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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS**

OF

HIDDEN LAKE ESTATES SUBDIVISION, PHASE 3

VILLAGE OF LAKEMORE, SUMMIT COUNTY, OHIO

BEING DEVELOPED BY:

Hidden Lake II, LLC
An Ohio Limited Liability Co.
5377 Lauby Road, N.W.
North Canton, Ohio 44720
Phone: 330-433-9100

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John A Donofrio, Summit Fiscal Officer

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS**

HIDDEN LAKE ESTATES SUBDIVISION, PHASE 3

VILLAGE OF LAKEMORE, SUMMIT COUNTY, OHIO

**Lots 1 through 63 and all Open Space Blocks, Hidden Lake Estates Subdivision, Phase 3,
as shown on Instrument Nos. 54952851 and 55103368, Summit County Records**

THIS DECLARATION, made this 28th day of September, 2004, by **HIDDEN LAKE II, LLC**, an Ohio limited liability company, its successors and assigns (hereinafter referred to as "**Developer**") and **ELSON J. HERSHBERGER CONSTRUCTION, INC.**, an Ohio corporation (hereinafter referred to as "**EJHC**").

PREAMBLE

A. Developer and EJHC are the owners of the real property situated in the Village of Lakemore (the "**Village**"), Summit County (the "**County**"), Ohio which is more particularly described (the "**Property**") as follows:

Situated in the Village of Lakemore, County of Summit, State of Ohio and known as Lot Numbers 1 through 63 in Hidden Lake Estates Subdivision, Phase 3, together with all "Open Space" Blocks, as shown by the Plats recorded in Instrument Nos. 54952851 and 55103368 of the Summit County, Ohio Records.

B. Developer and EJHC desire to create on the Property a residential community with areas for single family residences ("**Living Units**") and common areas, facilities and elements including perhaps, without limitation, permanent open spaces, natural areas, signage, landscaping, stormwater retention areas, and other common facilities ("**Common Areas**"), and to this end, desire to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said Property and each Owner thereof or a portion thereof ; and

C. The Property is subject to that certain Master Declaration of Covenants and Restrictions for Hidden Lake Villages recorded on May 18, 1999 in Instrument No. 54292231 of the Summit County, Ohio Records (the "**Master Declaration**"), which Master Declaration establishes a general plan for Hidden Lake Villages allotment (the "**Allotment**"), a mixed-use development that includes the Property and surrounding properties as set forth in the Master Declaration; and

D. Pursuant to that certain Amendment to Master Declaration of Covenants and Restrictions for Hidden Lake Villages recorded on May 19, 2004 in Instrument No. 55050841 of the Summit County, Ohio Records, Developer is the successor declarant under the Master Declaration; and



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- E. Developer, as a part of its general plan for the Property and the Allotment, in addition to the restrictions, covenants and conditions set forth in the Master Declaration, deems it desirable for the efficient preservation of the values, aesthetics, aesthetic harmony and amenities in said Allotment, and particularly the Property, and for the maintenance and preservation of the Common Areas to impose and provide the within reservations, covenants, restrictions and conditions upon the Property and create an agency to which should be delegated and assigned the powers of maintaining and administering the Common Areas and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

- F. There has been incorporated under the laws of the State of Ohio, as a non-profit corporation, Hidden Lake Estates Homeowners Association, Inc. (the "**Association**") for the purposes of exercising the functions aforesaid and for the purpose of owning, operating, maintaining, and administering certain portions of the Property including the Common Areas and such improvements as may be constructed and developed thereon, with the costs incurred by the Association in connection with said ownership, operation, construction and development, and any maintenance, repair, replacement and administration of such portions of the Property, including the Common Areas to be an encumbrance upon the Property, as further described herein; and

- G. There has been incorporated under the laws of the State of Ohio, as a non-profit corporation, Hidden Lake Villages Master Association, Inc. (the "**Master Association**") for the purposes of exercising the functions set forth in the Master Declaration and for the purpose of owning, operating, maintaining, and administering certain portions of the Allotment, including certain common areas and such improvements as may be constructed and developed thereon, all as set forth in the Master Declaration, with the costs incurred by the Master Association in connection with said ownership, operation, construction and development, and any maintenance, repair, replacement and administration of such portions of the Allotment, including the common areas to be an encumbrance upon the Allotment, as further described in the Master Declaration; and

- H. Developer and EJHC declare that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth, and further specify that this Declaration shall constitute covenants to run with the land and shall be binding upon Developer, EJHC, and their successors and assigns and all other owners of any part of the Property (such owners individually an "**Owner**" or collectively "**Owners**"), together with their grantees, successors, heirs, executors, administrators or assigns.

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ARTICLE I

PREAMBLE - PROPERTY – EXPANSION OF PROPERTY

Section 1.1 – Preamble

The Preamble is incorporated in and made a part of this Declaration, as amended (the “Declaration”).

Section 1.2 – Property

The Property which is and shall be owned, held, transferred, sold, used and occupied subject to this Declaration is the real property described in Section A of the Preamble.

Section 1.3 – Expansion of the Property

Developer reserves the right from time to time to add additional real property to the Hidden Lake Estates as additional phases of Hidden Lake Estates Subdivision. Such additional real property shall be subject to the provisions of a similar declaration recorded by Developer which, according to the terms of such declaration, shall include the owners of such additional real property into the Association. The subsequent phases of Hidden Lake Estates Subdivision, if any, may be developed and annexed by Developer at any time without the consent of the Association or Owners.

ARTICLE II

RESERVATIONS, COVENANTS, RESTRICTIONS AND CONDITIONS

Section 2.1 – Use

Lots developed upon the Property (“Lots”) shall be used in accordance with Article VII, Section 1 of the Master Declaration and only one residence (“Living Unit”) shall be permitted on each Lot. Developer shall have the right to divide Lots for the purpose of adding parts thereof to other Lots to be used for one Living Unit on the enlarged Lot.

Section 2.2 – Types of Living Units

Living Units on the Property may be a one story, a two-story, a split level, or Cape Cod design: (a) one story Living Unit is a structure, the living area being the first floor, constructed with or without a basement and a space between the first floor ceiling and the roof of inadequate height to permit its use as a dwelling place; (b) a two story Living Unit is a structure, the living area of which is on two levels connected by a stairway, constructed with or without a basement; (c) a Split level and/or Multi-level Living unit is a structure which shall have living areas on two or three levels, exclusive of any areas that are more than fifty per cent (50%) below finish grade, garages, porches, patios or decks; and, (d) a Cape Cod Living Unit is a structure, the living area of which is on two levels



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connected by stairway and constructed with or without a basement and the upper level is constructed within the gable portion of the roof, with window penetrations made by the use of dormers.

Section 2.3 - Living Area

The living area of any Living Unit erected on the Property shall be not less than the square footage hereinafter set forth. "Living area" shall not include garages, attics, basements, breezeways, patios, or any enclosed area not heated for year-round living. The area of a Living Unit shall be computed on the outside of the foundation of the first floor and the exterior dimensions of the second floor. In the case of open ceilings to the second floor, the open space may be computed as second floor square footage. In the case of a Cape Cod design, the second floor area shall be computed by the area of floor space in which the ceiling height is five (5) feet or greater. The minimum square footage for each of the permitted designs set forth in Section 2.2 above shall be as follows:

<u>Living Unit Style</u>	<u>Required Living Area</u>
One story	1200 square feet
Two story	1400 square feet
Split Level/Multi-Level	1400 square feet
Cape Cod	1400 square feet

Section 2.4 - Garages

No garages shall be erected which are separated from the Living Unit. All garages must contain at least 400 square feet.

Section 2.5 - Lot Restrictions

Section 2.5.1 - Side Yards

Each Lot on the Property shall have a side yard along each side Lot line. The least dimension of each side yard shall be not less than five (5) feet. The side yard nearest the street on any corner Lot shall have a width of at least thirty (30) feet. Where two or more Lots are acquired and used as a single building site, the side Lot lines shall refer only to the lines bordering on the adjoining property owners' Lots and/or the street.

Section 2.5.2 - Front Yards

For all Lots within the Property, no Living Unit, building or structure may be erected on any Lot nearer than thirty (30) feet to the front Lot line on such Lot.



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Section 2.5.3 - Rear Yards

For all Lots within the Property, no Living Unit, building or structure may be erected on any Lot nearer than twenty (20) feet to the rear Lot line on such Lot.

Section 2.5.4 - Driveways

Concrete driveways are required on the Property. All driveways shall be completed within twelve (12) months after completion of the Living Unit.

Section 2.5.5 - Variances

At its sole discretion, Developer reserves the sole right to approve any variances to the restrictions set forth herein, whether for Developer's own construction or otherwise.

Section 2.5.6 - Zoning

No structure of any kind shall be erected on any Lot, any part of which is in violation of any front, side and/or rear setback lines and/or other requirements as established by applicable zoning ordinances and regulations, as such requirements are in effect at the time of construction of a Living Unit.

Section 2.6 – Restrictions and Obligations

The following restrictions and obligations shall apply to the Property and Owners:

Section 2.6.1: Except as expressly permitted in this Declaration, no industry, business, trade or full-time occupation or profession of any kind, commercial, commercial agricultural uses, or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Property; provided, however, an Owner or occupant of a Living Unit ("Occupant") may use a portion of his or her Living Unit for his office or studio as permitted by applicable zoning requirements, so long as no business is transacted in person on the Property with customers, clients, business invitees and/or patients; no employees, contractors, or persons other than such Owner or Occupant are employed or working on such Lot; the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner or Occupant; and, that such use does not result in the Living Unit becoming principally an office, school or studio as distinct from a Living Unit.

Section 2.6.2: Mining or extraction of any minerals, including the removal of sand or gravel; provided, however, this restriction should not limit or prohibit the extraction of minerals pursuant to leases or rights recorded prior to the date of this Declaration. This restriction shall not prohibit the removal of any material in connection with development of the Property for a permitted use.



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Section 2.6.3: No animals, livestock, reptiles or poultry of any kind shall be raised, bred or kept on any portion of the Property (including the Living Units situated thereon), except that dogs, cats, birds and other customary household pets may be kept in a Living Unit, subject to rules adopted by the Association, provided that they are not kept, bred or maintained for any commercial purpose and provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance or annoyance shall be permanently removed from the Property upon three (3) days written notice from the Association. Notwithstanding anything to the contrary herein, the total number of all dogs and cats in any Living Unit shall not exceed three (3). At all times whenever they are off the Owner's Lot, all pets shall be confined on a leash held by a responsible person. Notwithstanding anything to the contrary hereinabove, only dogs that are of a "non-vicious" breed shall be permitted to be kept on the Property. Dogs, cats, birds and other customary household pets permitted under this Section shall not be housed outside of a Living Unit.

Section 2.6.4: There shall be no outbuildings constructed on any Lot except for the Living Unit and one (1) storage shed, provided that such storage shed must not be larger than 120 square feet nor smaller than 64 square feet, must not exceed twelve (12) feet in height, must match the color, exterior materials and shingles of the Living Unit on such Lot and shall not be of metal construction. No shed shall be permitted closer than 5 feet to any Lot line.

Section 2.6.5: No above ground swimming pools, except that small (60 inches or less in diameter and less than 25 square feet in size), portable wading pools for children are permitted on the Property. In ground pools are permitted with the approval of the Architectural Review Board and shall be enclosed with a six (6) foot fence that otherwise complies with the provisions of this Declaration, the Master Declaration and all applicable laws and ordinances.

Section 2.6.6: Any containers used in connection with trash or garbage, if placed outside the Living Unit (except on the day of trash collection), must be concealed from view and protected from animals.

Section 2.6.7: The placement of temporary structures including but not limited to trailers, basements or incomplete houses, tents, shacks, garages or other buildings of any kind on the Property; provided, however, that this restriction shall not prohibit trailers and temporary structures used in connection with the development of the Property. The foregoing is made in addition to and not in lieu of the provisions set forth in Article VII, Section 3 of the Master Declaration.

Section 2.6.8: In addition to the provisions of Article VII, Section 7 of the Master Declaration, nothing herein or therein contained shall limit Developer's right to place entry signs to Hidden Lake Estates Subdivision or signs designating the existence and location of model homes.

Section 2.6.9: Nuisances and noxious or offensive activities of any kind are prohibited.

Section 2.6.10: In addition to the provisions of Article VII, Section 9 of the Master

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Declaration, no trailer of any type, shall be stored in any driveway or in any other area on the Property, except in the confines of a garage. Notwithstanding any provision in this Declaration or in the Master Declaration, Developer may maintain a construction/office/sales trailer(s) on the Common Areas and on Lots owned by the Developer so long as the construction and sales by the Developer of the Living Units is continuing. Nothing contained herein or in the Master Declaration shall limit use of trucks, trailers, or equipment during construction, repair or service of a Living Unit.

Section 2.6.11: Hanging of laundry outdoors on the Property is prohibited.

Section 2.6.12: In addition to the provisions of Article VII, Section 4 of the Master Declaration, no fences or walls may be erected or placed or permitted on any Lot or Lots from the front line of the Living Unit to the street. In the side yards on a Lot, between the front line of the Living Unit and the rear line of the Living Unit, fences may not exceed forty (40) inches in height. In the rear yards on a Lot (from the rear line of the Living Unit to the rear Lot line), fences may not exceed six (6) feet in height. Wire mesh/woven and chain link fences are strictly prohibited. All fences must be erected not less than two (2) feet from the Lot line.

Section 2.6.13: In addition to the provisions of Article VII, Section 13 of the Master Declaration, satellite dishes exceeding one meter in diameter are prohibited. Satellite dishes shall be installed so as to not be visible from the street, and no TV or other antennas shall be erected. If, at any time, the prohibitions and restrictions contained within this subsection shall not comply with the provisions of federal, state or local law, the same shall be and are hereby modified to comport with the minimum requirements of such law(s).

Section 2.6.14: Subject to Developer's rights as set forth in Section 2.1 above, no Lot shall be split, divided or subdivided for sale, resale, gift, transfer or otherwise after acquisition from the Developer. Developer, however, hereby expressly reserves the right to replat any Lot(s) owned by the Developer.

Section 2.6.15: Each Owner shall purchase, erect and maintain on their Lot a mailbox/newspaper holder, which mailbox/newspaper holder shall be the tan colored model of Step II mailbox.

Section 2.7 – Restrictions of Other Documents

Nothing contained in this Article II shall preclude the imposition of more stringent or additional restrictions imposed elsewhere in this Declaration, the Master Declaration, restrictions imposed on Lots, restrictions imposed in deeds conveying the Property or portions thereof and restrictions imposed by the Architectural Review Board (so long as such restrictions from the Architectural Review Board are not inconsistent with this Declaration or the Master Declaration).

Section 2.8 – Compliance with Governmental Codes



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Each Owner shall comply with Village, County, State and other governmental requirements. It is agreed that a violation of any such requirements or any restriction, condition, covenant or restriction imposed now or hereafter by the provisions of this Declaration or the Master Declaration is a nuisance per se that can be abated by the Developer, Association and/or such governmental authority.

ARTICLE III
EASEMENTS

In addition to Article III of the Master Declaration, Developer provides for the following with regard to the Property:

Section 3.1 – Utility Easements

There is hereby reserved in favor of Developer and granted to the Association, its successors and assigns, a non-exclusive easement upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utilities and service lines and systems including, but not limited to, water, storm and sanitary sewer, energy, drainage, gas, telephone, electricity, television, cable and communication lines and systems. By virtue of this easement, it shall be expressly permissible for the Developer and the Association and their successors and assigns, or the providing utility or service company, to install and maintain facilities and equipment on the Property provided that such facilities shall not materially impair or interfere with any Living Units and provided further than any areas disturbed by such installation and maintenance are restored to substantially the condition in which they were found. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utility service lines or facilities for such utilities may be installed or located except as approved by the Developer or the Architectural Review Board or unless the same are shown on a recorded plat. There is hereby reserved in favor of the Developer and the Association the right (but not the obligation) to grant neighboring property owners easements for access purposes and easements for utility purposes so long as the granting of easements for utility purposes does not overburden the utilities serving the Property.

Section 3.2 – Easement for Ingress and Egress

There is hereby created a non-exclusive easement upon, across, over and through any sidewalks, walkways, bike paths and all-purpose trails in favor of Developer and the Association, all Owners, Occupants, and their respective guests, licensees and invitees for pedestrian and vehicular ingress and egress, as the case may be, to and from all of the various portions of the Property. Notwithstanding the foregoing, the Developer and/or the Association may limit this right of ingress and egress by an Amendment to this Declaration.

Section 3.3 – Easements for Enjoyment

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Developer, every Owner and Occupant and the guest of such parties shall have a right and non-exclusive easement of use and enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a) the right of the Association to suspend the voting rights and right to use of the recreational facilities (if any) by an Owner for any period during which any assessment against his Lot remains unpaid and for any infraction of Association rules;
- b) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors of the Association (the "Board"). No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by two-thirds (2/3rds) of the members of the Association ("Members") and has been recorded with the Summit County Recorder.

Section 3.4 – Easements for Construction, Alteration, etc.

Easements are hereby created upon portions of the Common Areas necessary in connection with the construction, alteration, rebuilding, restoration, maintenance and repair of any Living Unit or other structures and improvements within the Property or serving the Property; provided, however, that in the exercise of any rights under this easement, there shall be no unreasonable interference with the use of any Living Unit or other structure or improvement on the Property. Any Person benefiting from the foregoing easement shall indemnify and save harmless the Developer, the Association and each Owner and Occupant from and against any and all losses, damages, liabilities, claims and expenses, including reasonable attorneys' and paralegals' fees resulting from any such construction, rebuilding, alteration, restoration, maintenance and shall repair any damage caused in connection with such activities to substantially the condition that existed prior to such activities.

Section 3.5 – Emergency and Service Easements

There is hereby granted to the Village and County an easement for access to the Common Areas for emergency purposes or in the event of nonperformance of maintenance of improvements affecting the public interest. Advance notice is not required for emergency entrance onto the Common Areas.

Section 3.6 – Drainage Rights and Authority to Transfer Drainage and other Easement Rights

The Developer, each Owner, the Association, the Village and County shall have the non-exclusive right and easement in common to utilize the waterways, courses, storm sewers, drainage pipes and retention basins in, over and upon the Common Areas for the purposes of drainage of surface waters on the Property, said rights-of-ways and easements being hereby established for said purpose. It shall be the obligation of the Association to properly maintain, repair, operate and control such drainage system on the Common Areas unless those easement areas are accepted by the Village and/or County or other governmental authority having jurisdiction by formal action



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of the Village and/or County. No Person shall interfere with the free flow of water through any drainage ditches or storm sewers on or within the Property.

Section 3.7 – Easements for Community Signs

Easements are created over the Property to install, maintain, repair, replace and illuminate street signs and other signs that are for the general benefit of the Property or for the identification of Hidden Lake Estates. The type, size and location of the signs shall be subject to the approval of the Architectural Review Board and subject to the laws of the County, Village and other governmental authorities having jurisdiction.

Section 3.8 – Easement to Maintain Sales Offices, Models, etc.

Notwithstanding any provisions contained in this Declaration or the Master Declaration to the contrary, so long as construction and sale of Living Units by the Developer or an assignee, designee or affiliate of the Developer is continuing within the Property, it shall be expressly permissible for the Developer to maintain and carry on upon portions of the Common Areas and/or Lots such facilities and activities as, in the sole opinion of the Developer, may be reasonably required, convenient, or incidental to the construction or sale of Living Units, within the Property, including, but not limited to, administrative/customer services, trailers for sales/construction office purposes, parking areas, parking signs, identification signs, model units, and sales and resales offices, and the Developer, its guests, licensees and invitees shall have an easement for access to all such facilities. The right to maintain and carry on such facilities and activities shall specifically include the right of the Developer to use Living Units as models and construction and sales offices. Developer further reserves the right for itself and its successors, assigns, contractors, materials suppliers and others performing work and furnishing materials to construct Living Units and other improvements upon the Property to conduct business and carry on construction/site development activities. This Section may not be amended or modified without the express written consent of the Developer.

Section 3.9 – Maintenance and Development Easement

There is hereby reserved for the benefit of the Developer and Association and its agents, employees, successors and assigns an alienable, transferable, and perpetual right (but not the obligation) and easement to enter upon any Lot for the purpose of maintaining sidewalks, mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash and debris in order to maintain reasonable standards of health, fire safety, and appearance with the Property, provided that such right and easement shall not impose any duty or obligation upon Developer or the Association to perform any such actions; and provided, further, that in exercise of its rights hereunder the Association shall be entitled to be reimbursed by such Owner for any costs and expenses related thereto. Developer further reserves the right for itself, its agents, employees, successors and assigns to enter upon any Lot for the purpose of carrying out and completing the development of the Property, including but not limited to the completion of any dredging, filling, grading or installation of drainage facilities. Entry onto said Lot for such purposes shall not be deemed a trespass.



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Section 3.10 – Conservation Easement

“Block A” and “Block B” as shown on the plat of Hidden Lake Estates Subdivision, Phase 3, contain jurisdictional waters of the United States. There shall be no removal, destruction or cutting of vegetation, spraying with herbicides, grazing of domestic animals or disturbance of those areas in any manner except as may be required for safety or persons or buildings. “Block A” and “Block B” are not to be adversely impacted without written permission of the U.S. Army Corps. of Engineers, 1776 Niagara Street, Buffalo, New York, 14207.

Section 3.11 – Easements To Run With the Lands

All easements and rights described herein are easements appurtenant to the Property (including the Living Units) and the Common Areas, shall run with said lands, perpetually and at all times inure to the benefit of and be binding upon the Developer and any Owner or Occupant, the Village, the County or other person having an interest in the Property, or any part or portion thereof.

ARTICLE IV

COMMON AREAS

Section 4.1 – Conveyances of Common Areas

At a time determined by Developer, Developer shall convey the Common Areas, if any, to the Association. Such conveyance shall be by quit claim deed and shall be subject to all easements, covenants, restrictions and provisions of this Declaration; easements, covenants, restrictions, conditions and other similar matters of record; real estate taxes and assessments which are a lien, but are not due and payable at the time of said conveyance; and zoning and other ordinances, if any. The Association shall hold title to said parcels subject to the provisions of this Declaration, the Master Declaration and such deed.

Section 4.2 – Alterations to Common Areas

All alterations to the Common Areas, including, but not limited to, installation of any improvements, construction of any building or structure, or planting, trimming, or maintenance of any landscaping, lawn or trees, shall be made or done solely by or at the direction of the Association (or the Developer, prior to the conveyance of the Common Areas to the Association), and no such alterations shall be permitted to be completed by any Owner or Occupant.

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ARTICLE V

THE ASSOCIATION

Section 5.1 – Existence, Membership and Voting Rights

The Association is an Ohio not-for-profit corporation. The membership of the Association is and shall be divided into two (2) classes as follows:

Section 5.1.1 - Class "A" Membership and Voting Rights. Each Owner of a Lot or Living Unit, with the exception of the Developer, shall automatically be a Class "A" Member of the Association. All Owners shall be Members of the Association. Class "A" Members shall be entitled to one vote for each Lot in which they hold the fee simple interest or interests. There shall be only one (1) vote for each Lot. In any situation where a Class "A" Member is entitled to exercise a vote and more than one (1) person holds the interest in such Lot required for membership, the vote for such Lot shall be exercised as those persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended if more than one (1) person seeks to exercise it. In the case of a Lot owned or held in the name of a corporation, partnership, limited partnership, limited liability company, trust or other entity, a certificate signed by such Owner shall be filed with the Secretary of the Association naming the person authorized to cast a vote for such Lot, which certificate shall be conclusive until a subsequent certificate is filed with the Secretary of the Association.

Section 5.1.2 - Class "B" Membership and Voting. The Developer shall automatically be the sole Class "B" Member of the Association. The Class "B" member shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The Class "B" membership shall cease and be converted to Class "A" Membership upon the sale and/or transfer of the last Lot owned by Developer in Hidden Lake Estates Subdivision.

Section 5.2 – Board and Officers of the Association

The Directors of the Board and the Officers of the Association shall be elected as provided in the Code of Regulations for the Association (the "Code") and shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, the Association's Articles of Incorporation (the "Articles"), and Code, except as otherwise specifically provided.

Section 5.3 – Rights of the Association

Notwithstanding the rights and easements of enjoyment and use created in Article III of this Declaration, and in addition to any right the Association shall have pursuant to this Declaration, the Code, the Articles or in law, the Association shall have the right:

- (a) To borrow money from time to time for the purpose of improving the

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Common Areas, and, with the assent of two-thirds (2/3rds) of each class of Members, secure said financing with a mortgage or mortgages upon all or any portion of property owned by the Association in accordance with its Articles and Code and subject to the provisions of this Declaration.

(b) To take such steps as are reasonably necessary to protect the Common Areas from foreclosure.

(c) To convey the Common Areas or a portion thereof, to a successor; provided, however, that any such conveyance shall require the vote of two-thirds (2/3rds) of each of the Class "A" and Class "B" Members, and provided further that such successor shall agree, in writing to be bound by the easements, covenants, restrictions and agreements of this Declaration and the Master Declaration.

(d) To enter or authorize its agents to enter on or upon the Property, or any part thereof, when necessary in connection with any maintenance, repair or construction for which the Association is responsible or has a right to maintain, repair or construct.

(e) To grant or obtain or dedicate to public use easements and rights-of-way (i) for access and easements for the construction, extension, installation, maintenance or replacement of utility services and facilities, or (ii) to or from a public or governmental authority, and to or from any body or agency which has the power of eminent domain or condemnation over any portion of the Property; provided, however, that no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer be signed by two-thirds (2/3rds) of the Members has been recorded.

ARTICLE VI

RESPONSIBILITIES OF THE ASSOCIATION

The Association shall have the exclusive duty to perform the following functions:

Section 6.1 – Maintenance of Common Areas

The Association shall maintain the Common Areas in a clean, safe, neat, healthy and workable condition, and in good repair, and shall promptly make all necessary repairs and replacements, structural and nonstructural, ordinary as well as extraordinary, subject only to the provisions of this Declaration. The Association may provide equipment and supplies necessary for the maintenance (including landscape maintenance) and enjoyment of Common Areas. All work performed by the Association under this Article shall be performed in a good and workmanlike manner.

Section 6.2 – Management



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The Association will provide the management and supervision for the operation of the Common Areas. The Association shall establish and maintain such policies, programs, and procedures, and shall perform and carry out all other duties and acts reasonably necessary to give effect to and to fully implement this Declaration for the purposes intended and for the benefit of the Members and may, but shall not be required to:

- a) Adopt rules and regulations (the "Rules");
- b) Engage employees and agents, including without limitation, security personnel, attorneys, accountants and consultants, maintenance firms and contractors;
- c) Delegate all or any portion of its authority and responsibilities to a manager, managing agent, or management company. Such delegation may be evidenced by a management contract which shall provide for the duties to be performed by the managing agent and for the payment to the managing agent of a reasonable compensation.

Section 6.3 – Rules and Regulations

The Association may make and enforce rules governing the Common Areas which rules shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Impositions of sanctions shall be as provided in the Code.

Section 6.4 – Developer’s Rights

During the Class “B” Control Period, the Developer may, but is not obligated to, exercise all or any of the powers, rights, duties and functions of the Association, including, without limitation, the right to levy special assessments as authorized herein, the right to enter into a management contract, the right to obtain insurance under Developer’s blanket policy (if any), the right to perform each duty and obligation of the Association set forth herein, the right to collect assessments and disburse all funds of the Association, and the right to have a lien (and to foreclose said lien) on a Living Unit for unpaid assessments in the manner and to the extent granted to the Association as herein provided.

ARTICLE VII

ARCHITECTURAL REVIEW BOARD

Section 7.1– Board

Article VIII of the Master Declaration establishes an Architectural Review Board for the Allotment, including the Property, for the purposes set forth therein, including, without limitation architectural and engineering control of the improvements and development in the Allotment to



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secure and maintain an attractive, harmonious community.

ARTICLE VIII

ASSESSMENTS

Section 8.1 – Definition of Assessments

As used in this Declaration, Assessments shall mean all of the costs and expenses incurred by the Association in the exercise of its obligations with respect to the Common Areas or its obligations as outlined in the Master Declaration, including, without limitation:

- a) All expenditures required to fulfill the responsibilities of the Association, including, but not limited to, expenditures relating to maintenance fees;
- b) All amounts incurred in collecting Assessments including all legal and accounting fees;
- c) Reserves for uncollectible Assessments, unanticipated expenses, replacements, major repairs and contingencies;
- d) Annual capital additions and improvements and/or capital acquisitions (but not repairs or replacements) having a total cost in excess of Two Thousand Five Hundred Dollars (\$2,500.00), without in each case the prior approval of the Class "B" Member and the vote of at least two-thirds (2/3rds) of the Class "A" Members who are voting in person or by proxy, at a meeting duly called for this purpose. In case of an emergency requiring prompt action to avoid further loss, the Board shall have the discretion to expend whatever is necessary to mitigate such loss;
- e) Such other costs, charges and expenses which the Association determines to be necessary and appropriate within the meaning and spirit of this Declaration; and
- f) Such assessments and obligations that the Association shall have to the Master Association pursuant to the Master Declaration.

Section 8.2 – Creation of the Lien and Personal Obligation of Assessments

Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual Assessments or charges, (2) special Assessments for capital improvements, and (3) additional Assessments, all such Assessments to be established and collected as hereinafter provided. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them.



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Section 8.3 – Purpose of Assessments

The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of Hidden Lake Estates Subdivision and for the improvement and maintenance of the Common Areas, for Master Association purposes as outlined in the Master Declaration, and as is otherwise consistent with the rights and responsibilities of the Association hereunder and for the benefit of the Members.

Section 8.4 - Special Assessments

In addition to the annual Assessments authorized herein, the Association may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, and/or to meet any other emergency or unforeseen expenses of the Association, provided that any such special Assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. Special Assessments shall be due as provided by the Board.

Section 8.5 – Uniform Rate of Assessment

Both annual and special Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis or other periodic basis not more often than monthly or less often than annually.

Section 8.6 – Effect of Nonpayment of Assessments; Remedies of the Association

Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate set by the Board and shall be subject to the remedies available to the Association as set forth in this Declaration. In addition, the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclosure the lien against the Owner's Lot.

Section 8.7 – No Exemption for Non-Use of Facilities; No Refund of Reserves

A Member may not exempt himself from liability for Assessments levied against him by waiver of the use of the Common Areas that are owned and/or operated by the Association or by abandonment of his Lot. Furthermore, no Member shall be entitled to any portion of the funds held for reserves; nor shall any Owner have a claim against the Association with respect thereto.



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ARTICLE IX

LIENS

Section 9.1 – Perfection of Lien

If any Owner shall fail to pay any Assessment levied in accordance with this Declaration or the Master Declaration (such Owner hereinafter referred to as the “Delinquent Owner”) when due and such Assessment is delinquent, or if an Owner shall violate any rule or breach any restriction, covenant or provision contained in the Declaration, the Master Declaration or the Code, the Board may authorize the perfection of a lien on the Ownership Interest of the Delinquent Owner and/or violating Owner by filing for record with the Recorder of Summit County, a Certificate of Lien. The Certificate of Lien shall be in recordable form and shall include the name of the Delinquent Owner, a description of the Ownership Interest of the Delinquent Owner, the entire amount claimed for the delinquency and/or violation, including interest thereon and Costs of Collection, and a statement referring to the provisions of this Declaration authorizing the Certificate of Lien.

Section 9.2 – No Waiver Implied

The creation of a lien upon an Ownership Interest owned by a Delinquent Owner shall not waive, preclude or prejudice the Association for pursuing any and all other remedies granted to it elsewhere in this Declaration, whether at law or in equity.

Section 9.3 – Personal Obligations

The obligations created pursuant to this Article IX shall be and remain the personal obligation of the Delinquent Owner until fully paid, discharged or abated and shall be binding on the heirs, personal representatives, successors and assigns of such delinquent Owner.

ARTICLE X

REMEDIES OF THE ASSOCIATION

Section 10.1 – Denial of Voting Rights

If any Owner fails to pay an Assessment when due, such Owner shall not be entitled to vote on Association matters until said Assessment is paid in full.

Section 10.2 – Specific Remedies

The violation of any Rule, or the breach of any restriction, covenant or provision contained in this Declaration, the Master declaration, the Rules or in the Code, shall give the Association and the Developer the right, in addition to all other rights set forth herein and



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provided by law, (a) to enter upon the Living Unit or Lot or portion thereof upon which, or as to such violation or breach exists, and summarily abate and remove, at the expense of the Owner of the Living Unit or Lot where the violations or breach exists, any structure, thing, or condition that may exist thereon, which is contrary to the intent and meaning of this Declaration, the Master Declaration, the Code, or the Rules, and the Association, or its designated agent shall not thereby be deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; (c) to commence and prosecute an action for specific performance or an action to recover any damages which may have been sustained by the Association or any of its Members as well as an action for punitive damages if warranted; and/or (d) to collect costs of suit and reasonable attorneys' and paralegals' fees incurred in connection with the exercise by the Association of any remedies hereunder (the "Costs of Collection").

Section 10.3 – Cost of Collection

If any Owner fails to pay any Assessment when due or upon delinquency in the payment of any sums or cost due under this Declaration, the Association may pursue any or all of the following remedies, which remedies shall be in addition to any other remedy available in this Declaration, or at law in equity:

- a) Sue and collect from such Owner the amount due and payable, together with interest thereon as provided in this Declaration and Costs of Collection (herein defined).
- b) In addition to the amount referred to in (a) above, the Association may assess against such Owner, liquidated damages, not to exceed fifteen percent (15%) of the amount of the delinquency or One Hundred Dollars (\$100.00), whichever amount is greater, said amount to be determined by the Board provided, however, in no event shall said amount exceed the highest interest rate chargeable to individuals under applicable law. Said liquidated damages shall be in addition to interest, the expenses of collection incurred by the Association, such as attorneys' fees, paralegals' fees, court costs and filing fees. The actual expenses of collection and the liquidated damages shall hereinafter be referred to as "Cost of Collection".
- c) Foreclose a lien filed in accordance with Article IX of this Declaration in the same manner as provided by the laws of the State of Ohio for the foreclosure of real estate mortgages.

Section 10.4 – Binding Effect

The remedies provided in this Article X against a Delinquent Owner may also be pursued against the heirs, executors, administrators, successors and assigns and grantees of such Owner.



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ARTICLE XI

GENERAL PROVISIONS

Section 11.1 – Covenants Run with the Property; Binding Effect

All of the Easements, Covenants and Restrictions which are imposed upon, granted and/or reserved in this Declaration constitute Easements, Covenants and Restrictions running with the Property and are binding upon every subsequent transferee of all or any portion thereof, including, without limitation, grantees, tenants, Owners and Occupants.

Each grantee accepting a deed or tenant accepting a lease (whether oral or written) which conveys any interest in any portion of the Property that is submitted to all or any portion of this Declaration, whether or not the same incorporates or refers to this Declaration, covenants for himself, his heirs, personal representatives, successors and assigns to observe, perform and be bound by all provisions of this Declaration and to incorporate said Declaration by reference in any deed, lease or other agreement of all or any portion of his interest in any real property subject hereto.

Section 11.2 – Notices

Any notices required to be given to any person under the provisions of this Declaration shall be deemed to have been given when personally delivered to such person's residence or mailed, postage prepaid, to the last known address of such person or principal place of business if a corporation. Notices to the Developer shall be deemed given only when received and must be either by hand delivered or mailed by certified or registered mail, postage prepaid, to Hidden Lake II, LLC, 5377 Lauby Road, N.W., North Canton, Ohio 44720.

Section 11.3 – Enforcement of Waiver

The Developer, Association, or any Owner, shall be empowered and have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by Developer, the Association or any one permitted in this Declaration to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 11.4 – Construction of the Provisions of this Declaration

The Developer, the Association or the Architectural Review Board, where specifically authorized herein to act, shall have the right to construe and interpret the provisions of this Declaration and in the absence of any adjudication by arbitrator(s) or a court of competent jurisdiction to the contrary, its construction and interpretation shall be final and binding as to all persons or property which benefit or which are bound by the provisions hereof. Any conflict between any construction or interpretation of the Developer, the Association or the Architectural Review Board and that of any person or entity entitled to enforce the provisions hereof shall be

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resolved in favor of the construction or interpretation by the Developer, the Association or Architectural Review Board, as the case may be.

Section 11.5 – Reservations by Developer

- a) Developer reserves the right and easement for itself and owners of nearby lands to whom Developer, in Developer's sole discretion, may grant the same right and easement, to tie into, use, repair, maintain and replace without charge any and all common lines, pipes, utilities, conduits, ducts, wires, cables, and rights-of-way in, on, or over the Property or any part thereof in connection with the development and/or operation of real property that will not materially interfere with the use or operation of a building, structure or other improvement thereon. Any damage caused thereby shall be promptly repaired and the land shall be restored to its prior condition.
- b) Developer hereby reserves the right to grant to or enter into any easements or covenants for the installation, maintenance, service or operation of any and all common lines, pipes, utilities, conduits, ducts, wires, cables, and rights-of-way in, on, or over the Property or any part thereof that will not materially interfere with the use or operation of a building, structure or other improvement thereon. Any damage caused thereby shall be promptly repaired and the land shall be restored to its prior condition.
- c) Developer reserves the right to enter into covenants and easements with any utility or public authority which Developer believes, in its sole discretion, to be in the best interests of the development of the Property.
- d) Developer reserves the right to perform or cause to be performed such work as is incident to the completion of the development owned or controlled by the Developer, notwithstanding any covenant, easement, restriction or provision of this Declaration or its exhibits, which may be to the contrary.
- e) Developer reserves the right to impose, reserve or enter into additional covenants, easements and restrictions with grantees of Living Units and Lots as long as such additional easements, covenants and restrictions are not in conflict with the rights, duties and obligations of Owners as set forth in this Declaration.
- f) Each reservation, right and easement specified or permitted pursuant to this Article shall include the right of ingress and egress for the full utilization and enjoyment of the rights reserved and/or granted herein. The word "common" as used in this paragraph shall mean any and all lines, pipes, utilities, conduits, ducts, wires, cables, private roads and rights-of-way intended for the use of or used by more than one Owner. Any easements or rights referred to in this Declaration, whether granted by Developer prior to the filing of this Declaration or subsequent thereto, shall at all times have priority over the provisions of this Declaration and any lien created under this Declaration.



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- g) So long as Developer is a Class "B" Member, no person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property without the Developer's written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the developer.

Section 11.6 – Severability

Invalidation of any of the easements, covenants, restrictions or provisions contained herein by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 11.7 – Duration and Amendment of Declaration

This Declaration, and the restrictions, covenants, conditions, easements, charges and liens provided for herein, shall be deemed to run with the land; shall continue in full force and effect until May 18, 2049 and shall be automatically reinstated for successive ten (10) year periods unless written objection is theretofore declared by seventy-five percent (75%) of the Members of the Association and filed by the Association with Recorder of Summit County, Ohio. Except as expressly provided to the contrary in this Declaration, this Declaration may be amended as follows:

- a) For so long as the Developer or a successor designated by the Developer is the Owner of a fee simple interest in the Property, the Developer shall be entitled from time to time to amend or modify any of the provisions of this Declaration or to waive any of the provisions, either generally or with respect to particular real property, if in its judgment, the development or lack of development of the Property requires such modification or waiver, or if in its judgment the purposes of the general plan of development of the Living Units will be better served by such modification or waiver. To modify the Declaration in accordance with this subsection, Developer shall file a supplement to this Declaration setting forth the Amendment, which supplement need not be but shall, at Developer's request, be executed by the Association and all Owners of real property within the Property. Each such Owner, by accepting a deed to his or her Living Unit or other real property, hereby appoints Developer his attorney-in-fact, coupled with an interest, to execute on his or her behalf any such amendments. Each amendment shall be effective when signed by the Developer and filed for record with the Recorder of Summit County.
- b) This Declaration may also be amended by Developer or the Association at any time and from time to time for the purpose of: (1) complying with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public entity, or private insurance company which performs (or may in the future perform) functions similar to those


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currently performed by such entities; or (2) inducing any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages, or (3) correcting clerical or typographical or obvious factual errors in this Declaration or any Exhibit hereto or any supplement or amendment hereto; or (4) complying with the underwriting requirements of insurance companies providing casualty insurance, liability insurance or other insurance coverages for the Association; or (5) bringing any provision hereof into compliance or conformity with the provisions of any applicable governmental stature, ordinance, rule or regulation or any judicial determination; or (6) correcting obvious errors or inconsistencies between this Declaration and other documents governing Hidden Lake Estates Subdivision, the correction of which would not have a material adverse affect upon the interest of any Owner; or (7) enabling a title insurance company to issue title insurance coverage with respect to the Property or any portion thereof. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Developer and/or to the Board to vote in favor of, make, or consent to an Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting any portion of the Property and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of the rights of the Developer to vote in favor of, make and record an Amendment. To effect said amendment, Developer shall file a supplement to the Declaration setting forth the Amendment which shall be signed by Developer and shall be effective upon the filing of the Amendment with the Summit County Recorder.

- c) Developer shall have the right to amend this Declaration at any time and from time to time in accordance with or in implementation of any of the rights granted to or reserved by Developer in this Declaration.
- d) Except as expressly provided in this Declaration, and after expiration of the Class "B" membership period set forth in this Declaration, any provision of this Declaration may be amended or repealed following a meeting of the Members held for such purpose, by the affirmative vote of at least a seventy-five percent (75%) of the voting power of the Class "A" Members unless a greater percentage of vote is required pursuant to this Declaration or in accordance with the statutes of the State of Ohio; provided that any amendment affecting the rights of Developer in this Declaration shall not be effective without the prior written consent of Developer. Each such amendment shall be effective when signed by the President and one other officer of the Association, signed by the Developer if the amendment affects the rights of the Developer and filed for record with the Summit County Recorder.

Section 11.8 – Rule Against Perpetuities

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




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after the death of the survivor of the now living descendants of George W. Bush, President of the United States of America, and Richard Cheney, Vice-President of the United States of America.


IN WITNESS WHEREOF, the Developer and EJHC, by their duly authorized representatives, have signed this document this 28th day of September, 2004.

Hidden Lake II, LLC
an Ohio limited liability company

Elson J. Hershberger Construction, Inc.
an Ohio corporation, its Member

By: 
Elson J. Hershberger, President

Elson J. Hershberger Construction, Inc.
an Ohio corporation, its Member

By: 
Elson J. Hershberger, President

STATE OF OHIO)
) SS
SUMMIT COUNTY)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named Hidden Lake II, LLC, an Ohio limited liability company, by Elson J. Hershberger Construction, Inc, its Member, by Elson J. Hershberger, its President, known to me, who acknowledged before me that he executed the within instrument and that such execution was the fee act and deed of said company and was his free act and deed both individually and in his capacity as President of the Member of said company.

IN TESTIMONY WHEREOF, I have herein set my hand and notarial seal this 28th day of September, 2004.


NOTARY PUBLIC
My Commission Expires: _____

Jill A. Burleson
Notary Public State of Ohio
My Commission Expires 5/29/07


John A Donofrio, Summit Fiscal Officer

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STATE OF OHIO)
) SS
SUMMIT COUNTY)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named Elson J. Hershberger Construction, Inc, by Elson J. Hershberger, its President, known to me, who acknowledged before me that he executed the within instrument and that such execution was the fee act and deed of said corporation and was his free act and deed both individually and in his capacity as President.

IN TESTIMONY WHEREOF, I have herein set my hand and notarial seal this 28th day of September, 2004.

Jill A. Burlison

NOTARY PUBLIC
My Commission Expires: *5/29/07*

Jill A Burlison

This Instrument prepared by:
Brian C. Cich, Esq.
Black McCuskey, Souers & Arbaugh
1000 Unizan Plaza
220 Market Avenue South
Canton, Ohio 44702
Telephone: (330) 456-8341

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