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05/03/2012 12:27PM BXROB GALLANT  
Bryan A. Long  
Licking County Recorder

**FOURTH AMENDMENT TO THE DECLARATION OF RESTRICTIVE  
COVENANTS FOR BRANDY MILL ESTATES SUBDIVISION**

THIS FOURTH AMENDMENT TO THE DECLARATION OF RESTRICTIVE COVENANTS FOR  
BRANDY MILL ESTATES SUBDIVISION ("Fourth Amendment") is made and effective as of the 9<sup>th</sup> day  
of April 2012 by MARONDA HOMES, INC. OF OHIO, an Ohio corporation ("Declarant").

**RECITALS**

- A. On or about January 15, 2003, Declarant executed the Declaration of Restrictive Covenants for Brandy Mill Estates Subdivision ("Subdivision"), which was recorded on April 3, 2003 as Instrument No. 200304030014623 of the Licking County, Ohio Recorder's Office ("Original Declaration").
- B. On or about April 4, 2005, Declarant executed a First Amendment to the Original Declaration, which was recorded on April 5, 2005 as Instrument No. 200504050009718 of the Licking County, Ohio Recorder's Office ("First Amendment").
- C. On or about July 14, 2005, Declarant further amended the Original Declaration by a First Amendment, which was recorded on July 18, 2005 as Instrument No. 200507180021632 of the Licking County, Ohio Recorder's Office, and which appears to be identical to the First Amendment excepting the execution and notary (the "Second First Amendment").
- D. On or about May 11, 2006, Declarant executed a Second Amendment to the Original Declaration, which was recorded on May 25, 2006 as Instrument No. 200605250014994 of the Licking County, Ohio Recorder's Office ("Second Amendment").
- E. On or about October 4, 2007, Declarant executed a Third Amendment to the Original Declaration, which was recorded on October 16, 2007 as Instrument No. 200710160027038 of the Licking County, Ohio Recorder's Office ("Third Amendment"). The Original Declaration, as amended by the First Amendment, the Second First Amendment, the Second Amendment, and the Third Amendment, is hereinafter referred to as the "Declaration."
- F. Brandy Mill Estates Homeowners' Association, Inc., an Ohio non-profit corporation (the "Association"), is responsible for the administration and enforcement of the provisions of the Declaration.

G. The Subdivision consists of the Lots described on the attached Exhibit A.

H. Pursuant to the provisions of Section 3.19 of the Declaration, Declarant now desires to amend the Declaration through the execution of this Fourth Amendment.

#### DECLARATION

NOW, THEREFORE, Declarant hereby amends the Declaration as set forth hereunder:

1. **Incorporation of Recitals.** The preambles, recitals and defined terms set forth above are hereby incorporated into this Fourth Amendment and made a part hereof as though fully re-written herein.

2. **Defined Terms.** The capitalized terms set forth herein shall have the same meaning as specified in the Declaration, unless otherwise defined in this Fourth Amendment.

3. **Clarification of Terms.** The Original Declaration may refer from time to time to "Declarant" and to "Developer" and such terms are interchangeable.

4. **Exemption from Assessments.** Notwithstanding anything in the Declaration or the Code of Regulations to the contrary, Assessments (whether Lot, Annual, Special, or otherwise) and all other reimbursements, reserves, fines, penalties, costs, and fees arising under the Declaration and/or the Code of Regulations shall not be assessed against, levied against, and/or collected from or in connection with: (i) any Lot while owned by Declarant, (ii) any Lot while owned by a Builder, (iii) Declarant, and/or (iv) any Builder. Assessments shall only be levied against Lots owned by Owners on which houses are fully constructed and initially occupied for residential purposes. From and after the recording of this Fourth Amendment, all Lots owned by Declarant and the Builders shall be disregarded for the purpose of calculating the obligations of the other Owners to pay Annual Assessments and Special Assessments. The rights of Declarant and the Builders as Members of the Association shall not be affected or limited by the non-payment of Assessments or other amounts as set forth in this Section 4.

5. **Right to Cover Deficit.** Declarant, in its sole discretion, may elect to pay some or none of the "deficit," which is the difference between the amount of the Annual Assessments assessed and the amount of actual expenditures of the Association for any fiscal year. Declarant shall have no obligation to pay or fund any deficit of or to subsidize the Association. Should Declarant choose to pay any such subsidy to the Association, Declarant's subsidy may be made in the form of cash and/or "in kind" contributions of services or materials, or a combination of thereof. If it is ever determined that Declarant owes any amounts to the Association, those amounts paid or contributed by Declarant to subsidize the Association, whether previously paid to fund the deficit or whether paid after the effective date hereof, shall be applied as a credit in favor of Declarant toward such amounts then owing.

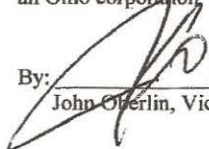
6. **Effective of Amendment.** The provisions of this Fourth Amendment shall be effective as of the date this Fourth Amendment is recorded in the Licking County, Ohio Recorder's Office. No amendment may remove, revoke, modify, replace or supersede this Fourth Amendment without the written consent of the Declarant.

7. **Ratification.** Except as amended by this Fourth Amendment, all of the provisions of the Declaration shall remain in full force and effect.

8. **Conflict.** In the event of a conflict between any of the terms of the Declaration and this Fourth Amendment, the terms of this Fourth Amendment shall control.

Declarant has caused this Fourth Amendment to be executed as of the date set forth above.

**MARONDA HOMES, INC. OF OHIO,**  
an Ohio corporation

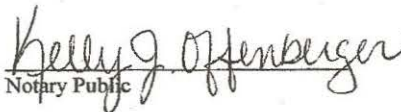
By:   
John Oberlin, Vice President

STATE OF OHIO                    )  
  )    SS:  
COUNTY OF FRANKLIN         )

BE IT REMEMBERED, that the foregoing instrument was acknowledged before me, a notary public in and for said state, this 9<sup>th</sup> day of April 2012 by John Oberlin, Vice President of **MARONDA HOMES, INC. OF OHIO**, an Ohio corporation, on behalf of the corporation.



KELLY J. OFFENBERGER  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
December 08, 2016

  
Notary Public

This instrument was prepared in its unexecuted form by:  
Megan K. Meyer, Esq.  
FINNEY, STAGNARO,  
SABA & PATTERSON CO., L.P.A.  
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Cincinnati, Ohio 45208  
513-533-2700 (phone)  
513-533-2999 (fax)



## **EXHIBIT A**

### **Brandy Mill Estates Section 1**

Situate in the State of Ohio, County of Licking, Township of Etna, Being in the Northeast Quarter of Section 9, Township 17, Range 19, Refugee Lands, and being **Lots 1-8, inclusive, Lots 20 through 28, inclusive, Reserve A, Reserve B, Reserve C and Reserve E** of Brandy Mill Estates Section 1, as the same are designated on the plat recorded in Plat Book 17, Pages 184-185 of the Licking County, Ohio Recorder's Office.

### **Replat of Lots 9, 10, 11, 12, 18 & 19 Brandy Mill Estates Section 1**

Situate in the State of Ohio, County of Licking, Township of Etna, Being in the Northeast Quarter of Section 9, Township 17, Range 19, Refugee Lands, and being **Lots 9, 10, 11, 12, 18 & 19** of Brandy Mill Estates Section 1, as the same are designated on the plat recorded as Instrument No. 200603240008375 (being a replat of Plat Book 17, Pages 184-185) of the Licking County, Ohio Recorder's Office.

### **Replat of Lots 13, 14, 15, 16 and 17 Brandy Mill Estates Section 1**

Situate in the State of Ohio, County of Licking, Township of Etna, Being in the Northeast Quarter of Section 9, Township 17, Range 19, Refugee Lands, and being **Lots 13, 14, 15, 16 and 17** of Brandy Mill Estates Section 1, as the same are designated on the plat recorded as Instrument No. 200509130028679 (being a replat of Plat Book 17, Pages 184-185) of the Licking County, Ohio Recorder's Office.

### **Brandy Mill Estates Section 2**

Situate in the State of Ohio, County of Licking, Township of Etna, Being in the Northeast Quarter of Section 9, Township 17, Range 19, Refugee Lands, and being **Lots 34 through 82, inclusive, Lots 85 through 92, inclusive, Reserve D, Reserve F, and Reserve G** of Brandy Mill Estates Section 2, as the same are designated on the plat recorded as Instrument Number 200603080006553 of the Licking County, Ohio Recorder's Office.

### **Replat of Lots 29, 30, 31, 32, 33, 83 & 84 Brandy Mill Estates Section 2**

Situate in the State of Ohio, County of Licking, Township of Etna, Being in the Northeast Quarter of Section 9, Township 17, Range 19, Refugee Lands, and being **Lots 29, 30, 31, 32, 33, 83 & 84** of Brandy Mill Estates Section 2, as the same are designated on the plat recorded as Instrument Number 200608140023637 (being a replat of plat recorded as Instrument No. 200603080006553) of the Licking County, Ohio Recorder's Office.