

**AMENDMENT OF WARRANTY DEEDS**

**OF**

**ANNEHURST VILLAGE RESIDENTS ASSOCIATION, INC.**

**PLEASE CROSS MARGINAL REFERENCE WITH THE WARRANTY DEEDS OF ANNEHURST VILLAGE RESIDENTS ASSOCIATION RECORDED AT Vol. 2608 Pg. 63, Vol. 2636 Pg. 668, Vol. 2705 Pg. 108, Vol. 2899 Pg. 538, Vol. 2737 Pg. 189, Vol. 2985 Pg. 263, Vol. 3065 Pg. 7, Vol. 3193 Pg. 417, Vol. 3206 Pg. 623, Vol. 3270 Pg. 217, Vol. 3363 Pg. 55, and Vol. 3584 Pg. 676 OF THE FRANKLIN COUNTY RECORDS.**

**AMENDMENT OF WARRANTY DEEDS**

**OF**

**ANNEHURST VILLAGE RESIDENTS ASSOCIATION, INC.**

**WHEREAS**, the Easements, restrictions, reservations and conditions for the Annehurst Village Residents Association (collectively “the Warranty Deeds”) were recorded at Franklin County Recorder’s County Records: Vol. 3363 Pg. 55 ( “Warranty Deeds I”); Vol. 2899 Pg. 538, Vol. 2737 Pg. 189, Vol. 2985 Pg. 263, Vol. 3065 Pg. 7, Vol. 3193 Pg. 417, Vol. 3206 Pg. 623, Vol. 3270 Pg. 217, and Vol. 3584 Pg. 676 (collectively “Warranty Deeds II”); and Vol. 2608 Pg. 63, Vol. 2636 Pg. 668, and Vol. 2705 Pg. 108 (collectively “Warranty Deeds III”).

**WHEREAS**, Annehurst Village Residents Association (the “AVRA”) is a corporation consisting of all Members in the Association and as such is the representative of all Members, and

**WHEREAS**, Article I, Section (h) of said Warranty Deeds authorizes amendments, and

**WHEREAS**, Members representing a majority of the AVRA’s lot Members have executed a written instrument agreeing to change the covenants in the Warranty Deeds, which is attached hereto as Exhibit A, and

**WHEREAS**, the proceedings necessary to amend the Warranty Deeds as required by Chapter 5312 of the Ohio Revised Code and the Warranty Deeds for the AVRA have been complied with in all respects.

**NOW THEREFORE**, the Warranty Deeds for the AVRA are hereby amended to the following:

**DELETE IN ITS ENTIRETY THE CERTIFICATE OF AMENDMENT OF DEED RESTRICTIONS OF ANNEHURST VILLAGE RESIDENTS ASSOCIATION recorded at Franklin County Recorder’s County Records: Instrument Number 200008080158423.**

**DELETE ARTICLE I, SECTION (h) OF THE WARRANTY DEEDS I, II and III in its entirety.** Said deletion is to be taken from Page 2 of the Warranty Deeds I, II and III.

**INSERT a new ARTICLE I, SECTION (h).** Said new addition, to be added on Page 2 of the Warranty Deeds I, II and III as follows:

These reservations, restrictions, conditions, easements, charges agreements, covenants, obligations, rights, uses and provisions shall bind the Grantee, its successors and assigns, and shall be considered covenants running with the land and is permitted to be amended at any time and from time to time by the written consent of at least 51% of the then Members in good standing (Good Standing shall be defined as follows: all assessments of every type and category paid up to date, no outstanding financial obligations to the AVRA that are delinquent nor a deed restriction violation on any Lot owned by a Member); provided however, that the percentage of votes necessary to amend a specific clause of these Warranty Deeds shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. A copy of such amendment or modification, together with a duly authenticated certificate of the Secretary of

the Board stating that the required number of written consents of Members were obtained and are on file in the office of the AVRA, shall be recorded in the office of the Recorder of Franklin County, Ohio. Any amendment shall be effective upon such recordation.

**DELETE ARTICLE II OF WARRANTY DEEDS I, ARTICLE III OF WARRANTY DEEDS II, AND ARTICLE IV, OF WARRANTY DEEDS III in its entirety.** Said deletion is to be taken from Pages 2 and 3 of the Warranty Deeds I, Page 3 of the Warranty Deeds II, and Page 3 and 4 Warranty Deeds III.

**INSERT a new ARTICLE II IN WARRANTY DEEDS I, a new ARTICLE III IN WARRANTY DEEDS II, AND a new ARTICLE IV IN WARRANTY DEEDS III.** Said new addition, to be added on Pages 2 and 3 of Warranty Deeds I, Page 3 of the Warranty Deeds II, and Pages 3 and 4 of Warranty Deeds III, as follows:

Effective the date of recording of this Amendment, each lot which is subsequently conveyed is subject to a membership fee payable by each duly elected member to the AVRA in the amount of Five Hundred Dollars (\$500.00), and shall apply to each successive Grantee in said Association and such fee, requirement and lien shall apply to each parcel or lot in said Annehurst Village subdivision, which fee is an obligation and charge payable at the time of transfer to each such successive Grantee of such lot or parcel of land conveyed. And the AVRA shall have a first and best lien on said premises to secure the payment of all and each charge and obligation due and to become due subject only to the lien of the State of Ohio for taxes and the lien of any first mortgage (but not to any junior or second mortgage) on said property.

Each Member for each Member's Lot owned by such Member, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed, covenants and agrees and shall be deemed to have covenanted and agreed to pay to AVRA: (a) An Annual Assessment for the items set forth herein below; and (b) Default Assessments which may be assessed against a Member's Lot pursuant to the Annehurst Village Documents for failure to perform an obligation under the Annehurst Village Documents or because the AVRA has incurred an expense on behalf of the Member under the Annehurst Village Documents. The Annual and Default Assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Member's Lot against which each such Assessment is made until paid. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Member's Lot at the time when the Assessment fell due. All payments shall be applied first to costs and attorney fees, then to interest and then to delinquent Annual Assessments. No Member may waive or otherwise exempt himself from liability for Assessments for any reason. The Assessments levied by the AVRA shall be used to promote the health, safety, and welfare of the Members and occupants of Annehurst Village and for the acquisition, improvement and maintenance of the AVRA Properties.

The Board shall prepare a budget prior to the beginning of each fiscal year estimating its net cash flow requirements for the next year and an estimate for the total Assessments to be charged and distribute them to the Members at least 30 days prior to the annual meeting of the Board. The Members shall have the opportunity to discuss them at the annual meeting prior to their final approval. On or before June 15 of each year, the Board shall approve the budget in final form, and shall determine, levy, and assess the AVRA's Annual Assessment for the following year, but in no case may the Board increase the Annual Assessment more than 5% without the written approval of 51% of all Members in good standing. The Annual Assessment shall not be adjusted more than once in a fiscal year nor shall any increase be construed to take effect retroactively, unless otherwise approved in writing by 51% of all Members in good standing. The AVRA Bylaws shall provide the manner, time, place, conduct and voting procedures for meetings of the Members. Each budget shall include funds for establishing and maintaining reserves for periodic repairs, replacement and maintenance of those improvements on the AVRA Properties which must be replaced on a periodic basis, and for taxes, capital improvements and deficiencies from the prior year's Maintenance Fund and other purposes and shall include any expected income and surplus from the prior year's Operating Fund.

The Board shall for each year, commencing with the fiscal year 2014, fix and assess an Annual Assessment against each Member which shall be equal to the Annual Assessment then being levied by the AVRA divided by the total number of Members. In addition, every five years the Board shall contract with a qualified engineer for an independent reserve study to assist in establishing an equal Annual Assessment for each Lot. The Annual Assessment for fiscal year 2014 for each Lot shall be \$60.00.

As soon as shall be practicable in each fiscal year, the AVRA shall cause to be sent to each Member a written statement providing the amount of the Annual Assessment for each member for the year in question.

The Annual Assessments provided herein shall commence as to a Member on the day of the closing of the conveyance of a Property to a Member. The first Annual Assessment shall be prorated according to the number of days remaining in the fiscal year. Assessments shall be payable annually in advance on the first day of the fiscal year.

All monetary fines assessed against a Member pursuant to the Annehurst Village Documents, or any expense of the AVRA which is the obligation of a Member or which is incurred by the AVRA on behalf of the Member's Lot pursuant to the Annehurst Village Documents, shall be a Default Assessment and shall become a lien against such Member's Lot which may be foreclosed or otherwise collected as provided herein. Notice of the amount and due date of such Default Assessments shall be sent to the Members subject to such Assessment at least 30 days prior to their due date.

Any Annual or Default Assessment, which is not paid within 30 days of its due date shall be delinquent. In the event that an Annual Assessment becomes delinquent, the AVRA, in its sole discretion, may take any or all of the following actions:

Assess a late charge of not less than 5% of the delinquent amount;

Assess an interest charge from the date of delinquency at 1-1/2% per month or the maximum rate allowed by law;

Suspend the voting rights of the Member during the period of delinquency;

Bring an action at law against any Member personally obligated to pay the delinquent installments;

File a statement of lien with respect to the Member's Lot and foreclose on the Lot as set forth in more detail below; and

Suspend the rights of the Member to use the AVRA Properties and the Common Area during any period of delinquency.

The AVRA may file a statement of lien by recording with the Recorder of Franklin County, Ohio, a written statement with respect to the Member's Lot, setting forth the name of the Member, the legal description of the Member's Lot, the name of the AVRA and the amount of delinquent Assessments then owing, which statement shall be duly signed and acknowledged by the President or Vice President of the AVRA, and which shall be served upon the Member by mail to the address of the Member's Lot or at such other address as the AVRA may have in its records for the Member. Thirty days following the mailing of such notice, the AVRA may proceed to foreclose the lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Ohio. Such lien shall be in favor of the AVRA and shall be for the benefit of all other Members. In either a personal or foreclosure action, the AVRA shall be entitled to recover as a part of the action, the interest, costs and reasonable attorneys' fees with respect to the action.

The lien of the Assessments provided for herein shall be subordinate to the lien of any purchase money loan evidenced by a recorded First Mortgage and to any refinancing loan to refinance any such purchase money loan, provided that any such refinancing is evidenced by a First Mortgage of record. No sale or transfer shall relieve a Lot from liability for any Assessments or from the lien thereof. However, sale or transfer of any Lot pursuant to a decree of foreclosure or by a public trustee's foreclosure, or any other proceeding or deed in lieu of foreclosure, for the purpose of enforcing a First Mortgage, shall extinguish the lien of such Assessments as to installments which became due prior to such sale or transfer, and the amount of such extinguished lien may be reallocated and assessed to all Lots as a common expense at the direction of the Board. No sale or transfer shall relieve the purchaser or transferee of a Lot from liability for, nor the Lot from the lien of, any Assessments made thereafter.

The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Member an Assessment notice shall not be deemed a waiver, modification, or a release of any Member from the obligation to pay Assessments. In such event, each Member shall continue to pay the Annual Assessments on the same

basis as for the last year for which an Assessment was made until a new Assessment is made at which time any shortfalls in collections may be assessed retroactively by the AVRA.

**INSERT a new ARTICLE VII IN WARRANTY DEEDS I, a new ARTICLE VIII IN WARRANTY DEEDS II, AND a new ARTICLE IX IN WARRANTY DEEDS III.** Said new addition, to be added on Pages 4 and 5 of Warranty Deeds I, Pages 4 and 5 of the Warranty Deeds II, and Pages 5 and 6 of Warranty Deeds III, as follows:

In that the cost of pool facility maintenance, repair, operation and other related costs will exceed the allocated expenses in the Annual Budget of the AVRA, the Board of Trustees shall charge and collect, in any year, a reasonable pool membership fee for members of the AVRA to use the pool during that season. The pool membership fee shall be determined by the Board of Trustees each year.

**INSERT a new ARTICLE VIII IN WARRANTY DEEDS I, a new ARTICLE IX IN WARRANTY DEEDS II, AND a new ARTICLE X IN WARRANTY DEEDS III.** Said new addition, to be added on Pages 4 and 5 of Warranty Deeds I, Pages 4 and 5 of the Warranty Deeds II, and Pages 5 and 6 of Warranty Deeds III, as follows:

The AVRA shall indemnify every officer, trustee and committee member against any and all expenses, including attorney fees, reasonably incurred by or imposed upon such officer, trustee, or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Trustees) to which he or she may be a party by reason of being or having an officer, trustee, or committee member. The officer, trustees, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and trustees shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the AVRA (except to the extent that such officers or trustees may also be Members), and the AVRA shall indemnify and forever hold each such officer and trustee free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, trustee, or committee member, or former officer, trustee, or committee member may be entitled.

**INSERT a new ARTICLE IX IN WARRANTY DEEDS I, a new ARTICLE X IN WARRANTY DEEDS II, AND a new ARTICLE XI IN WARRANTY DEEDS III.** Said new addition, to be added on Pages 5, 6 and 7 of Warranty Deeds I, Pages 5, 6 and 7 of the Warranty Deeds II, and Pages 6.7 and 8 of Warranty Deeds III, as follows:

Duty to Maintain Hazard Insurance. The AVRA shall obtain insurance for all insurable improvements owned by the AVRA in an amount equal to the full replacement value thereof (i.e., 100% of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage) which shall include all building service equipment and the like, common personal property and supplies, and any fixtures or equipment. Such policy shall include, if applicable, a standard form of mortgagee clause, a "Demolition Cost Endorsement" or its equivalent, and an "Increased Cost of Construction Endorsement" or the equivalent. In addition, such policy shall afford protection against at least the following:

- 1) Loss or damage by fire and other hazards covered by the standard "all-risk" endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage; and
- 2) Such other risks as shall customarily be covered with respect to projects similar in construction, location and use to the AVRA.

Duty to Maintain Liability Insurance. The AVRA shall obtain a comprehensive policy of public liability insurance insuring the AVRA and its Members, trustees, officers, employees and agents for all liability for property damage, bodily injury, or death in connection with the operation, maintenance, or use of the Annehurst Village properties or streets and road within the Annehurst Village area, and legal liability arising out of lawsuits related to employment contracts of the AVRA. Such comprehensive policy of public liability insurance shall include a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurance company from denying the claim of any Member because of the negligent acts of the AVRA or any other Member, with a limit of not less than \$1,000,000.00 covering all claims for personal injury, including death, or property damage arising out of a single occurrence. Such

comprehensive policy of public liability insurance shall also include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and if applicable, host liquor liability, contractual and all-written contract insurance, employers' liability insurance, and such other risks as shall customarily be covered with respect to projects similar in contraction, location and use to the AVRA.

Duty to Maintain Fidelity Insurance. The AVRA shall obtain fidelity bonds to protect against dishonest acts on the part of its officers, trustees, employees and agents and on the part of all others who handle or are responsible for handling the funds of or funds administered by the AVRA. In addition, if responsibility for handling funds is delegated to a Manager, such bonds shall be required for the Manager and its officers, employees, and agents. Such fidelity coverage shall name the AVRA as an obligee and shall be written in an amount equal to at least 100% of the estimated annual operating expenses of the AVRA, including reserves. Such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee," or similar terms or expressions.

Duty to Maintain Flood Insurance. If any of the Annehurst Village Properties is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and for which flood insurance has been made available by the National Flood Insurance Program, a "blanket" policy of flood insurance must be maintained by the AVRA in the amount of 100% of the current replacement cost of all Buildings and other insurable property located in such area or the maximum limit of coverage available for such property under the National Flood Insurance Act of 1968, as amended, whichever is less.

Provisions Common to Hazard Insurance, Liability Insurance, Fidelity Insurance and Flood Insurance. Any insurance coverage obtained by the AVRA under the provisions of this Article shall be subject to the following provisions and limitations:

- 1) The named insured under any such policies shall be the AVRA, as attorney-in-fact for the Members, or its authorized representative, including any trustee with which the AVRA may enter into any insurance trust agreement, or any successor trustee (each of which is sometimes referred to in this Article as the "Insurance Trustee") who shall have exclusive authority to negotiate losses under such policies;
- 2) In no event shall the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Members, occupants or Mortgagees;
- 3) The policies shall provide that coverage shall not be prejudiced by (a) any act or neglect of the Members when such act or neglect is not within the control of the AVRA, or (b) failure of the AVRA to comply with any warranty or condition with regard to any portion of Annehurst Village over which the AVRA has no control;
- 4) The policies shall provide that coverage may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 30 days prior written notice to any and all First Mortgagees and insured's named therein;
- 5) The policies shall contain a waiver of subrogation by the insurer as to any and all claims against the AVRA and their Managers, trustees, officers, agents and employees and any Member and their respective guests, agents, employees, or tenants, and of any defenses based upon coinsurance or upon invalidity arising from the acts of the insured;
- 6) All policies of property insurance shall provide that, notwithstanding any provision thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the AVRA (or any Insurance Trustee) or when in conflict with the provisions of any Insurance trust agreement to which the AVRA may be a party or any requirement of law;
- 7) All policies shall be written with a company licensed to do business in Ohio and holding a rating of "A" or better in the financial category as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating;

8) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Franklin County, Ohio area; and

9) No policy may be cancelled, invalidated, or suspended on account of the conduct of any member of Board of Trustees, officer, agent or employee of the AVRA or its duly authorized Manager without prior demand in writing delivered to the AVRA to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the AVRA, its Manager, any Member, or Mortgagee.

Duty to Maintain Officers' and Trustees' Personal Liability Insurance. To the extent obtainable at reasonable cost, in the sole and absolute discretion of the Board, appropriate officers' and trustees' personal liability insurance shall be obtained by the AVRA to protect the officers, trustees and all committee members from personal liability in relation to their duties and responsibilities in acting as such officers, trustees and committee members on behalf of the AVRA.

Power to Adopt Rules and Regulations. Effective with the recordation of these Amendments, the AVRA Board of Trustees from time to time and subject to the written consent of at least 51% of the then-Members in good standing may adopt, amend and repeal rules and regulations deemed necessary, desirable or advisable to promote the health, safety or welfare of the Members and residents of property within Annehurst Village, to be known as the "Annehurst Village Rules."

Notice of the adoption, amendment or repeal of any Annehurst Village Rules shall be given in writing to each Member at the address provided by each Member for notices to the Members and copies of the currently effective Annehurst Village Rules shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with the Annehurst Village Rules and shall see that the tenant, occupant, family member or contract purchaser of an Member who resides on the Member's Lot and any natural person who is a guest or invitee of such Member or of such person shall comply with the Annehurst Village Rules. In the event of any conflict between the Annehurst Village Rules and the provisions of the Warranty Deeds, the provisions of the Warranty Deeds shall prevail.