

VOL 0594 PAGE 1839

FIRST AMENDMENT TO

**RESTRICTIONS, COVENANTS, CONDITIONS, AND AGREEMENTS
CONTROLLING THE USE OF LOTS LOCATED IN SAGE CREEK SUBDIVISION,
DELAWARE COUNTY, OHIO OF RECORD IN OFFICIAL RECORD 582,
PAGE 422**

For the purpose of placing restrictions, covenants, conditions and agreements controlling the use of Lots located in **Sage Creek Subdivision, Section Three, Phase A**, and as part of the consideration for this conveyance, SJDJ, LLC dba The Trenton Land Company ("Grantor") executes and delivers this deed and the Grantees accept the same subject to each and all of the following covenants, agreements, conditions, restrictions and provisions ("Restrictions"); and Grantees, for themselves, their heirs and assigns, covenant and agree to keep and perform each and all of said restrictions which are to run with the land which shall be binding on all parties and all person claiming under them.

There are hereby excepted and reserved from this grant easements reserve areas, buffer zones and rights-of-way, over, and through the subject Lots as shown on the subdivision's plat as recorded in Delaware County, Ohio. Said exceptions and reservations are marked "easements" and "rights-of-way" and are reserved for the purposes noted on the subdivision's plat. Within these easements, no structure, planting or other material shall be place or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change, retard or obstruct the direction of flow of drainage channels or water in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the respective Lot, except for those improvements for which a public authority or public utility company is responsible.

ARTICLE I - PROTECTIVE COVENANTS AND RESTRICTIONS

In pursuance of a general plan for the protection and benefit and the mutual advantage of all the property on said Lots hereinabove described, and all of the persons who may now or hereafter become owners of any part of said Lots, and as a part of the consideration for this conveyance, the Grantor executes and delivers this deed of conveyance, and Grantee accepts the same, subject to all and each of the following restrictions, conditions, easements, charge, agreements, covenants, obligations, rights, uses, and provisions, hereinafter referred to as "Restrictions" which are for the mutual benefit and protection of and shall be enforceable by the Grantor and by all and any of the owners of the Lots described above. The Grantee, for himself and his successors and assigns, covenants and agrees to keep and perform each of said restrictions, conditions, easements, charges, agreements, covenants, obligations, rights, uses and provisions and fully and punctually to observe, comply with, perform and carry out the same, to wit:

Section 1: LAND USE

All Lots or combinations or parts thereof shall be used exclusively for residence purposes. No building shall be erected, altered, place or permitted to remain on the subject Lots,

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Stewart Title Agency
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both inclusive, other than one detached single family dwelling not to exceed 2.5 stories in height, an attached and / or detached private garage for no less than two or not more than six cars which may include guest living space and one yard storage building. All buildings on each Lot shall be custom, one-of-a-kind, of similar design, materials and colors and subject to design approval as set forth herein below. All garages within the subdivision shall be accessed from a direction facing a side lot line; garages accessing from the front of the Lot shall be prohibited.

Section 2: PLAN APPROVAL – STRUCTURE REQUIREMENTS

Each owner covenants that no tree removal, no excavation, or other site work which would in any way alter the Lot shall be made, no building shall be erected, and no materials shall be stored upon the premises by said owner or his agents, heirs, successors, or assigns until he Grantor shall have approved in writing said construction plans and specifications and plans showing the location and elevation of the dwelling and outbuildings, if any, and as to quality of workmanship and materials, harmony of external design, and as to location with respect to topography and finish grade elevation.

If the Grantor fails within thirty (30) days after acknowledgment by written receipt of said plans and specifications to either approve or disapprove said plans and specifications they shall be deemed to have been approved and the requirements herein fulfilled. If the Grantor disapproves said plans and specifications, the owner may revise and resubmit said plans and specifications until approval is received. If satisfactory plans and specifications are not received and approved by Grantor within one year following conveyance of title to said owner (or such extension of time as Grantor may, at its sole option extend), Grantor reserves and Grantee and each owner hereby acknowledge the right of Grantor, at its option, to repurchase the Lot at the original purchase price thereof less any commissions and closing costs as evidenced by the closing statement executed at time of purchase. This right shall continue until such time as approval is granted.

Each Lot owner acknowledges that in considering plans and specifications submitted, Grantor will take into consideration plans and specifications already approved or in the process of being reviewed for approval of proposed improvements on adjacent Lots and the effect of said proposed improvement on the Lot with reference to its effect on Lots in the subdivision.

Upon sale of the last Lot in the Subdivision, including Lots created from any additional property added to the Subdivision, the Grantor shall then grant its rights for design approval as set forth in this document to the Sage Creek Homeowners' Association as set forth hereinafter in Article II; provided that Grantor reserves the right, in its sole discretion to grant these rights to the Association at any time after 75% of the Lots have been sold.

Each Lot owner further acknowledges that the Grantor shall not be responsible or liable to said owner or to any other owner of Lots subject hereto by reasons of the exercise of its judgment in approving or disapproving plans submitted nor shall it be liable for any expenses entailed by any Lot owner in pre preparation, submission, and, if necessary, resubmission of proposed plans and specifications.

Section 3: REMOVAL OF TREES

In order that the natural beauty of the Lot may be preserved, no living tree having a caliper measurement or diameter of six (6) inches or more shall be destroyed or removed from the Lot unless approved by the Association and Grantor in connection with their approval of the plans and specifications of the construction of improvements on the Lot or otherwise with the prior express written consent of the Association and Grantor, so long as it owns any Lot. In the event of a violation of this subparagraph, the Grantor may, at its option, cause any tree so removed or destroyed to be replaced with another tree and whoever has caused the removal or destruction shall reimburse the Grantor for all expenses incurred by it; provided, however, that with respect to the replacement of a tree, there shall be no obligation of reimbursement in any amount in excess of the expenses which would be incurred if the destroyed or removed tree were replaced with a tree similar in type and size.

Section 4: RESERVE AREAS

Certain Lots within the subdivision are designated as "reserve areas". Such areas are for the preservation of the natural topography and vegetation to preserve the value of the area for its natural beauty and seclusion. No hunting or trapping or other destruction of animal habitat or cutting of vegetation or timber shall be conducted within the reserve areas, except as necessary to remove dead or decayed trees in order to permit proper management of the habitat vegetation within the reserve areas. Nothing in this section shall be construed to prevent the construction of walking trails throughout the area; provided that such trails shall be a minimum width necessary to promote pedestrian use only.

Section 5: BUFFER ZONES

In order to promote privacy and maintain the natural setting of each Lot, the Grantor has established buffer zones upon each Lot. The dimensions of these buffer zones will match the minimum setbacks for side and rear yard property lines established by the township in which each Lot is situated.

The Township of Genoa requires a 25 ft. side and rear setback. Berkshire Township requires a 20 ft. side and a 40 ft. rear setback and Trenton Township requires a 25 ft. side and a 50 ft. rear setback. These setbacks are the established buffer zones of each Lot.

All Lots located in Sage Creek Subdivision, Section Three, Phase A, will have an additional front buffer zone. The dimension of the front buffer zone will be a 150 ft. front setback from the right-of-way of Sage Creek Drive.

All trees and flora located within the buffer zone areas shall be left in its natural state. Nothing shall be constructed or erected within the buffer zone areas.

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Section 6: STREET REPAIRS

It shall be the responsibility of each Lot owner to repair any damage to streets, common areas or common access drives which occur in connection with such owner's building process.

Section 7: STRUCTURE REQUIREMENTS

- a. No dwelling shall be erected on any said Lot unless the ground floor area of the house, exclusive of one-story open porches and garages, is not less than 2,300 square feet for a one-story dwelling, is not less than 2,500 square feet for a one and one-half story dwelling; or not less than 2,800 square feet for a two story dwelling. All homes built in this subdivision must have no less than a half basement.

All exterior products on houses shall be of natural materials. No vinyl or aluminum siding or T-111 will be allowed.

Roof shingles shall be dimensional and at least 25 year guaranteed.

No horse barn or stable may be erected on any of said Lots.

No yard storage building may be erected on any of said Lots with more than one story and of greater than three hundred and fifty (350) square feet. Such buildings must be stick-built and of matching or compatible natural materials and general design appearance with the residence on the Lot upon which it is built. No storage building shall be visible from the street at the front of the Lot.

- b. Not later than one (1) year after excavation for a basement has begun, exterior construction of the structure(s) shall be completed according to the plans and specifications and landscaping shall be completed within six (6) months thereafter.
- c. No building shall be located on any Lot herein conveyed nearer to the front lot line than seventy-five feet (75') or nearer to the side or rear lot lines than twenty feet (20') or per local zoning requirements, which ever are greater. For the purposes of this covenant, eaves and steps shall not be considered as a part of a building provided, however, that this shall not be construed to permit any portion of the building on a site to encroach upon any other Lot. No unsightly vegetation shall be permitted to grow or remain anywhere on said Lots and no unsightly object shall be allowed to be placed or suffered to remain anywhere thereon. Nothing herein contained, however, shall be construed as preventing the use of such portion of the Lots for walks, drives, the planting of trees or shrubbery, the growing of flowers or other ornamental plants, or for small statuary entranceways, fountains, or similar ornamentation for the purpose of beautifying said premises. Any construction such as statuary entranceways and fountains shall be subject to design approval as set forth herein.
- d. Fences must be of neat and ornamental material and design, and not higher than fifty (50) inches. No chain link or plastic fencing shall be permitted. No opaque or privacy fences

shall be permitted. No fences shall be constructed forward of the home unless they are part of the ornamental landscape plan and are approved by the Grantor.

- e. Driveways shall be constructed and completed with the residence and shall be of concrete, asphalt, pavers, brick, cobblestone, or a combination of not more than any two of these specified materials, and in compliance with zoning regulations. Driveways shall be maintained at all times so as to be of neat appearance.
- f. Mailboxes and posts will be paid for by the Buyer at the time of closing of each Lot, and installed by the Builder at the time the Buyer's house is substantially completed as required by the Design Review Guidelines. The mailboxes will be made of cedar wood and treated with a weather-resistant clear stain. These shall be maintained in a neat and orderly manner.
- g. An in-ground swimming pool may be built on any Lot. Decorative landscaping will be placed around the swimming pool and lighting will be included in landscaping or in the pool. No light standards shall be permitted. No aboveground or portable pools shall be permitted.
- h. A tennis court may be built on Lots, however, no electrical illumination will be installed for night tennis matches.
- i. Playground equipment will be made of wood materials and will be maintained annually by the homeowner.

Section 8: TEMPORARY STRUCTURES / OUTBUILDINGS

No structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any of said Lots at any time as a residence, either temporarily or permanently. Specifically excluded from this section, but not for residence purposes, is on yard storage building per Lot with restrictions thereon as set forth elsewhere herein. No portable storage sheds, or similar detached buildings, shall be permitted.

Section 9: SIGNS

No billboard, sign, or advertising device, other than one advertising the professional services of "for sale" or "for rent", not exceeding four square feet in size, shall be erected, placed, or suffered to remain on any of said Lots. Temporary signs which are displayed for less than forty-eight hours and not redisplayed at least for one month may be displayed subject to size and location restrictions shown above.

Section 10: EXCAVATIONS

The finished grade of any site or sites or parts thereof shall comply with the finish grading and drainage requirements, if any, as set forth by Delaware County or Genoa or

Berkshire Townships. Erosion and its effects in respect to Lot(s) are not the responsibility of the Grantor.

Section 11: BUILDER APPROVAL

A Lot purchaser who is not a full-time professional homebuilder must use an experienced builder that has been approved by Grantor to construct the residence on such purchaser's Lot, and may not undertake construction or preparation for construction on any Lot until approval is obtained in writing from the Grantor of an approved builder.

Section 12: ANIMALS

Except as hereinafter provided, no animals, livestock, birds, poultry or other fowl, or species of insects, shall be raised, bred, kept, or maintained on any Lot, or any portion thereof. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a residence on a Lot provided that: (i) no more than two dogs and two cats may be maintained in any residence (except when less than three months of age); (ii) the maintaining of animals shall be subject to such rules and regulations as the trustees may from time to time promulgate, including without limitation, the right to place limitations on the size, number and type of such pets, and the right to levy enforcement charges against persons who do not clean up after their pets; and (iii) the right to maintain an animal shall be subject to termination if the trustees, in their full and complete discretion, determine that maintenance of the animal constitutes a nuisance or creates a detrimental effect on other owners or occupants, or the Lot as a whole.

Section 13: LOT MAINTENANCE

No Lot, sites, or parts thereof shall be used or maintained as dumping ground for rubbish. Trash, garbage, brush, or other waste materials shall not be kept except in sanitary containers. All incinerators or other equipment for storage or disposal of all such materials shall be kept in a clean and sanitary condition. No window air conditioners shall be allowed.

Section 14: ANTENNAS AND TOWERS

Radio, television, satellite dish receptors not exceeding two feet in diameter, or other antenna are permitted, but shall be completely shielded from public view and the view of neighboring property. Towers, including, but not limited to, radio or HAM operation are strictly prohibited.

Section 15: CLOTHESLINES AND HANGING DEVICES

Clothes, diapers, towels, bedding, rugs, draperies or other similar articles may be hung out, but must be completely shielded from public view and the view of other Lot owners.

Section 16: VEHICLES, TRAILERS, BOATS, COMMERCIAL VEHICLES, MOTOR HOMES, MACHINERY AND EQUIPMENT

No automobile may be left upon any Lot for a period longer than five (5) days in a condition such that it is incapable of being operated upon the public highways, after which time the vehicle shall be considered a nuisance and detrimental to the welfare of the neighborhood and must be removed from the Lot. Any towed vehicle, boat, motor home or mobile home regularly stored upon any portion of the Lot, or temporarily kept thereon for periods longer than twenty-four (24) hours, shall be considered a nuisance and must be removed from the Lot. The foregoing, however, does not apply to such boats or other vehicles, whether motor-driven or towed, as are stored wholly within a private garage. No commercial vehicles may be parked, stored or temporarily kept on any Lot, except when there temporarily with the construction of improvements on the Lot. Only cars and authorized trucks may be parked on the driveway; all other vehicles, including but not limited to, recreational vehicles, scooters, mopeds, trail bikes, ATV's, tractors, mowers, and non-authorized trucks, and all boats, trailers and campers, must be stored in garages. An authorized truck is a truck manufactured primarily for the purpose of carrying passengers, is fully enclosed at the time of manufacture, is of one ton capacity or less, and exhibits no external evidence of commercial use. Notwithstanding the foregoing, the Grantor shall have the right, in its sole discretion, to determine whether or not a vehicle is authorized.

No Commercial machinery or equipment of any kind shall be placed, operated or maintained upon the Property except such machinery or equipment reasonably necessary for use in connection with maintenance or construction of improvements approved by the Grantor.

Section 17: SEPTIC SYSTEM INSTALLATION AND MAINTENANCE

Each Lot owner shall be required to review and consider the use of a drip distribution system.

Each septic system that will be installed on each Lot has been specifically designed and approved by the Delaware County Board of Health for that particular Lot.

In order to ensure the proper functioning and maintenance of the individual septic system(s), the Grantor hereby requires that the Lot owner shall be responsible for maintenance and upkeep of the septic system on his or her Lot.

Any Lot owner in this subdivision upon notification by the Delaware County Health Department of maintenance required shall timely arrange for correction or improvements to the septic system on his or her Lot. Should such work not be timely completed in a manner satisfactory to the Delaware County Health Department, the department may arrange for the performance of such work and shall invoice the particular Lot owner for reimbursement of said costs. Should such invoice not be paid in a timely manner, the Department may place a lien on the property of the delinquent Lot owner and pursue whatever remedies may be available for collection.

Section 18: OFFENSIVE ACTIVITIES

No activity which is noxious or offensive in the reasonable judgment of the trustees of the Association shall be carried on or permitted upon any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without limiting the generality of the foregoing:

- a. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any portion of the Property;
- b. No odors shall be permitted to arise or to be emitted therefrom so as to render any portion of the Property unsanitary, unsightly, offensive, or detrimental to any of the residents of the Property or to the occupants thereof;
- c. No exterior lights, the principal beam of which shines upon portions of the Property other than the Lot upon which they are located, or which otherwise cause unreasonable interference with the use and enjoyment of the Property by the occupants thereof, shall be permitted on any Lot;
- d. No speakers, horns, whistles, bells or other sound devices, shall be located, used or placed on any Lot, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof. Music, either live or by recording device, that is so loud as to disturb one's neighbors, is prohibited;
- e. No so-called garage or yard sales, auctions or similar activities shall be permitted on any Lot.
- f. The operation of any off-road motorized vehicles (including but not limited to ATV's and motorcycle trail bikes) are strictly prohibited;
- g. Hunting and trapping are prohibited;
- h. The discharge of firearms and the use of fireworks are prohibited.

ARTICLE II – HOMEOWNERS ASSOCIATION & DESIGN REVIEW COMMITTEE

On or before the transfer by the Grantor of the last Lot in this subdivision, Grantor shall cause to be formed a homeowner's association whose purpose shall be to handle matters of concern to all Lot owners, including ownership and maintenance of the streets within the Subdivision, the maintenance of the entrance area and the enforcement of these Restrictions. This association shall be called "Sage Creek Homeowner's Association" (Association) and shall be incorporated under the laws of the State of Ohio.

The Association membership shall be comprised of the record owners of all of the subject Lots who shall each have one (1) vote for each Lot owned in all elections and on all matters requiring a vote as set forth herein or in the Articles of Incorporation or By-Laws of the Association.

The actions of the Association shall be subject to the consent of a majority of the votes allowed herein, subject to the quorum provisions set forth in the Association's Articles of Incorporation or By-Laws. Joint, common, or other multiple ownership of any of the Lots shall not entitle the owners thereof to more than the number of votes which would be authorized if said Lot was held under one name.

Section 1: STREET AND ENTRANCE MAINTENANCE

The streets, drives, lanes and roadways located within the Subdivision are private streets which are currently owned by Grantor but which will subsequently be owned by the Association. In order to ensure the proper functioning and maintenance of the private street(s) within the subdivision the Grantor hereby requires that the Lot owners collectively shall be responsible for their maintenance.

Easements for the subdivision's entrances' features will be provided on either side of the entrances on Sunbury and Trenton Roads. The maintenance, replacement, improvement, repair, and utility costs for these easements shall be budgeted, operated, and paid for by the Association.

These streets, drives, lanes, roadways and easements and other areas which are now or hereinafter owned or maintained by the Association are hereinafter referred to as the "Common Areas".

The Association, upon notification by a public authority of required maintenance, shall timely arrange for correction or improvements to the street. Should such work not be timely completed in a manner satisfactory to the public authority, they may arrange for the performance of such work and shall invoice the Association for reimbursement of said Costs. Should such invoice not be paid in a timely manner, the public authority may place a blanket lien on each and every lot in the subdivision and pursue whatever other remedies may be available for collection.

Section 2: DESIGN REVIEW COMMITTEE

The Association shall establish a Design Review Committee for the purpose of:

- A. Establishing, maintaining, and preserving specific design guidelines and standards to carry out the intent of these Restrictions, which guidelines and standards from time to time in effect with respect to all or any portion of the Lots or building in this Subdivision (hereinafter sometimes referred to as the "Property") shall hereinafter be referred to as the "Design Standards".
- B. Enforcement of the provisions of these Restrictions shall be as follows: The Committee shall exercise its best judgment to see that all improvements on the Property conform to Design Standards as adopted by the Grantor and the Design Review Committee from time to time, as to external design, quality and types of construction, materials, colors, setting, height, grade, finished ground elevation, and landscape. The actions of the Committee, through its approval or disapproval of plans and other information submitted pursuant hereto, shall be conclusive and binding upon all interested parties.

No improvement, change, construction, addition, excavation, significant landscaping, or other work or action which in any way alters the exterior appearance of the property from its theretofore natural or improved state, and no addition to or modification of any improvement or landscaping, shall be commenced or continued until the same shall have first been approved in writing by the Committee in accordance with the Design Standards. Approval shall be requested by submission to the Committee of plans and specifications, in duplicate, showing the following:

- a. Existing and proposed land contours and grades;
- b. All landscaping, including existing and proposed tree locations and planting areas (and species thereof), mailboxes, and exterior ornamentation;
- c. Exterior lighting plans
- d. Walls, fencing, and screening;
- e. Patios, decks, pools and porches;
- f. Samples of materials to be used to the extent requested by the committee; and
- g. Such other information, data, and drawings as may be reasonably requested by the committee.

Approval shall be based, among other things, upon conformity and harmony by the proposed plans with the Design Standards, and other structures governed hereunder, the effect of the location and use of improvements on neighboring property; and conformity of the plans and specifications to the purpose and general intent of these Restrictions. If the Committee fails either to approve or disapprove such plans and specifications within thirty (30) days after the same have been delivered to the Committee either personally or by certified mail, it shall be presumed that the Committee has approved said plans and specifications.

Neither the Committee, or any member thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone submitting plans

for approval by reason of mistakes in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans. Every person and entity who submits plans to the Committee agrees, by submission of such plans, that he or she will not bring any action or suit against the Committee or any of its members to act to recover any damages.

An owner shall cause any improvement in the property to be completed in a workmanlike manner. Upon completion of any such improvement the person or entity who completed the same may request in writing that the Committee issue a certificate certifying that said improvement is completed and in compliance with all provisions of this Article, which certificate shall be issued in a timely manner, and which certificate shall be conclusive evidence that said improvement is completed and in compliance with all provisions of this Article, which certificate shall be issued in a timely manner, and which certificate shall be conclusive evidence that said improvement is completed and in compliance with all provisions of this Article. The Committee may make a reasonable charge for the issuance of such certificates, which must be paid at the time that the request for such certificate is made.

Section 3: HOME OWNER'S ASSOCIATION ASSESSMENTS

Each Lot owner in the subdivision shall be responsible for its prorata share of the operating and maintenance expenses as established by the Association. Said expenses shall be budgeted annually and approved by the officers of the Association in accordance with the Association's by-laws. The owner or owners of each Lot, by acceptance of a deed to a Lot, agree to pay to the Association: (a) an initial reserve contribution, (b) annual operating assessments, and (c) special individual Lot assessments, all of which are to be established and collected as hereinafter provided. Should any Lot owner not timely pay his or her share of the annual Association's budget, the association may place a lien on the property of the delinquent Lot owner and pursue whatever other remedies may be available for collection.

The initial reserve contribution shall be collected at time of closing the Lot purchase and shall be \$500.00 to be paid by each Lot purchaser at the time of transfer of such Lot from Grantor. This initial contribution shall be used for the purposes of creating an operating reserve fund so that the funds will be available to the Association to pay its obligations described in the following paragraph when and as they become due.

For the purposes of providing funds: (a) to defray the administrative costs and expenses incurred by the Association in the exercise of its powers authority and duties described herein, (b) the protection of the health, safety, enjoyment and welfare of the owners and occupants of the property, and (c) the enhancement of the values and amenities of the Property, by means of the construction, repair, maintenance, operation of the Common Areas, and, to the extent not performed by the appropriate public authorities, public property serving the Property, all including, but not limited to, the payment of taxes and insurance on the Common Areas, the cost of purchase, construction, improvement, repair, beautification, alteration, operation, replacement of and additions to the Common Property, and the cost of labor, equipment, materials, utility services, management and supervision with respect thereto, and the maintenance of reasonable

reserves, each Lot and the owners thereof shall be subject to annual operating assessments to be determined, assessed and collected as hereinafter provided.

The Trustees shall levy assessments against an individual Lot or Lots, to reimburse the Association for those costs incurred with respect to that Lot or those Lots properly chargeable by the terms hereof to a particular Lot or Lots (such as, but not limited to, the cost of making repairs the responsibility of a Lot owner or owners). Any such assessment shall become due and payable on such date as the trustees determine.

In the event any amount so assessed or levied is not paid when due and remains in arrears for more than thirty (30) days, the Association may charge interest on the entire unpaid balance at the highest rate of interest then permitted by law or such lower rate as the Association may from time to time determine, and, if required to pursue collection may collect late fees and costs, including attorney's fees, and cause to be filed with the Delaware, Ohio Recorder, a notice of lien describing the Lot, the assessment amount and interest due, and executed in accordance with the formalities then required by Ohio Law to record a lien against real estate. All assessments, together with interest, late fees and costs, including attorney's fees, shall be a charge and a continuing lien in favor of the Association upon the Lot against which each such assessment is made. Each assessment, together with interest, late fees and costs, including attorney's fees, shall also be the joint and several personal obligation of the Lot Owners who owned the Lot at the time when the assessment become due.

Upon written demand by a Lot Owner, the Association shall, within a reasonable period of time, issue and furnish to each Lot Owner a certificate stating that all assessments or installments thereof (including interest and costs, if any) have been paid with respect to any specified Lot as of the date of such certificate, or, if all assessments and installments thereof have not been paid, setting forth the amount (including interest and costs, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which must be paid at the time that the request for such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot in question.

Notwithstanding the foregoing, the lien of the assessments provided for herein shall be subject and subordinate to the lien of any duly executed first mortgage on a Lot recorded prior to the date of which such lien of the Association arises, and any holder of such first mortgage which comes into possession of a Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid installments of assessment or charges against the mortgaged Lot which become due and payable prior to the time such holder or purchaser took title to that Lot.

ARTICLE III – ADDITION OF ADDITIONAL PROPERTY TO RESTRICTIONS

The Subdivision initially consisted of all of the Lots in Section One of the Sage Creek Subdivision situated in Delaware, Ohio. By execution and delivery of the recorded plat thereof,

Section Two of Sage Creek has become part of the subdivision. The Grantor hereby reserves the right to record on or more amendments to these Restrictions in order to add additional property to these Restrictions as future phases of the Subdivision (the "Additional Property"). The Grantor shall not be required to obtain the consent of the Lot Owners to add Additional Property to these Restrictions. Upon adding any additional Property to this Declaration, the definition of the term "Lot" shall be expanded to include the Lots developed by Grantor on the Additional Property, and the term "Owner" shall be expanded to include any current or future Owner of a Lot on such Additional Property, including the Grantor, while such party is the Owner of the Lot. All Lots situated on the Additional Property, and the Owners thereof, shall be subject to all of the terms of these Restrictions, including the requirements to belong to the Association and pay assessments as provided in Article III.

ARTICLE IV – AMENDMENTS

These Restrictions may be amended by the Declarant, so long as it owned a Lot, to the extent necessary to correct typographical or factual errors or omissions, if any, to meet the requirements of any institutional lender, or to provide or amplify upon any of the provisions hereof, provided that no such amendment would impair the interest of any Lot owner, mortgagee, or mortgage loan insurer or guarantor. After the voting rights of the Association have been turned over to the Association by Grantor, these Restrictions may be amended by the vote of the owners of three-fourths ($\frac{3}{4}$) of the Lots then subject to these Restrictions.

ARTICLE V – GENERAL PROVISIONS

Section 1: VIOLATION OF COVENANTS

It shall be lawful for any person or persons owning any real property subject to this document to prosecute any proceedings in law or in equity against the person or persons violating or attempting to violate any of the Restrictions herein and either to prevent him or them from so doing or to recover damages. Failure by any party to enforce any covenants, restriction, or agreement herein contained shall in no event be deemed a waiver of the right to take such action for the violation of for any further violation. These Restrictions shall be binding on all and enforceable by any of the present and future owners of the subject Lots.

Section 2: TERMS OF COVENANTS AND RESTRICTIONS

These Restrictions, rights, reservations, limitations, agreements, covenants and conditions shall run with the land and bind all Lot Owners, their successors, and their heirs, executors, administrators and assigns for fifty (50) years. Said Restrictions shall be automatically extended for successive periods of ten (10) years unless terminated by a vote of two-thirds ($\frac{2}{3}$) of the then-owners of the Lots subject hereto. In ascertaining the number of owners of two-thirds ($\frac{2}{3}$) of the Lots, persons having the power to convey the fee simple in a given Lot shall constitute a unit having a single vote, with no more than one vote per Lot.

VOL 0594 PAGE 1852

Section 3: EFFECT OF INVALIDATION OR CONFLICT

In any provision of these Restrictions is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions herein. Nothing herein contained shall be construed so as to permit a violation of any applicable law, ordinance or governmental regulations.

ARTICLE VI - ACCEPTANCE

By accepting a deed to any of the above-described real estate, a Lot owner accepts the same subject to the foregoing Restrictions and agrees for himself, his heirs, successors, and assigns to be bound by each of such Restrictions jointly.

200500010784
 Filed for Record in
 DELAWARE COUNTY, OHIO
 ANDREW O BRENNER
 03-23-2005 At 11:39 am.
 REST AMEN 144.00
 OR Book 594 Page 1839 - 1854

Sjdj.deedrestrict.041702r

IN WITNESS WHEREOF, THE Declarant has set its hand on the 14th day of March, 2005.

SJDJ, Ltd.

By:

William R. Schlanger, Jr.
 William R. Schlanger, Jr.
 President/Member

200500010784
 STEWART TITLE AGENCY BOX

State of Ohio
 County of Franklin ss:

Before me, a Notary Public, personally appeared the above named William R. Schlanger, Jr. the duly authorized President/Member of SJDJ, Ltd. and hereby declared the signing herein to be his own free and voluntary act, this 14th day of March, 2005.

Andrea M. Hobbs
 Notary Public

My Commission expires:



ANDREA M. HOBBS
 NOTARY PUBLIC, STATE OF OHIO
 MY COMMISSION EXPIRES OCTOBER 2, 2008

This instrument prepared by

Tempesta Homes, LLC, an Ohio limited liability company, owner of Lot 503 by virtue of deed recorded in Delaware County OR 582 Page 440 hereby consents to this First Amendment to Restrictions, Covenants, Conditions, and Agreements Controlling the Use of Lots located in Sage Creek Subdivision, Delaware County, Ohio of Record in Official Record 582, Page 422.

In witness whereof, the Declarant has set its hand on the 17th day of March, 2005.

Tempesta Homes, LLC

By: [Signature] Member
Anthony J. Tempesta
Member

State of Ohio
County of Franklin ss:

Before me, a Notary Public, personally appeared the above named Anthony J. Tempesta the duly authorized Member of Tempesta Homes, LLC and hereby declared the signing herein to be his own free and voluntary act this 17th of March, 2005.



XANATH L. VAN FRAYEN
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES APRIL 6, 2009

[Signature]
Notary Public

My commission expires:

This instrument prepared by: Marshall S. McCormick, Attorney-at-Law
259 W. Schrock Road
Westerville, Ohio 43081-2874

VOL 0594 PAGE 1854

Exhibit A

Situated in the State of Ohio, in the County of Delaware and in the Township of Berkshire:

Being Lots 496, 497, 498, 499, 500, 501, 502, 503, 504, 505 of Sage Creek Subdivision Section Three, Phase A, as the same are numbered, described and delineated on the recorded Plat thereof of record in Plat Cabinet 3, Slides 415-415A, Recorder's Office, Delaware County, Ohio.