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MONTGOMERY CO. OHIO
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DECLARATION OF COVENANTS

0012908 CONDITIONS AND RESTRICTIONS

0012909 FOR

0012910 McEWEN WOODS

THIS INSTRUMENT PREPARED BY:

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1994 JUN 16 PM 1:09
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DEED 94-0386 A01

**DECLARATION
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, creating covenants, conditions and restrictions is made on the date hereinafter set forth by CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, hereinafter referred to as "Declarant", under the circumstances summarized in the following Recitals which utilize capitalized terms as defined in Article I of this Declaration.

RECITALS:

A. Declarant is the owner of the Property and it is the desire and intent of the Declarant to develop the Property into a single family residential community consisting of Lots on which Dwelling Units are to be constructed by Owners, together with Common Areas for the use, enjoyment and benefit of the Owners.

B. Declarant is also the owner of the Additional Property and contemplates submitting parts or all of such Additional Property to the provisions hereof by an Amendment.

C. CLDC has the right to acquire and/or owns the Adjacent Property and contemplates submitting parts or all of such Adjacent Property to the provisions hereof by an Amendment.

D. Declarant desires to establish a plan of covenants, conditions, restrictions and private assessments to provide for the preservation of the values and amenities in the Property. To accomplish these ends, Declarant is making this Declaration and has formed the Association to own the Common Area and to enforce and administer the provisions hereof.

DECLARATIONS:

NOW, THEREFORE, Declarant hereby declares that all of the Property, and any Additional Property added to this plan shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions and assessments, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These easements, covenants, conditions, restrictions and assessments, unless otherwise specifically limited herein, shall run with the Property submitted hereby and any additions thereto, and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof and additions thereto, and shall inure to the benefit of each Owner.

ARTICLE I
DEFINITIONS

- 1.01 **General.** The following terms used herein are defined as hereinafter set forth. The singular wherever used shall be construed to mean the plural when applicable.
- 1.02 **Additional Property** shall mean property adjoining the Property which the Declarant owns and which, together with improvements thereon, may be added to the Property.
- 1.03 **Adjacent Property** shall mean property adjoining the Additional Property which CLDC owns or has a right to acquire and which, together with improvements thereon, may be added to the Property.
- 1.04 **Amendment and/or Amendments** shall mean an instrument executed with the same formalities of the Declaration and Recorded for the purpose of amending the Declaration, the By-Laws or any other Exhibits.
- 1.05 **Annual Assessments** shall mean those assessments levied and assessed against all Owners for the purpose of paying the Common Expenses.
- 1.06 **Articles and Articles of Incorporation** shall mean the articles filed with the Secretary of State of Ohio incorporating the Association as an Ohio not-for-profit corporation under the provisions of Chapter 1702 of the Ohio Revised Code, as the same may be lawfully amended from time to time.
- 1.07 **Association** shall mean McEwen Woods Homeowners' Association, Inc., an Ohio not-for-profit corporation, its successors and assigns.
- 1.08 **Association Easements** shall mean any easements granted to or reserved by the Association pursuant to the provisions of this Declaration.
- 1.09 **Builder** shall mean any Person who has been conveyed a Lot for the purpose of constructing a Dwelling Unit and attendant improvements thereon.
- 1.10 **By-Laws** shall mean the By-Laws of the Association which also serve as the code of regulations of the Association under and pursuant to the provisions of Chapter 1702 of the Ohio Revised Code.
- 1.11 **Common Area** shall mean that part of the Property which shall be conveyed to and owned by the Association for the common use, enjoyment, and benefit of the Association and shall include without limitation any detention or retention areas and to the extent applicable any Association Easements.
- 1.12 **Common Expenses** shall mean those costs and expenses set forth in Section 5.02.
- 1.13 **CLDC** shall mean Cincinnati Land Development Corporation, an Ohio corporation, its successors or assigns.

- 1.14 **CVSDC** shall mean Charles V. Simms Development Corporation, an Ohio corporation, its successors or assigns.
- 1.15 **Declarant** shall mean CVSDC and/or CLDC but only as to that part of the Property submitted by them.
- 1.16 **Declaration** shall mean this instrument and unless the context prohibits, any and all Amendments hereto.
- 1.17 **Design Review Committee** shall mean the committee created and established pursuant to Article VIII for the purposes stated therein.
- 1.18 **Design Standards** shall mean the standards or criteria set forth in Exhibit "C" and any amendments thereto.
- 1.19 **Development Period** shall mean a period of time seven (7) years from the date on which this Declaration is Recorded, or when the Declarant voluntarily relinquishes control of the Association, or when Declarant has sold all of the Lots to Owners, whichever first occurs.
- 1.20 **Dwelling Unit** shall mean a building and other improvements situated upon a Lot designed and intended for the use and occupancy by a person or persons as a residence.
- 1.21 **Eligible First Mortgagee** shall mean any First Mortgagee who has provided the Association with written notice of its right to receive notices or other information from the Association.
- 1.22 **Exhibit** shall mean any document or instrument attached to the Declaration.
- 1.23 **First Mortgagee** shall mean the holder of any valid Recorded mortgage on the Property.
- 1.24 **Landscaping** shall mean the landscaping installed by the Declarant and/or the Association on any Landscaping Easement.
- 1.25 **Landscaping Easement** shall mean the Landscaping Easement depicted on any Plat and granted to the Association.
- 1.26 **Lot** shall mean those parcels of real property on which Dwelling Units are to be constructed as designated in Exhibit "B" hereto.
- 1.27 **Majority of Owners** shall mean those Owners holding fifty-one percent (51%) of the voting power of the Association.
- 1.28 **Managing Agent** shall mean a person or entity retained or employed by the Association to act as a manager or managing agent for the Association.
- 1.29 **Member** shall mean an Owner that is subjected hereto.
- 1.30 **Occupant** shall mean any Person who resides in a Dwelling Unit.

1.31 Organizational Documents shall mean this Declaration, the Articles, the By-Laws, Rules and Regulations, and the Design Standards, including any amendments thereto.

1.32 Owner shall mean the Owner of any Lot on which Dwelling Units have been or are to be constructed thereon and for purposes thereof shall include any Builder.

1.33 Person shall mean a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.34 Plat shall mean a Recorded plat or subdivision of the Property.

1.35 Property shall mean the real property subject to this Declaration as described in Exhibit "B" hereto.

1.36 Quorum shall mean the presence in person or by proxy of a Majority of Owners.

1.37 Recorded shall mean the filing with the Recorder of Montgomery County, Ohio.

1.38 Rules and Regulations shall mean those rules and regulations, as may be amended from time to time, adopted by the Board of Trustees pursuant to the provisions set forth in the Declaration.

1.39 Signage shall mean the signage installed by the Declarant and/or the Association to identify the Property.

1.40 Signage Area Easement shall mean the Signage Area Easement depicted on any Plat and granted to the Association.

1.41 Special Individual Lot Assessment shall mean those assessments levied and assessed against a particular Owner pursuant to Section 5.13.

1.42 Storm Sewer Easement shall mean the Storm Sewer Easement depicted on any Plat and granted to the Association.

1.43 Storm Sewer Improvements shall mean any improvements to the Property by the Declarant for storm sewer purposes.

ARTICLE II
DESCRIPTION OF PROPERTY

2.01 General. The Property is described in Exhibit "B" hereto under the heading Property.

2.02 Dwelling Units. The Dwelling Units are to be constructed on the Lots described in Exhibit "B" hereto under the heading Dwelling Units with one (1) Dwelling Unit per lot.

2.03 Common Areas. The Common Areas shall consist of the Property designated in an Amendment and shall include any detention or retention areas and, to the extent applicable, any Association Easements.

2.04 Conveyance of Common Areas. Declarant agrees that prior to the expiration of the Development Period it will convey the Common Area to the Association, free and clear of all liens and encumbrances, except general real estate taxes not then due and payable, easements granted for public utilities, or for other public purposes consistent with the intended use of the Property under this Declaration. All improvements to the Common Area shall be fully installed, completed and operational at the time of such conveyance.

ARTICLE III ASSOCIATION

3.01 Organization. The Association was formed as an Ohio not-for-profit corporation pursuant to the provisions of Chapter 1702 of the Ohio Revised Code, by the filing of its Articles with the Secretary of the State of Ohio. On the date of its incorporation, the Association duly adopted a set of administrative operating rules called By-Laws. The By-Laws are attached hereto as Exhibit "A".

3.02 Membership. Each Owner upon acquisition of title to a Lot, shall automatically become a Member of the Association. Membership is appurtenant to and shall not be separated from ownership of a Lot. Such membership shall terminate upon the sale or other disposition by such Member of his Lot ownership, at which time the new Owner automatically shall become a Member of the Association. When more than one Person is an Owner of a Lot, all such Persons shall be Members.

3.03 Voting Rights. Each Owner shall be entitled to the number of votes in the affairs of the Association that equals the number of Lots owned by that Owner. If such Lots are owned by more than one Person, each such Person shall have a fraction of a vote equal to his, her or its undivided interest in that Lot.

3.04 Administration of Property. The administration of the Property shall be in accordance with the provisions of the Organizational Documents. Each Owner, tenant, or occupant of a Lot shall comply with the provisions of the Organizational Documents, and the decisions and resolutions of the Association or its representative.

3.05 Board of Trustees. The Board of Trustees, elected as provided by the By-Laws, shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, the Organizational Documents, except as otherwise specifically provided; provided however, that in the event any such power, duty, or right shall be deemed exercisable or dischargeable by, or vested in a member of the Board of Trustees, he shall be deemed to act in such capacity to the extent required to authenticate his acts and to carry out the purposes of the Organizational Documents.

3.06 Declarant's Rights. During the Development Period the powers, rights, duties and functions of the Association shall be exercised by a Board of Trustees

selected by Declarant. Declarant reserves the right to relinquish such right to control at any time. The rights of Declarant hereunder shall be exercised solely by CVSDC until such time as CLDC submits part of the Adjacent Property to this Declaration, at which time CVSDC and CLDC shall jointly exercise such rights.

3.07 Delegation to Managing Agent. The Association may delegate all or any portion of its authority to discharge its responsibility to a Managing Agent; subject to the limitations that:

- (a) Any such delegation be by a written contract with a term of no longer than one (1) year in duration;
- (b) That any such contract be terminable by either party without cause upon sixty (60) days written notice without any termination charges or other penalties;
- (c) That any such contract entered into by the Declarant prior to the time it releases or relinquishes control of the Association shall terminate when the Declarant releases or relinquishes such control unless such contract is renewed by a vote of the Unit Owners at the meeting called for purposes of turning over control of the Association.

3.08 First Meeting. The first meeting of the Association shall occur within thirty (30) days after the expiration of the Development Period.

ARTICLE IV EASEMENT(S)

4.01 Easements for Repair, Maintenance and Restoration. The Association shall have a right of access and an easement to, over and through each Lot during reasonable hours and upon giving reasonable notice for ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties with regard to maintenance, repair, restoration or servicing of any items, Lots, things or areas of or on the Property, including the removal, correction or abatement of any violation or breach of any attempted violation or breach of the covenants and restrictions herein.

4.02 Easement for Telephone, Utilities and Cable Television. The Association may hereafter grant easements on behalf of Owners to entities for telephone and utility purposes for the benefit of the Property, and also the installation and maintenance of cable television lines for the benefit of the Property and/or individual Lots.

4.03 Delegation to Builder. Declarant reserves the right to delegate any easement herein reserved to any Builder.

4.04 Association Easements. The Owner of any Lot on which a Landscaping Easement, Signage Easement or Storm Sewer Easement is located hereby grants, conveys and assigns to the Association an easement and right-of-way over his Lot for purposes of performing any required or necessary maintenance.

4.05 **Service Easement.** Declarant and each Owner hereby grants a non-exclusive easement to all law enforcement officers, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all other similar persons, and to local governmental authorities, but not to the public in general, to enter upon the Common Area in the performance of their duties.

4.06 **Consent to Easements.** Each Owner hereby grants, and the transfer of title to an Owner shall be deemed to grant, the Declarant and/or the Association an irrevocable power of attorney to execute, acknowledge and record, for and in the name of such Owner and his mortgagee or mortgagees, such instruments as may be necessary to effectuate any easements granted or reserved by the Declarant and/or the Association in this Article.

4.07 **Easements Shall Run With Land.** All easements and rights described are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, and any Owner, purchaser, mortgagee and any other person having an interest in the Property or any part or portion thereof. Failure to refer specifically to any or all of the easements 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 easement but same shall be deemed conveyed or encumbered along with the Lot.

4.08 **Limitation.** The rights of Declarant hereunder are limited to that part of the Property submitted by such Declarant.

ARTICLE V ASSESSMENTS

5.01 **Creation of Lien and Personal Obligation of Assessments.** For each Lot owned within the Property, Declarant hereby covenants, and each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay the Association: (a) Annual Assessments; (b) Special Individual Lot Assessments; and (c) Drainage Area Lot Assessments, if the Owner of a Drainage Area Lot, such assessments to be established and collected as hereinafter provided. Such assessments, together with interest, costs and reasonable attorney's fees incurred by the Association in the collection thereof shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest and costs, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due.

5.02 **Purpose of Annual Assessment.** The Annual Assessments shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and the enforcement of these restrictions. The assessments shall include, without limitation, the following Common Expenses:

- (a) Maintenance and repair of those items which have been assigned to the Association hereunder.
- (b) Insurance premiums for insurance obtained by the Association.

- (c) Taxes and assessments on the Common Area.
- (d) Costs for the operation, management and administration of the Association, including without limitation, fees for property management, fees for legal and accounting services, fidelity bonds, cost of mailing and postage.
- (e) A general operating reserve to assure the availability of funds for the purposes hereunder.

5.03 Owner's Share of Annual Assessments. Each Owner's share of the Annual Assessment shall be equal to a fraction; the numerator of which is the total number of Lots owned by such Owner, and the denominator of which is the total number of all Lots on the Property. As Additional Property or Adjacent Property is subjected to this Declaration the denominator shall be increased by the number of Lots on such Additional Property or Adjacent Property at the time of filing an Amendment hereto adding such Additional Property or Adjacent Property.

5.04 Preparation of Estimated Budget. On or before December 1st of every year, the Association shall prepare an estimate of the total amounts necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reserve for contingencies and replacements. On or before December 15th each Owner shall be notified in writing as to the amount of such estimate, with reasonable itemization thereof. On or before the date of the annual meeting in each calendar year, the Association shall supply to all Owners an itemized accounting of the maintenance expenses actually incurred for the preceding calendar year, together with a tabulation of the amounts collected pursuant to the estimate provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each Owner's share of the assessments to the next payment due from the Owners during the current year's estimate, until exhausted, and any net shortage shall be added according to each Owner's share of the assessments to the payment next due after rendering of the accounting.

5.05 Fiscal Year Option. In lieu of the calendar year format, the Board of Trustees may elect to adopt a fiscal year. In such event, the requirement for the preparation of the estimated budget shall be the first day of the month immediately preceding the beginning of such fiscal year and notices of such estimate shall be forwarded on or before the fifteenth day of such month. In such event, assessments shall commence on the first day of the fiscal year and payments shall be adjusted accordingly.

5.06 Reserve for Contingencies and Replacements. The Association shall build up and maintain a reasonable reserve for contingencies and replacement. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any Owner's assessment, the same shall be assessed to the Owners according to each Owner's share of the assessments. The Association shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective within ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be obligated to pay the adjusted amount.

5.07 **Budget for First Year.** When the first Board of Trustees hereunder takes office, the Association shall determine the estimated cash requirement, as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31st of the calendar year in which such election occurs.

5.08 **Failure to Prepare Annual Budget.** The failure or delay of the Association to prepare or serve the annual or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whether the same shall be determined. In the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the maintenance charge at the existing rate established for the previous period until the maintenance payment which occurs more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

5.09 **Books and Records of the Association.** The Association shall keep correct and complete books and records of account, specifying the receipts and expenditures relating to common receipts and expenses, together with records showing the allocation, distribution and collection of the common profits, losses and expenses among and from the Owners; minutes of the proceedings of the Owners and Board of Trustees. Such books and records shall be open for inspection by any Owner or any representative of an Owner duly authorized in writing, at reasonable times and upon request by an Owner. If by terms of a first mortgage an Owner has authorized such mortgagee to inspect such books and records, the presentation to the Secretary of the Association by a representative of such mortgagee of a copy of the mortgage containing such authorization shall constitute written authorization of such inspection. Upon ten (10) days notice to the Board of Trustees and upon payment of a reasonable fee, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

5.10 **Commencement of Assessments.** Annual Assessments shall begin with respect to each Lot ninety (90) days after the date on which the deed transferring title to such Lot from Declarant to an Owner is Recorded. On such date, the amount payable shall be a pro-rated amount determined as of such date until the next payment date.

5.11 **Payment of Assessments.** Annual assessments shall be payable in quarterly installments on January 1, April 1, July 1 and October 1 of each year. Drainage Area Lot Assessments shall also be payable in quarterly installments together with the Annual Assessments. Special Individual Lot Assessments shall be payable within ten (10) days after invoicing.

5.12 **Declarant's Obligations to Pay Assessments.** Notwithstanding any provisions hereof, Declarant shall have no obligation to pay Annual Assessments for the Lots owned by it.

5.13 **Special Individual Lot Assessment.** Notwithstanding anything to the contrary herein, if the Association shall incur any cost or expense for or on account of any item of maintenance, repair or other matter directly or indirectly occasioned or made necessary by any wrongful or negligent act or omission of any Owner, such cost or expense shall be borne by such Owner and not by the Association, and if paid by the Association shall be paid or reimbursed to the Association by such Owner as a Special Individual Lot Assessment.

5.14 **Abandonment.** No Owner may exempt himself from liability for his contribution toward the Common Expenses by the abandonment of his Lot.

ARTICLE VI
REMEDIES FOR NON-PAYMENT OF ASSESSMENT

6.01 **Late Charges.** If any assessment is not paid within ten (10) days after the same has become due, the Board of Trustees, at its option and without demand or notice, may charge a late charge not to exceed \$20.00 and/or interest on any unpaid balance, at the rate of twelve percent (12%) per annum.

6.02 **Lien of Association.** The Association shall have a lien upon the estate or interest in any Lot of the Owner thereof for the payment of the portion of the assessments chargeable against such Lot which remain unpaid for ten (10) days after the same have become due and payable from the time a certificate therefor, subscribed by the President of the Association, is Recorded pursuant to authorization given by the Board of Trustees. Such certificate shall contain a description of the Lot, the name or names of the record Owner(s) 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.

6.03 **Priority of Association's Lien.** The lien provided for herein shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of First Mortgages which have been filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association. In any such foreclosure action, the Owner(s) of the Lot affected shall be required to pay a reasonable rental for such Lot during the pendency of such action, and the plaintiff in such action is entitled to the appointment of a receiver to collect the same. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

6.04 **Dispute as to Common Expenses.** Any Owner who believes that the portion of assessments chargeable to his Lot for which a certificate of lien has been filed by the Association has been improperly charged against him or his Lot, may bring an action in the Court of Common Pleas for Montgomery County, Ohio for the discharge of such lien.

6.05 **Non-Liability of First Mortgagee for Past Due Assessments.** When a First Mortgagee acquires title to a Lot as a result of a foreclosure of any lien, such First Mortgagee shall not be liable for the share of assessment by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such First Mortgagee. Such unpaid share of assessments shall be deemed to be assessments collectible from all of the Lots, including that of such First Mortgagee.

6.06 **Liability for Assessments Upon Voluntary Conveyance.** In a voluntary conveyance of a Lot the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and his Lot for his share of the assessments 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 and his mortgagee shall be entitled to a statement from the Board of Trustees setting forth the amount of all unpaid and current assessments against the grantor due the Association, and such grantee shall not be liable for nor shall the Lot conveyed by subject to a lien for any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement.

ARTICLE VII

REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS

7.01 **Abatement and Enjoinment.** The violation of any provision of the Organizational Documents shall give the Board of Trustees the right, in addition to the rights hereinafter set forth in this section to: (a) enter upon the Lot or Dwelling Unit upon which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of the Organizational Documents and the Board of Trustees, or its agents, shall not be thereby deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

ARTICLE VIII

ARCHITECTURAL CONTROL AND RESTRICTIONS

8.01 **General.** No building, swimming pool, tennis court, fence, wall, patio, deck or other structure or improvement shall be commenced, erected or maintained on the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, color, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Trustees, or by an architectural committee composed of three (3) or more representatives appointed by the Board of Trustees. In the event said Board of Trustees, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

8.02 **Design Review Committee.** During the Development Period the rights, powers and functions of the Board of Trustees or its delegated committee as set forth in Section 8.01 shall be exercised by Declarant or its representative. Declarant reserves the right to relinquish such right to the Board of Trustees at any time during the Development Period, at its sole discretion.

8.03 **Specific Restrictions and Design Standards.** Notwithstanding the foregoing, the restrictions and/or covenants set forth in the Design Standards shall apply to the improvements on the Property as described therein.

ARTICLE IX
USE RESTRICTIONS

9.01 Use. The Property shall be used for residential purposes and for no other purpose except for purposes reserved to Declarant herein and except as herein specifically provided otherwise. It shall be expressly permissible for Declarant to maintain, during the Development Period, upon those portions of the Property as it deems desirable, those facilities it deems reasonably required, convenient or incidental to the construction and sale of Lots and improvements thereof including, without limiting the generality of the foregoing, a sales office, storage area, models and parking areas.

9.02 Exterior of Lots. Nothing shall be permitted to be hung, displayed or stored on the outside of windows or placed on the outside walls of a Dwelling Unit or on the exterior walls of patios, or otherwise outside of a Dwelling Unit or any part thereof, except in enclosed patios, and no sign, awning, canopy, shutter, radio or television antenna and/or disc or any other device or ornament shall be affixed to or placed upon the exterior walls, roof or the exterior patio walls, or otherwise on the Lot areas visible to the public, other than originally provided by Declarant or as authorized by the Board of Trustees or its committee, as hereinbefore provided.

9.03 Parking. No boats, trailers, trucks or other like vehicles shall be permitted to be parked on the visible part of any Lot, except for temporary parking not to exceed one (1) week in length, for purposes of loading, unloading or cleaning.

9.04 Nuisances. No noxious or offensive activity shall be carried on or upon any Lot or Dwelling Unit nor shall anything be done thereon which may in any way or for any purpose endanger the health or unreasonably disturb the occupant of a Dwelling Unit or interfere with the full use of a Dwelling Unit.

9.05 Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any Lot at any time as a residence either temporarily or permanently.

9.06 Signs. No sign of any kind shall be displayed to the public view on the Property, except signs used by the Declarant to advertise lots for sale during the Development Period, and professional signs and/or for sale signs as limited by the Rules and Regulations.

9.07 Animals. Except as hereinafter provided, no animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot. Notwithstanding the foregoing, household domestic pets, not in excess of the total of two (2), not bred or maintained for commercial purposes may be maintained on a Lot, provided that the right of a Member to maintain an animal on a Lot shall be subject to termination if the Board of Trustees, in its full and complete discretion, determines that the maintenance of the animal constitutes a nuisance.

9.08 Rules and Regulations. The Board of Trustees may, by majority vote, adopt reasonable Rules and Regulations and amend the same which the Board of Trustees may deem advisable for the maintenance, conservation, protection and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the Property. Such Rules and Regulations

may include reasonable fines and penalties for violations. Written notice of the Rules and Regulations will be forwarded to all Owners and copies thereof shall be available to all Owners.

9.09 Conflict. In the event of any conflict between the Rules and Regulations and the provisions of the Declaration, the provisions of the Declaration shall govern.

9.10 Assignment. Declarant reserves the right to assign any rights granted to it pursuant to this Article to any builder it selects.

9.11 Arbitration. In the event of any dispute between Members as to the application of these restrictions or any Rule or Regulation, the party aggrieved shall submit a complaint in writing to the Board of Trustees specifying the dispute. The Board of Trustees shall set a time, date, and place for hearing thereon within twenty (20) days thereafter, and give written notice to the party thereof no less than three (3) days in advance. The Board of Trustees shall thereupon hear such evidence on the dispute as the board deems proper and render a written decision on the matter to each party within thirty (30) days thereafter. No action of law may be instituted by the party to such dispute unless arbitration pursuant hereto has first been had.

ARTICLE X MAINTENANCE

10.01 General. The general allocation of maintenance, repair and replacement between the Association and the Owners are as follows:

- (a) The Association shall maintain, repair and make all necessary replacements to the Common Area.
- (b) An Owner shall maintain, repair and make all necessary replacements to his Dwelling Unit and Lot.

10.02 Failure to Maintain. In the event an Owner shall fail to maintain his Lot and improvements situated thereon, to such an extent that in the opinion of the Board of Trustees the conditions require maintenance, repair or service for purposes of protecting the public safety or residents in or visitors to the Property, or in order to prevent or avoid damage to or destruction of any part, portion or aspect of the value thereof, the Association shall have the right, upon approval of the majority of the Board of Trustees, to enter upon that Lot and maintain, repair or service the same. The cost of such maintenance, repair or service shall be added to and become a special individual Lot assessment, chargeable to the Lots they maintained, repaired or serviced.

ARTICLE XI LIABILITY AND OTHER INSURANCE

11.01 Liability Insurance. The Association, as a Common Expense, shall insure itself, the Board of Trustees, all Owners and Members of their respective families and other persons residing with them in the Property, their tenants, and all persons

lawfully in the possession or control of any Dwelling Unit, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from destruction of property occurring upon, in or about, or arising from the Common Area, such insurance to afford protection to a limit of not less than One Million Dollars (\$1,000,000.00) in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than One Million Dollars (\$1,000,000.00) in respect to any one occurrence, and to the limit of not less than One Hundred Thousand Dollars (\$100,000.00) in respect to damage to or destruction of property arising out of any one accident.

Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Lots or Dwelling Units located thereon.

11.02 Other Insurance. As a Common Expense, the Association shall obtain such insurance as the Board of Trustees considers necessary, including without limitation, fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association.

The amount of such fidelity bond shall be equal to, at a minimum, the maximum funds that will be in the custody of the Association at any time such bond is in effect. In addition, such fidelity bond coverage must equal one-quarter (1/4) of the Annual Assessments, together with the reserve funds, if any.

11.03 Notice of Cancellation or Substantial Changes. Any insurance coverage obtained by the Association shall contain a provision requiring the insurer to notify the Association and any mortgagee named in the mortgage clause, if applicable, in writing of the cancellation or a substantial change of coverage at least ten (10) days prior to such cancellation or substantial change.

11.04 Annual Review. The amounts and coverage of each insurance policy obtained by the Association shall be reviewed annually.

ARTICLE XII AMENDMENT

12.01 General. Unless otherwise provided, this Declaration may be amended only with the approval of Owners exercising not less than seventy-five percent (75%) of the voting power of the Association. Any such Amendment shall be in writing and effective on the date when it is Recorded.

12.02 Declarant's Rights. Notwithstanding the foregoing, Declarant hereby reserves the right and power, and each Member by acceptance of a deed to a Lot is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with title to a Lot and is irrevocable during the Development Period, to amend this Declaration and any Plat and to execute any and all documents deemed necessary or desirable by Declarant to conform to its present or future development plans, to amend the Design Standards, to correct scrivener, typographical and drafting errors, and to conform to the requirements of any lending institution.

12.03 Limitation. The rights of Declarant hereunder are limited to that part of the Property submitted by such Declarant.

12.04 Right of First Refusal. Any Amendment attempting to or giving the Association or any Owner a right of first refusal on the sale, transfer or other disposition of a Lot shall contain a provision exempting such right of first refusal as to any Lot, the title of which is obtained by a First Mortgagee pursuant to remedies provided in the mortgage, or foreclosure of the mortgage, or a deed to such mortgage in lieu of foreclosure. Notwithstanding any provision hereof, this provision and the requirement herein cannot be amended without unanimous written consent of all Owners and First Mortgagees.

12.05 Amendment Affecting Declarant's Rights. Any Amendment affecting or attempting to affect the Declarant's rights in the Declaration must be consented to by the Declarant in writing. These rights include, without limitation, the right to control the Association, the right to add Additional Property or the Adjacent Property and the right to amend the Design Standards.

12.06 Mortgage or Mortgagee. Any Amendment which adversely affects the value, priority, or the security of any mortgagee of record shall require the written consent of such mortgagee of record. Any Amendment affecting the underwriting requirements of any mortgagee shall require the written consent of such mortgagee and also F.H.L.M.C. or F.N.M.A., if required by such mortgagee. Any Amendment of language specifically referring to mortgagees shall require the written consent of all mortgagees of record.

ARTICLE XIII ANNEXATION

13.01 Contemplated Annexation by Declarant. Declarant contemplates submitting the Additional Property to the provisions of this Declaration so that the same will become in all respects part of the Property.

13.02 Reservation of Right to Annex Additional Property or Adjacent Property. Declarant hereby reserves the right at any time during the Development Period, to take the action so contemplated in submitting the Additional Property or Adjacent Property, and to develop thereon a maximum number of additional Lots equal to that permitted under applicable zoning ordinances so that the same will become, in all respects, part of the Property.

13.03 Reservation of Right to Amend Declaration. Declarant hereby reserves the right to amend this Declaration in the manner hereinafter provided in such respects as Declarant may deem advisable in order to effectuate the generality of the foregoing, the right to amend this Declaration so as to include the Additional Property or Adjacent Property and the improvements constructed thereon as part of the Property.

13.04 Consent and Approval for Annexation Amendments. Declarant, on its own behalf as the Owner of all Lots in the Property, and on behalf of all subsequent Owners, hereby consents and approves and each Owner and his mortgagee, by accepting a deed conveying such ownership, or a mortgage encumbering such

interest, as the case may be, hereby consents and approves the provisions of this Article, and all such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate said provisions.

13.05 Power of Attorney Coupled with an Interest. Each Owner and his respective mortgagees, by the acceptance of a deed conveying such ownership, or a mortgage encumbering such interest, as the case may be, hereby irrevocably appoints Declarant his attorney-in-fact, coupled with an interest for the purpose of adding the Additional Property or the Adjacent Property to the Property, pursuant to the provisions of this Section. Such Owner authorizes such attorney to execute, acknowledge and record for and in his name an Amendment to this Declaration for the purpose of adding such Additional Property or the Adjacent Property. Such mortgagee authorizes such attorney to execute, acknowledge and record for and in its name a consent to any such Amendment.

ARTICLE XIV GENERAL

14.01 Covenants Running with Land. The covenants, conditions, restrictions, easements, reservations, liens and charges created by this Declaration shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Property, and their respective heirs, executors, administrators, successors and assigns, for a term of fifty (50) years from the date this Declaration is Recorded, after which time it shall automatically extend for successive periods of ten (10) years, unless amended as hereinafter provided.

14.02 Enforcement. In addition to any other remedies provided in this Declaration, Declarant, the Association or any Member 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 Rules and Regulations and the Plat Restrictions. Failure by Declarant, the Association or by any Member 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. The Association shall not deliberately refuse to enforce the provisions hereof or discontinue operations, or attempt to terminate its operation without giving thirty (30) days prior written notice to all Eligible First Mortgagees.

14.03 Notice to Mortgagees. Notwithstanding any other provisions hereof, the Association shall notify any Eligible First Mortgagee in writing of any default by the Owner of such Lot in performance of that Owner's obligations under the Organizational Documents which is not cured within thirty (30) days.

14.04 Severability. Invalidation of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall not in any way affect any other provisions hereof, all of which shall remain in full force and effect.

14.05 **Gender and Grammar.** Any necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships or individuals, male or female, shall in all cases be assumed as though in each case fully expressed herein.

14.06 **References.** Unless otherwise specified, all references to a particular Article or Section shall refer to such Article or Section of the Declaration.

14.07 **Compliance with Requirements.** The Declaration and the plan of ownership created hereby, has been created and is existing in full compliance with all applicable requirements of local, state and all other applicable ordinances and laws.

IN WITNESS WHEREOF, Charles V. Simms Development Corporation has caused this instrument to be executed this 9TH day of JUNE, 1994.

Signed and acknowledged
in the presence of:

CHARLES V. SIMMS
DEVELOPMENT CORPORATION

Cynthia L. Larkins

By: *Hans H. Soltau*
Hans H. Soltau
Vice President

Deborah K. Clapp

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 9TH day of JUNE, 1994 by Hans H Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.

Cynthia L. Larkins
Notary Public

CYNTHIA L. LARKINS, Notary Public
in and for the State of Ohio
My Commission Expires Nov. 6, 1998

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459

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~~A. J. WAGNER
AUDITOR~~

~~MONTGOMERY CO. OHIO
RECORDED~~

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
McEWEN WOODS**

FOR PLAT SEE:

BOOK 159

PAGE(S) 14

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459

DEED 95-0043 B11

**FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
McEWEN WOODS**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR McEWEN WOODS, hereinafter referred to as the "First Amendment", is made on the date hereinafter set forth by Charles V. Simms Development Corporation, an Ohio corporation, hereinafter referred to as "CVSDC", under the circumstances summarized in the following Recitals which utilize certain capitalized terms defined in Article I of the Declaration of Covenants, Conditions and Restrictions, for McEwen Woods which is recorded at Microfiche No. 94-386-A01 of the Deed Records of Montgomery County, Ohio, and incorporated herein by reference.

RECITALS

A. Certain real property has been submitted to the Declaration and the present owners and mortgagees of each Lot for which provisions are made in the Declaration are hereinafter respectively referred to as "Parcel A Owners" and "Parcel A Mortgagees", with Parcel A being the property described in the Declaration and in any Amendment thereto.

B. CVSDC is the owner of Additional Property as referenced in the Declaration, and has determined to submit a portion thereof to the provisions of the Declaration, said Additional Property being hereinafter referred to as "Parcel B" and hereinafter described as follows:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots Numbered 5 through 19 inclusive of McEwen Woods, Section Two, as recorded in Plat Book 57, Page(s) 17 of the Plat Records of Montgomery County, Ohio.

C. CVSDC as Declarant is, pursuant to the provisions of Section 13.05 of the Declaration, the duly appointed and acting attorney-in-fact of each of the Parcel A Owners and their respective mortgagees for the purpose of executing, acknowledging and recording for and in the name of each Parcel A Owner an amendment to the Declaration for the purpose of adding additional property.

D. CVSDC as Declarant has obtained the necessary consents for the filing of this instrument.

DECLARATIONS

NOW, THEREFORE, Declarant hereby declares that:

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration, unless specifically herein amended.

2. Declarant is the owner of Parcel B, together with all improvements thereon, all easements, rights and appurtenances belonging thereto, all of which are hereby submitted to the provisions of the Declaration and are hereby included and made a part thereof.

3. The Declaration is hereby amended in accordance with the provisions of Section 13.03 of the Declaration in the following respects:

A. Section 2.01 of the Declaration is hereby amended by deleting the entire provisions thereof and substituting therefor the following:

General. The Property shall consist of the following:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots 1 through 4 inclusive of McEwen Woods, Section One, as recorded at Plat Book 157, Page 8 of the Plat Records of Montgomery County, Ohio.

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots 5 through 19 inclusive of McEwen Woods, Section Two, as recorded at Plat Book 157, Page 14 of the Plat Records of Montgomery County, Ohio.

B. Section 2.02 of the Declaration is hereby amended by deleting the entire provisions thereof and substituting therefor the following:

Dwelling Units. The Dwelling Units are to be constructed on the following Lots with one (1) Dwelling Unit per Lot:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots 1 through 4 inclusive of McEwen Woods, Section One, as recorded at Plat Book 157, Page 8 of the Plat Records of Montgomery County, Ohio.

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots 5 through 19 inclusive of McEwen Woods, Section Two, as recorded at Plat Book 157, Page 14 of the Plat Records of Montgomery County, Ohio.

4. Except as specifically hereinabove amended, all of the provisions of the Declaration shall be and hereby are declared to remain in full force and effect.

IN WITNESS WHEREOF, Charles V. Simms Development Corporation, an Ohio corporation, acting in its capacity as Declarant, as the owner of property, and as attorney-in-fact for all other owners and mortgagees within the property, has caused the execution of this instrument this 20 day of JANUARY, 1995.

Signed and acknowledged
in the presence of:

Cynthia R. Kukula

Quinn P. L. Shoff

CHARLES V. SIMMS
DEVELOPMENT CORPORATION

By: Hans H. Soltau
Hans H. Soltau
Vice President

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 20 day of JANUARY, 1995 by Hans H. Soltau, Vice President of Charles V. Simms Development Corporation, an Ohio corporation, on behalf of the corporation.

Cynthia R. Kukula
Notary Public

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459

**SECOND AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
McEWEN WOODS**

FOR PLAT SEE:

BOOK _____

PAGE(S) _____

THIS INSTRUMENT PREPARED BY:

**HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459**

**SECOND AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
McEWEN WOODS**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR McEWEN WOODS, hereinafter referred to as the "Second Amendment", is made on the date hereinafter set forth by Cincinnati Land Development Corporation, an Ohio corporation, hereinafter referred to as "CLDC", under the circumstances summarized in the following Recitals which utilize certain capitalized terms defined in Article I of the Declaration of Covenants, Conditions and Restrictions, for McEwen Woods which is recorded at Microfiche No. 94-386-A01 of the Deed Records of Montgomery County, Ohio, and incorporated herein by reference.

RECITALS

A. Certain real property has been submitted to the Declaration and the present owners and mortgagees of each Lot for which provisions are made in the Declaration are hereinafter respectively referred to as "Parcel A Owners" and "Parcel A Mortgagees", with Parcel A being the property described in the Declaration and in any Amendment thereto.

B. CLDC is the owner of Adjacent Property as referenced in the Declaration, and has determined to submit a portion thereof to the provisions of the Declaration, said Adjacent Property being hereinafter referred to as "Parcel B" and hereinafter described as follows:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots Numbered 20 through 53 inclusive, together with Reserve Area A, of McEwen Woods Subdivision, Section Three, as recorded in Plat Book _____, Page(s) _____ of the Plat Records of Montgomery County, Ohio.

C. CLDC as Declarant has obtained the necessary consents for the filing of this instrument.

DECLARATIONS

NOW, THEREFORE, Declarant hereby declares that:

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration, unless specifically herein amended.

2. Declarant is the owner of Parcel B, together with all improvements thereon, all easements, rights and appurtenances belonging thereto, all of which are hereby submitted to the provisions of the Declaration and are hereby included and made a part thereof.

3. The Declaration is hereby amended in accordance with the provisions of Section 13.03 of the Declaration in the following respects:

A. Section 2.01 of the Declaration is hereby amended by adding thereto the following:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots 20 through 53 inclusive, together with Reserve Area A, of McEwen Woods Subdivision, Section Three, as recorded at Plat Book _____, Page _____ of the Plat Records of Montgomery County, Ohio.

B. Section 2.02 of the Declaration is hereby amended by adding thereto the following:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots 20 through 53 inclusive, of McEwen Woods Subdivision, Section Three, as recorded at Plat Book _____, Page _____ of the Plat Records of Montgomery County, Ohio.

C. Section 2.03 of the Declaration is hereby amended by deleting the entire provisions thereof and substituting therefor the following:

Common Areas. The Common Areas shall consist of the following described Property, any detention or retention areas, and to the extent applicable, any Association Easements:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Reserve Area A of McEwen Woods Subdivision, Section Three, as recorded at Plat Book _____, Page _____ of the Plat Records of Montgomery County, Ohio.

D. Section 10.01 of the Declaration is hereby amended by adding thereto the following:

(c) The Association shall be responsible for the maintenance of the bollard trash guard or screen located at the entrance of the 54" pipe which is part of the Storm Water Improvements and located adjacent to Lots 28, 29 and 50 of McEwen Woods, Section Three. Such maintenance responsibilities shall include keeping such trash guard or screen free from all debris and the removal of such debris.

4. Except as specifically hereinabove amended, all of the provisions of the Declaration shall be and hereby are declared to remain in full force and effect.

IN WITNESS WHEREOF, Cincinnati Land Development Corporation, an Ohio corporation, acting in its capacity as Declarant, as the owner of property, and as attorney-in-fact for all other owners and mortgagees within the property, has caused the execution of this instrument this ____ day of _____, 1995.

Signed and acknowledged
in the presence of:

CINCINNATI LAND
DEVELOPMENT CORPORATION

By: _____
James P. Dunn
President

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 1995 by James P. Dunn, President of Cincinnati Land Development Corporation, an Ohio corporation, on behalf of the corporation.

Notary Public

THIS INSTRUMENT PREPARED BY:

HANS H. SOLTAU
Attorney at Law
6776 Loop Road
Centerville, Ohio 45459

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THIRD AMENDMENT TO DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
McEWEN WOODS

THIS THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR McEWEN WOODS, hereinafter referred to as the "Third Amendment" is made on the date hereinafter set forth by Cincinnati Land Development Corporation, hereinafter referred to as "CLDC", under the circumstances summarized in the following Recitals which utilize certain capitalized terms defined in Article I of the Declaration of Covenants, Conditions and Restrictions for McEwen Woods which is recorded at Microfiche No. 94-386-A01 of the Deed Records of Montgomery County, Ohio, and incorporated herein by reference.

RECITALS

- A. Certain real property has been submitted to the Declaration and the present owners and mortgagees of each Lot for which provisions are made in the Declaration are hereinafter specifically referred to as "Parcel A Owners" and "Parcel A Mortgagees", with Parcel A being the property described in the Declaration in any Amendment thereto.
- B. CLDC is the owner of Adjacent Property as referenced in the Declaration, and has determined to submit a portion thereof to the provisions of the Declaration, said adjacent Property being hereinafter referred to as "Parcel B" and hereinafter described as follows:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots Numbered 54 through 79, inclusive, together with Reserve Area B, of McEwen Woods Subdivision, Section Four, as recorded in Plat Book 169, Page(s) 487 of the Plat Records of Montgomery County, Ohio. 48A

- C. CLDC as Declarant is, pursuant to the provisions of Section 13.05 of the Declaration, the duly appointed and acting attorney-in-fact of each of the Parcel A Owners and their respective mortgagees for the purpose of executing, acknowledging and recording for and in the name of each Parcel A Owner and amendment to the Declaration for the purpose of adding Adjacent Property.
- D. CLDC as Declarant has obtained the necessary consents for the filing of this instrument.

DECLARATIONS

- 1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration, unless specifically herein amended.

2. Declarant is the owner of Parcel B, together with all improvements thereon, all easements, rights and appurtenances belonging thereto, all of which are hereby submitted to the Provisions of the Declaration and are hereby included and made a part hereof.
3. The Declaration is hereby amended in accordance with the provisions of Section 13.03 of the Declaration in the following respects:

A. Section 2.01 of the Declaration is hereby amended by adding thereto the following:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots 54 through 79, inclusive, together with Reserve Area B, of McEwen Woods Subdivision, Section Four, as recorded in Plat Book 169, Page(s) 47-48 of the Plat records of Montgomery County, Ohio.

B. Section 2.02 of the Declaration is hereby amended by adding the following:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots 54 through 79 inclusive, of McEwen Woods Subdivision, Section Four, as recorded in Plat Book 169, Page(s) 47-48 of the Plat Records of Montgomery County, Ohio.

C. Section 2.03 of the Declaration is hereby amended by deleting the entire provisions thereof and substituting therefor the following:

Common Areas. The Common Areas shall consist of the following described Property, any detention or retention areas, and to the extent applicable, any Association Easements:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Reserve Area A of McEwen Woods Subdivision, Section Three, as recorded at Plat Book 155 Page 15 of the Plat Records of Montgomery County, Ohio.

Also the following described Property:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Reserve Area B of McEwen Woods Subdivision, Section Four, as recorded at Plat Book 169 Page(s) 47-48 of the Plat Records of Montgomery County, Ohio.

4. Except as specifically hereinabove amended, all of the provisions of the Declaration shall be and hereby are declared to remain in full force and effect.

IN WITNESS WHEREOF, Cincinnati Land Development Corporation, an Ohio corporation, acting in its capacity as Declarant, as the owner of property, and as attorney-in fact for all other owners and mortgagees within the property, has caused the execution of this instrument this 16th day of October, 1997.

Signed and acknowledged in the presence of: CINCINNATI LAND DEVELOPMENT CORPORATION

William R. Ryan
William R. Ryan

By: James P. Dunn
James P. Dunn, President

Juan L. Berge

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 16th day of October, 1997 by James P. Dunn, President of Cincinnati Land Development Corporation, an Ohio corporation, on behalf of the corporation.

Juan L. Berge
Notary Public, State of Ohio



SUNAN L. BERGE
Notary Public, State of Ohio
My Commission Expires Mar. 31, 2000

This instrument prepared by:
David Dumbacher, Attorney at Law
1014 Vine Street, Suite 1420
Cincinnati, Ohio 45202

DEED 97-07cb B01

**FOURTH AMENDMENT TO DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
McEWEN WOODS**

**CHANGING THE DESIGN STANDARDS
FOR
McEWEN WOODS, SECTION FOUR**

THIS FOURTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR McEWEN WOODS, hereinafter referred to as the "Fourth Amendment" is made on the date hereinafter set forth by Cincinnati Land Development Corporation, hereinafter referred to as "CLDC", under the circumstances summarized in the following Recitals which utilize certain capitalized terms defined in Article I of the Declaration of Covenants, Conditions and Restrictions for McEwen Woods which is recorded at Microfiche No. 94-386-A01 of the Deed Records of Montgomery County, Ohio, and incorporated herein by reference.

RECITALS

- A. Certain real property has been submitted to the Declaration which Declaration is recorded at Microfiche No. 94-386-A01 of the Deed Records of Montgomery County, Ohio.
- B. CLDC is the owner of Adjacent Property as referenced in the Declaration, and has submitted a portion thereof to the provisions of the Declaration, by virtue of the Third Amendment to Declaration of Covenants, Conditions and Restrictions for McEwen Woods which added the following property to the provisions of the Declaration:

Situate in the Township of Washington, County of Montgomery, State of Ohio and being Lots Numbered 54 through 79, inclusive, of McEwen Woods Subdivision, Section Four, as recorded in Plat Book 169, Page(s) ~~167-168~~ of the Plat Records of Montgomery County, Ohio.

- C. CLDC as Declarant in connection with the property described above, being all of the Lots in McEwen Woods, Section Four, by virtue of its powers granted by the Declaration, including the provisions of Article VIII, Section 8.02 and Article XII is making this amendment to the Declaration for the purpose of amending the Design Standards only as they affect the Lots in Section Four of McEwen Woods Subdivision.

DECLARATIONS

1. All of the terms used herein which are defined in the Declaration shall be interpreted to have the same meaning as defined in the Declaration, unless specifically herein amended.

2. Declarant is the owner of all of the Lots in McEwen Woods Subdivision, Section Four, together with all improvements thereon, all easements, rights and appurtenances belonging thereto.

3. The Declaration is hereby amended in accordance with the provisions cited above in the following respects:

The Design Standards which apply to McEwen Woods, Section Four, are amended to read in their entirety as provided in Exhibit A attached hereto and made a part hereof. Design Standards of prior subdivided Lots shall not apply to McEwen Woods, Section Four.

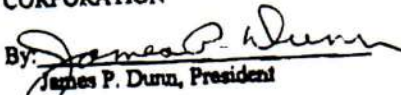
4. Except as specifically hereinabove amended, all of the provisions of the Declaration shall be and hereby are declared to remain in full force and effect.

IN WITNESS WHEREOF, Cincinnati Land Development Corporation, an Ohio corporation, acting in its capacity as Declarant, has executed this instrument this 16th day of October, 1997.

Signed and acknowledged in the presence of:

CINCINNATI LAND DEVELOPMENT CORPORATION

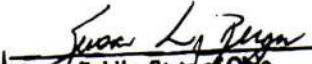

William R. Ryan

By: 
James P. Dunn, President



STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 16th day of October, 1997 by James P. Dunn, President of Cincinnati Land Development Corporation, an Ohio corporation, on behalf of the corporation.


Notary Public, State of Ohio

This instrument prepared by:
David Dumbacher, Attorney at Law
1014 Vine Street, Suite 1420
Cincinnati, Ohio 45202



SUSAN L. BERGER
Notary Public, State of Ohio
My Commission Expires Mar. 31, 2000

DEED 97-0726 B03

EXHIBIT "A"

McEWEN WOODS DESIGN STANDARDS

1.0 GENERAL

- 1.1 The capitalized terms herein, unless otherwise specified, shall mean and be defined as set forth in the Declaration of Covenants, Conditions and Restrictions for McEwen Woods Section Four. Said document is therein defined and hereinafter referred to as the "Declaration".
- 1.2 The purpose of these Design Standards is twofold. First, to establish certain criteria and guidelines for a Dwelling Unit and other Improvements on the Property. Second, to establish a procedure and requirement for the plans and specifications to be submitted to the Design Review Committee.

2.0 PLANS AND SPECIFICATIONS

- 2.1 Prior to the commencement of construction of any Dwelling Unit or any Improvements on a Lot, a "Builder", as hereinafter defined and referred to, shall submit to the Design Review Committee one (1) complete copies of plans and specifications for such Improvements which shall show in detail and include without limitation a plot plan, a landscaping plan, and construction drawings for the Dwelling Units.
- 2.2 The Design Review Committee may prepare and amend from time to time specification sheets to be submitted by a Builder.
- 2.3 The term Builder as used herein shall mean and refer to a person and/or entity who has been conveyed a Lot by Declarant for purposes of constructing a Dwelling Unit thereon.

3.0 DWELLING UNIT REQUIREMENTS

- 3.1 The living area of a Dwelling Unit constructed on any Lot shall not be less than 2,000 sq. ft. For purposes of computing such minimum square footages, the square footage of the basement, garage, attic, porches and decks shall not be considered.
- 3.2 All garages shall be attached and for a minimum of two cars.
- 3.3 All Dwelling Units shall be served by gas.

4.0 WALKWAYS

4.1 All walkways shall be constructed of concrete and be a minimum of three feet wide.

5.0 DRIVEWAYS

5.1 All driveways shall be constructed of concrete, asphalt or brick

6.0 WINDOWS

6.1 Wood windows are preferred by not mandatory. The specifications shall contain a description of the windows.

7.0 EXTERIOR DOORS

7.1 All exterior doors shall be natural wood or metal.

8.0 GARAGE DOORS

8.1 All garage doors shall be natural wood or metal.

9.0 SIDING

9.1 The siding of the first floor of a Dwelling Unit (front, sides and rear) shall be brick.

9.2 Siding shall be natural wood, composition hardboard, aluminum, vinyl, brick, stone or a combination thereof.

10.0 ROOFING

10.1 All roofing material must be medium dark to dark color, or greys and browns. No black or white.

10.2 Submitted specifications must show roof color and identify material.

11.0 EXTERIOR LIGHTING

11.1 Submitted specifications must show location of exterior fixtures.

12.0 LANDSCAPING

12.1 All houses shall have a shrub package of a minimum \$1,000 retail value.

13.0 SWIMMING POOLS

13.1 Swimming pools are permitted in the side or rear yard only.

14.0 FENCING

14.1 Fences may be permitted on the rear yards subject to prior approval by the Design Review Committee.

14.2 No chain link fences shall be permitted.