiscal year would exceed an amount equal to five percent (5%) of that fiscal year's budget, without the prior consent of Lot Owners exercising no less than seventy-five percent (75%) of the voting power of Lot Owners and the consent of eligible holders of first mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to mortgages held by eligible holders of mortgages appertain.

(b) Any such assessment shall be divided equally among all Lots and shall become due and payable on such date or dates as the Board determines following written notice to all Lot Owners.

Section 4. Special Individual Assessments. In the event that pursuant to the provisions hereof or any Association rule or regulation a Lot Owner becomes obligated to the Association for the payment of money to the Association, such as, but not limited to, the cost of making repairs the responsibility of a Lot Owner or Owners, and the payment for damages to Common Elements by reason of negligent or willful acts or omission of the Lot Owner or Owners, or for administrative charges to a Lot Owner imposed pursuant to the Association's rules and regulations, the Board may levy a special individual assessment against that Lot Owner, and that Lot Owner's Lot or Lots. In addition, all costs of enforcement of any provision of this Declaration and/or the Association's rules and regulations, including, without limitation, all costs, expenses, and legal fees, shall be assessable hereunder. All such special assessments shall become due and payable on such date as the Board determines.

Section 5. Effective Date of Assessment. Except as otherwise provided herein, any assessment, other than special individual assessments, established in accordance herewith shall be due and payable thirty (30) days after written notice of the amount thereof is sent by the Board of Directors to the Lot Owner subject thereto. Written notice mailed or delivered to a Lot Owner's Lot shall constitute notice to that Lot Owner, unless the Lot Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address shall constitute notice to that Lot Owner.

Section 6. Independent Covenant. The obligation of each Lot Owner to pay any assessment is an independent covenant, and the existence of any dispute or alleged failure of any kind, sort or nature

on the part of the Association or the Declarants, shall in no circumstances be grounds or other basis for a Lot Owner to assert an offset or to fail to pay any assessment when due and payable.

Section 7. Effect of Nonpayment of Assessment; Remedies of the Association.

(a) If any assessment or portion of any installment of any assessment is not paid within ten (10) days after the same has become due, the Board of Directors, at its option, without demand or notice, may (i) charge interest on the entire unpaid balance at the highest rate of interest then permitted by law, or at such lower rate as the Board may from time to time determine, and (ii) charge a reasonable, uniform, late fee, as determined from time to time by the Board.

(b) Operating, special and special individual assessments, together with interest, late fees, administrative charges, and all collection and enforcement costs, including reasonable attorney fees, shall be a charge and a continuing lien in favor of the Association upon the Lot against which each such assessment is made.

(c) At any time after an assessment or any portion of any assessment levied pursuant hereto remains unpaid for thirty (30) or more days after the same has become due and payable, a certificate of lien for all or any part of the unpaid balance of that assessment, interest, late fees, and costs, including attorney fees, may be filed with the Franklin County Recorder, pursuant to authorization given by the Board of Directors. The certificate shall contain a description of the Lot against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessments and charges, and shall be signed by such officer of the Association as the Board shall designate. The foregoing provisions providing for the filing of a certificate of lien are not in derogation of, and do not impair, the continuing lien provided for in subsection (b), above, nor is the filing of such a certificate a prerequisite to the filing of an action in foreclosure.

(d) The lien provided for herein shall remain valid, and shall remain as evidence of a lien secured delinquency, for a period of five (5) years from the date a certificate of lien or renewal certificate was duly filed therefor, unless sooner released or satisfied in the same manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.

(e) Any Lot Owner or Owners who believe that an assessment chargeable to his, her, its or their Lot (for which a certificate of lien has been filed by the Association) has been improperly charged against that Lot, may bring an action in the Court of Common Pleas of Franklin County for the discharge of that lien and/or a declaratory judgment that such assessment was unlawful. The filing of such action shall not be grounds for an offset or to withhold payment. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Lot, the court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien and a refund of an assessment or portion thereof determined to be unlawful.

(f) Each such assessment together with interest, administrative charges, late fees and costs, including reasonable attorney fees, shall also be the joint and several personal obligation of the Lot Owners who owned the Lot at the time when the assessment fell due. The obligation for delinquent assessments, interest, late charges and costs shall not be the personal obligation of that owner or owners' successors in title unless expressly assumed by the successors, or required by applicable law, provided, however, that the right of the Association to a lien against that Lot, or to foreclose any lien thereon for these delinquent assessments, interest, late charges and costs, shall not be impaired or abridged by reason of the transfer, but shall continue unaffected thereby.

(g) The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees, administrative charges, and costs, including attorney fees, bring an action at law against the owner or owners personally obligated to pay an unpaid obligation to the Association, and an action to foreclose a lien, or any one or more of these. In any foreclosure action, the owner or owners affected shall be required to pay a reasonable rental for that Lot during the pendency of such action, and the Association as plaintiff in any such foreclosure action shall be entitled to become a purchaser at the foreclosure sale. In any such foreclosure action, interest and costs of such action (including attorneys' fees) shall be added to the amount of any such assessment, to the extent permitted by Ohio law.

Section 8. Certificate Regarding Assessments. The Board shall, upon demand, for a reasonable charge, furnish a certificate signed by a designated representative of the Association, setting forth whether the assessments on a specified Lot have been paid. This certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Subordination of the Lien to First Mortgages. The lien of the assessments and charges provided for herein shall be subject and subordinate to the lien of any duly executed first mortgage on a Lot recorded prior to the date on which such lien of the Association arises, and any holder of such first mortgage which comes into possession of a Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid installments of assessments and charges against the mortgaged Lot which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vested in the successor owner.

ARTICLE XI

USE OF FUNDS

Section 1. Application of Assessments. The Association shall apply all funds received by it pursuant hereto, and all other funds and property received by it from any source, to the fulfillment of the purposes of the Association as hereinbefore provided.

Section 2. Authority to Borrow Funds. In order to secure the repayment of any and all sums borrowed by it, loaned to it, or owed by it, from time to time, the Association is hereby granted the right and power to mortgage and pledge all revenue received and to be received and/or to assign and pledge all revenues received or to be received by it under any provisions of these covenants, including, but not limited to, the proceeds of the assessments payable hereunder. The amounts, terms and rates of all borrowing and the provisions of all agreements with holders or owners of any such debt obligation shall be subject solely to the decision of the Board acting in its absolute discretion.

Section 3. Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or in any other time period and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the assessment in any year, but may carry forward from year to year and time to time such surplus as the Board in its absolute discretion may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes.

Section 4. Authority to Enter Into Contracts. The Association shall have the power and authority to contract with any person, corporation, firm or other entity, for the exercise of any one or more of the various powers and authority granted to and duties to be performed by the Association hereunder, and to delegate such powers and authority to any agent or employee of the Association, and the exercise of those powers and authority by such person, corporation, firm, entity, agent or employee shall be deemed the exercise of those powers and authority by the Association, except that no independent contractor shall be deemed by virtue of these provisions to be the agent of the Association. There shall be no requirement of any bond or surety for the Association, its agents, employees, or others assuring the

exercise of the powers and authority granted hereunder, except as the Board of Directors shall in their sole discretion deem necessary or desirable for the safeguarding of any funds received by the Association.

ARTICLE XII

CONSTRUCTIVE NOTICE AND ACCEPTANCE

Every person who now or hereafter owns or acquires any rights, title or estate in any Lot is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not a reference to these is contained in the instrument by which that person acquired an interest in that Lot.

ARTICLE XIII

RIGHTS OF MORTGAGEES

Section 1. Notices. Any eligible holder of a first mortgage upon a Lot, upon written request to the Association (which request shall state the name and address of such holder or insurer and a description of the Lot) shall be entitled to timely written notice of:

- (a) any proposed amendment of these restrictions;
- (b) any proposed termination of the Association;
- (c) any decision to construct significant new capital improvements not replacing existing improvements;
- (d) any default under these restrictions which gives rise to a cause of action by the Association against the owner of the Lot subject to the mortgage of such holder or insurer, where the default has not been cured in sixty (60) days; and
- (e) times and places of meetings of members of the Association.

Section 2. Inspection of Association Books and Records. Each holder and insurer of a first mortgage on any Lot shall be entitled, upon request, to:

- (a) inspect the books and records of the Association during normal business hours; and
- (b) require the preparation of and receive an annual financial statement of the Association for the immediately preceding calendar year, certified by an officer of the Association, except that such statement need not be furnished earlier than one hundred twenty (120) days following the end of such calendar year.

The Lot Owners shall also have reasonable access to inspect the books, records and financial statements of the Association.

ARTICLE XIV

ENFORCEMENT

Section 1. Interpretation. In case of uncertainty as to the meaning of any article, paragraph, sentence, clause, phrase or word contained herein, the interpretation by the Board, provided it is reasonable, shall be final and conclusive upon all interested parties.

Section 2. Violation Abatement. Violation or breach of any restriction contained herein shall give to the Association the right to enter the Lot involved and correct the violation at the expense of the owner or owners of the Lot involved, the cost of which (including administrative charges and attorney fees) may be assessed and collected as a special individual assessment.

Section 3. Enforcement. In addition to any other remedies provided herein, the Association, and each Lot Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or now or hereafter imposed by or through the Association's rules and regulations. Further, the Association and each Lot Owner shall have rights of action against each other for failure to comply with the provisions hereof, rules and regulations, and applicable law, and with respect to decisions made pursuant to authority granted thereunder, provided, the Association shall have the right to assess reasonable charges against a Lot Owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration, and provided, further, that neither the Association nor its directors, officers, or other representatives, shall be liable to any Lot Owner or Occupant, or their invitees, for damage to any Unit or any part thereof, or any personal property of such Lot Owner, Occupant or invitee, or for injury to such person, unless the damage or injury was proximately caused by the gross negligence or the intentional tortious act of the Association or such director, officer or other representative. In addition to all other remedies available by law, the Association may use summary abatement or similar means to enforce any provisions hereof or restrictions against the Lot or its use, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished by summary means.

Section 4. Failure to Enforce. Failure by Declarants, the Association or by any Lot Owner to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge.

Section 5. Duty to Enforce. Notwithstanding any other provision hereof, neither Stonehenge, Crossmann, nor the Association shall owe a duty to any Lot Owner, or any party claiming through a Lot Owner, to enforce any covenant, restriction, condition, term, or provision of this Declaration. By purchasing a Lot, the owners thereof and their respective personal representatives, heirs, successors and assigns hereby waive any claim against Stonehenge, Crossmann, and the Association, and release Stonehenge, Crossmann, and the Association from any liability arising from the failure to enforce any provisions hereof.

ARTICLE XV

EFFECTIVE PERIOD; AMENDMENT

Section 1. Effective Period. The covenants and restrictions set forth herein shall run with and bind Elmont Place and each portion thereof for a period of forty (40) years, after which time the same shall be automatically extended for successive period of ten (10) years unless terminated, modified, or amended as provided in Sections 2 and 3 hereof.

Section 2. Amendments. This Declaration may be modified or amended:

(a) By Stonehenge, so long as it owns a Lot, or by the Board of Directors, for the limited purpose and to the extent necessary to correct typographical or factual errors or omissions, if any, to meet the requirements of any institutional lender, or to clarify or amplify upon any of the provisions hereof, provided that no such amendment would impair the interest of any Lot Owner, mortgagee, or mortgage loan insurer or guarantor, and provided, further, that if there is a Lot Owner other than Declarants, it may not be amended by it to enhance their rights hereunder. Stonehenge and the Board shall have the power to grant variances from these restrictions when found necessary to avoid or eliminate hardship.

(b) With the approval of Lot Owners holding not less than two-thirds of the voting power of the Lot Owners in the Association, provided that any such amendment during the first five (5) years after the date of the recording hereof must also be approved by Stonehenge, and provided, further, that the consent of all Lot Owners shall be required for any amendment which effects a change in the voting power of any Lot Owner, the share of expenses of the Association of any Lot Owner, or the fundamental purposes for which the Association is organized, or which results in the termination of the Association or the overall plan of restrictions set forth herein.

Section 3. Method to Amend. An amendment to this Declaration, adopted with the consents aforesaid, shall be executed with the same formalities as to execution as this Declaration by the president and secretary of the Association and shall contain their certifications that the amendment was duly adopted in accordance with the foregoing provisions. Any amendment so adopted and executed shall be effective upon the filing of the same with the Recorder of Franklin County, Ohio.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. Joint and Several Obligations. Each and every obligation of a Lot Owner hereunder shall be the joint and several obligation of each Lot Owner of a fee simple interest in that Lot, and any demand, notice or other communication or action given or taken hereunder or pursuant hereto or by one of such joint owners, shall be deemed given, taken or received by all such joint Lot Owners.

Section 2. Severability. Invalidation of any one of the covenants, restrictions or other provisions hereof by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

Section 3. Mutuality. All restrictions, conditions and covenants contained herein are made for the direct, mutual, and reciprocal benefit of Stonehenge, Crossmann, the Association, and the present and future owners of Lots and Reserves in Elmont Place, and each part thereof, and their respective personal representatives, heirs, successors, and assigns; the provisions hereof shall create mutual equitable servitudes upon the property submitted to these restrictions and each part thereof in favor of each other part thereof; and any Lot or Reserve referred to herein as benefited hereby; the provisions hereof shall create reciprocal rights and obligations between the respective owners of all such Lots and Reserves and privity of contract and estate between all owners thereof; and the provisions hereof shall, as to the owner of any such Lot or Reserves, his, her, its or their respective heirs, personal representatives, successors and assigns, operate as covenants running with the land for the benefit of all such Lots and Reserves and the owners thereof.

Section 4. Notices. Notices, demands, or other communications to a Lot Owner shall be given in writing by personal delivery to the Lot Owner or at the Lot, if a Dwelling has been constructed on such Lot, or by depositing such notice in the United States Mail, first class, postage prepaid, to the address of the Lot Owner as shown by the records of the Association, or as otherwise designated in writing by the Lot Owner. Any demand, notice or other communication or action given or taken hereunder or by one of the joint Lot Owners of a Lot shall be deemed to be given, taken, or received by all such joint Lot Owners.

Section 5. Construction. In interpreting words and phrases herein, unless the context shall otherwise provide or require, the singular shall include the plural, and the plural shall include the singular, and the use of any gender shall include all genders.

Section 6. Captions. The captions or headings of the parts hereof are intended for convenience only and are not intended to be a part of the context hereof, and do not in any way define, limit, or describe the scope or intent of any provision hereof.

IN WITNESS WHEREOF, this Declaration has been duly signed, acknowledged and delivered by The Stonehenge Land Company, an Ohio corporation, Crossmann Communities of Ohio, Inc., an Ohio corporation, and David J. Hinzman, an individual who joins herein for the sole purpose of subjecting his Lot to the provisions hereof, on or as of the date first hereinbefore set forth.

Signed and acknowledged
in the presence of:

Melinda D. Bickford
(Print Name) MELISSA D. BICKFORD

Lisa J. Dinger
(Print Name) LISA J. DINGER

THE STONEHENGE LAND COMPANY,
an Ohio corporation

By Mo P. Dioun, President

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

The foregoing instrument was executed this 25th day of August, 2001, by Mo P. Dioun, the President of The Stonehenge Land Company, an Ohio corporation, on behalf of and as the act and deed of said corporation.



LISA J. DINGER
Notary Public, State of Ohio
My Commission Expires
9-26-2001

Lisa J. Dinger
Notary Public

Signed and acknowledged
in the presence of:

Dee's Tailor
(Print Name) Dee's Tailor Jr.

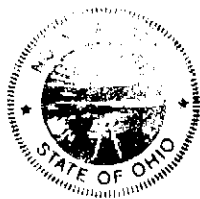
Clifton R Webb
(Print Name) Clifton R Webb

CROSSMANN COMMUNITIES OF OHIO, INC.,
an Ohio corporation

By Robert J. Schmatz, Division President

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

The foregoing instrument was executed this 23 day of August, 2001, by Robert J. Schmatz, the Division President of Crossmann Communities of Ohio, Inc., an Ohio corporation, on behalf of and as the act and deed of said corporation.



OFFICIAL SEAL
Jodie King
Notary Public-Ohio
Franklin County
My Commission Expires
May 3, 2003

Jodie King
Notary Public

Signed and acknowledged
in the presence of:

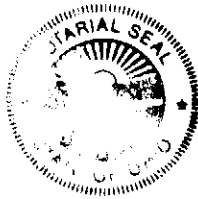
Douglas Tailford Jr.
(Print Name) Douglas Tailford Jr.
William R. Wick
(Print Name) William R. Wick

David Hinzman
David Hinzman

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

The foregoing instrument was executed this 23 day of August, 2001, by David Hinzman, the sole owner of Lot 25, who acknowledged the foregoing to be his free act and deed for the sole purpose of submitting his Lot in Walden Ponds (aka Elmont Place) to the provisions hereof.

Jodie King
Notary Public



OFFICIAL SEAL
Jodie King
Notary Public-Ohio
Franklin County
My Commission Expires
May 3, 2003

This instrument prepared by Calvin T. Johnson, Jr., attorney at law, Loveland & Brosius, 50 West Broad Street, Suite 3300, Columbus, Ohio 43215-5917.
DEC OF COVENANTS/ELMONT PLACE/8/21/01