DECLARATION OF CONDOMINIUM PROPERTY

FOR

PIRATE'S COVE AT INDIAN LAKE CONDOMINIUM

DECLARATION

TABLE OF CONTENTS

RECITALS 1

DECLARATIONS 1

ARTICLE I
DEFINITIONS 2

1.01 General 2
1.02 Additional Property 2
1.03 Affiliate of a Developer 2
1.04 Agent 2
1.05 Amendment and/or Amendments 2
1.06 Articles and/or Articles of Incorporation 2
1.07 Association 2
1.08 Board and/or Board of Directors 2
1.09 By-Laws 2
1.10 Channel 2
1.11 Common Assessments 2
1.12 Common Elements 3
1.13 Common Expenses 3
1.14 Common Losses 3
1.15 Common Profits 3
1.16 Common Surplus 3
1.17 Condominium 3
1.18 Condominium Development 3
1.19 Condominium Instruments 3
1.20 Condominium Organizational Documents 3
1.21 Condominium Ownership Interest 3
1.22 Condominium Property 4
1.23 Control Period 4
1.24 Declarant 4
1.25 Declaration 4
1.26 Developer 4
1.27 Development Period 4
1.28 Director 4
1.29 Drawings 4
1.30 Eligible Holder(s) 4
1.31 Exhibit 4
1.32 Insurance Trustee 5

1.33 Limited Common Elements 5
1.34 Majority of Unit Owners 5
1.35 Managing Agent 5
1.36 Member 5
1.37 Occupant 5
1.38 ODNR 5
1.39 Ohio Condominium Act 5

1.40 Per Unit Expenses 5
1.41 Percentage of Ownership 5
1.42 Person 5
1.43 Property 6
1.44 Quorum 6
1.45 Recorded 6
1.46 Rules and Regulations 6
1.47 Special Individual Unit Assessment 6
1.48 Underwriter 6
1.49 Unit 6
1.50 Unit Owner 6

ARTICLE II
NAME, PURPOSE AND ADMINISTRATION 6

2.01 Name 6
2.02 Purpose 6
2.03 Administration 7

ARTICLE III
LEGAL DESCRIPTION OF PROPERTY 7

3.01 Legal Description 7

ARTICLE IV
DESCRIPTION AND LOCATION OF BUILDING(S) 7

4.01 General 7
4.02 Specific 8
4.03 Location 8

ARTICLE V
DESCRIPTION OF UNITS 8

5.01 General 8
5.02 Type of Units 9

5.03 Graphic Description 9
5.04 Designation of Units by Building 9

ARTICLE VI
RELOCATION OF BOUNDARIES OF UNITS AND LIMITED COMMON ELEMENTS 10

6.01 General 10
6.02 Board Approval 10
6.03 Recordation of Amendment 10
6.04 Existing Liens 10

ARTICLE VII
DESCRIPTION OF COMMON ELEMENTS 11

7.01 General 11

7.02 Easements 11
7.03 Status 11

ARTICLE VIII
DESCRIPTION OF LIMITED COMMON ELEMENTS 11

8.01 General Uses 11
8.02 Specific Uses 11

ARTICLE IX
REALLOCATION OF USE AND CONSTRUCTION ON LIMITED COMMON ELEMENTS 12

9.01 Reallocation 12
9.02 Construction of Improvements 12

ARTICLE X
USE OF COMMON ELEMENTS 13

10.01 General 13

ARTICLE XI
OWNERSHIP OF COMMON ELEMENTS 13

11.01 Percentage of Ownership 13
11.02 Computation 14
11.03 Amendment 14

ARTICLE XII
REGULATION OF COMMON ELEMENTS 14

12.01 General 14
12.02 Penalties and Fines 14
12.03 Conflict 14

ARTICLE XIII
RESTRICTIONS ON THE USE OF CONDOMINIUM PROPERTY 14

13.01 Obstruction of Common Elements 14
13.02 Hazardous Uses and Waste 14
13.03 Exterior Surfaces of Building(s) 15
13.04 Animals and Pets 15
13.05 Nuisances 15
13.06 Impairment of Structural Integrity of Building(s) 15
13.07 Laundry or Rubbish in the Common Elements 15
13.08 Lounging or Storage in Common Elements 15
13.09 Prohibited Activities 15
13.10 Alteration of Common Elements 16
13.11 Rental and Leasing Units 16
13.12 Boat Docks and Slips 16
13.13 Declarant 16

ARTICLE XIV

CONVEYANCES 16

14.01 General 16
14.02 Records 17
14.03 Documents 17

ARTICLE XV
UNIT OWNERS' ASSOCIATION 17
15.01 General 17
15.02 Membership in the Association 17
15.03 Voting Rights 18
15.04 Service of Process 18
15.05 First Meeting of Association 18
15.06 Declarant's Rights 18
15.07 Turnover 18
15.08 Contract Limitations 19

ARTICLE XVI
VETERANS ADMINISTRATION APPROVAL 19

16.01 General 19
16.02 Amendments 19
16.03 Actions 20

ARTICLE XVII
AMENDMENTS OF CONDOMINIUM ORGANIZATONAL DOCUMENTS 21

17.01 General 21
17.02 Seventy-Five Percent (75%) of Eligible Holders 21
17.03 Fifty-One Percent (51%) of Eligible Holders 21
17.04 Presumed Consent 22
17.05 Amendments Not Requiring Consent of Unit Owners or Eligible Holders 23
(a) Amendments by Declarant to Expand Condominium 23
(b) Amendments by Declarant to Address Compliance and Other Issues 23
(c) Amendments by Board Pursuant to Statutory Authority 23
17.06 Method to Amend 24

ARTICLE XVIII
ODNR REQUIREMENTS 24

18.01 General24
18.02 Public 24
18.03 Maintenance 24
18.04 Water Levels 24
18.05 Docks 25
18.06 Alteration, Modification, Extension 25
18.07 License, Easement 25
18.08 Release, Indemnity, Hold Harmless 25
18.09 Amendment 25

ARTICLE XIX
MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS
AND IMPROVEMENTS 25

19.01 Association 25
19.02 Delegation of Authority; Professional Management 25
19.03 Rights of Eligible Holders and Unit Owners 26
19.04 Unit Owner 26
19.05 Exterior Surfaces 27

19.06 Failure to Maintain 27
19.07 Construction Defects 27
19.08 Effect of Insurance or Construction Guarantees 27

ARTICLE XX
ARCHITECTURAL REVIEW 28

20.01 General 28

ARTICLE XXI
EASEMENTS 28

21.01 Encroachments 28
21.02 Easements for Repair, Maintenance and Restoration 28
21.03 Easements Through Walls Within Units 29
21.04 Easements for Certain Services 29
21.05 Easements for Construction 29
21.06 Tie-In Easements 29
21.07 Service Easements 29
21.08 Water Easement 29
21.09 Emergency Easement 29
21.10 Additional Property Easement 30
21.11 Power of Attorney and Consent to Easements 30
21.12 Easements Shall Run With Land 30

ARTICLE XXII
HAZARD INSURANCE 30

22.01 Fire and Extended Coverage Insurance 30
22.02 Qualifications 31
22.03 Prohibition 31
22.04 Certificates and Notice of Cancellation 31
22.05 Subrogation 31
22.06 Mortgagee's Rights 31
22.07 Sufficient Insurance 31
22.08 Insufficient Insurance 32
22.09 Procedure for Reconstruction or Repair 32
22.10 Constructions Funds 32
22.11 Adjustment 32
22.12 Non-Restoration of Damage or Destruction 32
22.13 Deductible 33

ARTICLE XXIII
INSURANCE TRUSTEE 33

23.01 General 33
23.02 Selection Prior to a Loss 33
23.03 Selection After a Loss 33
23.04 Non-Liability 33
23.05 Procedure for Reconstruction or Repair if an Insurance Trustee Has Been Selected 33
23.06 Reliance 34

ARTICLE XXIV
LIABILITY AND OTHER INSURANCE 34

24.01 Liability Insurance 34
24.02 Prohibition 34
24.03 Insufficient Liability Insurance 35
24.04 Other Insurance 35
24.05 Amount of Fidelity Coverage 35
24.06 Notice of Cancellation or Substantial Changes 35
24.07 Annual Review 35

ARTICLE XXV
REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS 35

25.01 Abatement and Enjoinment 35
25.02 Procedures for Enforcement of Violations 35
(a) Notice 35
(b) Hearing 36
(c) Manner of Notice 36
25.03 Civil Action 36
25.04 Proper Party 37

ARTICLE XXVI
ASSESSMENTS AND LIEN OF ASSOCIATION 37

26.01 General 37
26.02 Division of Common Profits and Common Expenses 37
26.03 Non-Use of Facilities 37
26.04 Special Assessments for Capital Improvements 37
26.05 Special Individual Unit Assessment 38
26.06 Non-Payment of Assessment; Remedies of the Association 38
26.07 Application of Payments 38
26.08 Lien of Association 39

26.09 Term and Validity of Lien 39
26.10 Priority of Association's Lien 39
26.11 Dispute as to Common Expenses 39
26.12 Non-Liability of Mortgagee for Past Due Common Expenses 39
26.13 Liability for Assessments Upon Voluntary Conveyance 40
26.14 Legal Actions 40

ARTICLE XXVII
ADDITIONAL PROPERTY 40

27.01 Contemplated Annexation by Declarant 40
27.02 Reservation of Option to Expand 40
27.03 Limitations on Declarant's Option 41
27.04 Additional Property 41
27.05 Location and Type of Improvements 41
27.06 Structures 41
27.07 Units 41
27.08 Limited Common Elements 41
27.09 Substantial Completion 41
27.10 Non-Residential Uses 41
27.11 Improvements other than Structures 42
27.12 Successor Owner not Liable for Actions of Declarant 42
27.13 Procedures for Expansion 42
27.14 Effects of Expansion 42

ARTICLE XXVIII
LIMITED WARRANTIES BY DECLARANT 43

28.01 Two (2) Year Limited Warranty 43
28.02 Commencement of Two (2) Year Limited Warranty 43
28.03 One (1) Year Limited Warranty 43
28.04 Commencement of One (1) Year Limited Warranty 43
28.05 Appliances 43
28.06 Assignment 43

ARTICLE XXIX
EMINENT DOMAIN 43

29.01 General 43
29.02 Common Elements 44
29.03 Damages 44
29.04 Reallocation 44

ARTICLE XXX
MISCELLANEOUS PROVISIONS 44

30.01 Grantees and Incorporation Into Deeds 44
30.02 Removal 44
30.03 Non-Waiver 44
30.04 Invalidity 44
30.05 Additional Consent Provisions 45
30.06 Additional Notice Provisions 45
30.07 Availability of Condominium Instruments and Financial Statements 46
30.08 No Adverse Action by Declarant 46
30.09 Headings 46
30.10 Liberal Construction 46
30.11 Deposits or Down Payments 46
30.12 Developer's Interest in Common Elements 46

30.13 Rights and Obligations of Developer as a Unit Owner 47
30.14 References..... 47
30.15 Full Compliance..... 47
30.16 Gender and Grammar..... 47

SIGNATURES 48

DECLARATION OF CONDOMINIUM OWNERSHIP

THIS DECLARATION, made on the date hereinafter set forth by **WASHINGTON VILLAGE HOMES, LLC**, an Ohio limited liability company, hereinafter referred to as "Declarant", under the circumstances summarized in the following Recitals which utilize capitalized terms as defined in the Declaration.

RECITALS

A. Declarant is the owner in fee simple of the Property, and it is its desire and intent to enable the Property, together with all building(s), structures, improvements and other permanent fixtures of whatsoever kind situated thereon, and all privileges belonging or in any way appertaining thereto, to be owned under and pursuant to that certain type of ownership commonly known as "Condominium", and to subject and submit such property to the provisions of the Ohio Condominium Act.

B. Declarant is further desirous of establishing for the mutual benefit of all future owners, mortgagees or occupants of the Condominium Property or any part thereof, which shall be known as **PIRATE'S COVE AT INDIAN LAKE CONDOMINIUM**, certain easements and rights in, over and upon such Condominium Property, and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof.

C. Declarant desires and intends that the several owners, mortgagees, occupants and other persons hereafter acquiring an interest in the Condominium Property shall at all times enjoy the benefits of, and shall hold their interests therein subject to the rights, easements, privileges and restrictions hereinafter set forth in the Condominium Organizational Documents.

D. Declarant is also the owner of the Additional Property adjoining the real property submitted hereby and contemplates submitting such property to the provisions of this Declaration by an Amendment or Amendments hereto.

DECLARATIONS

NOW, THEREFORE, Declarant hereby makes the following Declaration as to the covenants, restrictions, limitations, conditions and uses to which the Condominium Property may be put, hereby specifying that said Declaration shall constitute covenants to run with the land and shall be binding on Declarant, its successors and assigns, and all subsequent owners of all or any part of the Condominium Property, together with their respective grantees, heirs, executors, administrators, devisees, successors or assigns.

ARTICLE I
DEFINITIONS

1.01 **General**. The following terms used in the Condominium Organizational Documents are defined as hereinafter set forth.

1.02 **Additional Property** shall mean adjacent or adjoining property which is described in Exhibit "D" and which, together with improvements thereon, may be added in the future to the Condominium, excepting therefrom any Property submitted hereby.

1.03 **Affiliate of a Developer** shall mean any person who controls a Developer or is controlled by a Developer as defined in the Ohio Condominium Act.

1.04 **Agent** shall mean any person who represents a Developer or who acts for or on behalf of a Developer in selling or offering to sell a Condominium Ownership Interest in a Condominium Development, but shall not include an attorney-at-law whose representation of a Developer consists solely of rendering legal services.

1.05 **Amendment and/or Amendments** shall mean an instrument executed with the same formalities of the Declaration and Recorded for the purpose of amending the Condominium Organizational Documents or any other Exhibits thereto.

1.06 **Articles and/or Articles of Incorporation** shall mean the articles, filed with the Secretary of State of Ohio, incorporating the Association as an Ohio not-for-profit corporation under the provisions of Chapter 1702 of the Ohio Revised Code, as the same may be lawfully amended from time to time.

1.07 **Association** shall mean Pirate's Cove at Indian Lake Condominium Association, Inc., an Ohio not-for-profit corporation, its successors and assigns.

1.08 **Board and/or Board of Directors** shall mean those persons who as a group serve as the board of directors of the Association.

1.09 **By-Laws** shall mean the By-Laws of the Association, which are attached as Exhibit "C" as the same may be lawfully amended from time to time, created under and pursuant to the provisions of the Ohio Condominium Act for the Condominium, and which also serve as the code of regulations of the Association under and pursuant to the provisions of Chapter 1702 of the Ohio Revised Code.

1.10 **Channel** shall mean the channel (boat well) constructed on the Property by the Declarant which intercepts the waters of Indian Lake.

1.11 **Common Assessments** shall mean assessments that are charged proportionately against all Units for common purposes.

1.12 **Common Elements** shall mean all of the Condominium Property except that portion thereof described in the Declaration as constituting a Unit or Units.

1.13 **Common Expenses** shall mean those expenses designated as such by the Ohio Condominium Act, or in accordance with the provisions of the Declaration, including Per Unit Expenses.

1.14 **Common Losses** shall mean the amount by which the Common Expenses during any period of time exceeds the Common Assessments and Common Profits during that period.

1.15 **Common Profits** shall mean the amount by which the total income received from any of the following exceeds expenses allocable to the particular income, rental, fee or charge:

(a) Assessments charged for special benefits to specific Units;

(b) Rents received from the rental of equipment or space in Common Elements;

(c) Any other fee, charge or income other than common assessments.

1.16 **Common Surplus** shall mean the amount by which Common Assessments collected during any period exceeds Common Expenses.

1.17 **Condominium** shall mean Pirate's Cove at Indian Lake Condominium, the condominium regime for the Condominium Property created under and pursuant to the provisions of the Ohio Condominium Act.

1.18 **Condominium Development** shall mean a Condominium Property in which two (2) or more individual residential Units together with their undivided interests in the Common Elements are offered for sale pursuant to a common promotional plan.

1.19 **Condominium Instruments** shall mean the Declaration, the Drawings and By-Laws attached as Exhibits thereto, any contract pertaining to the management of the Condominium Property, and all other documents, contracts or instruments establishing ownership or exerting control over the Condominium Property or a Unit.

1.20 **Condominium Organizational Documents** shall mean the Declaration and Exhibits, as the same may be lawfully amended from time to time.

1.21 **Condominium Ownership Interest** shall mean a fee simple estate or a ninety- nine (99) year leasehold estate, renewable forever in a Unit, together with its appurtenant undivided interest in the Common Elements.

1.22 **Condominium Property** shall mean land, all buildings, improvements and structures on the land, all easements, rights and appurtenances belonging to the land, and all articles of personal property submitted to the provisions of the Ohio Condominium Act by this Declaration and any Amendment.

1.23 **Control Period** shall mean a period of time five (5) years from the date on which the Association is formed or a period of time sixty (60) days after seventy-five percent (75%) of the Condominium Ownership Interests have been sold and conveyed, whichever first occurs. For purposes hereof, the Percentages of Condominium Ownership Interests sold and conveyed by Declarant shall be determined by comparing the Condominium Ownership Interests sold and conveyed, to the total number of Condominium Ownership Interests created and which may be created pursuant to the provisions of the Declaration.

1.24 **Declarant** shall mean Washington Village Homes, LLC, an Ohio limited liability company, its successors and assigns; provided the rights specifically reserved to Declarant under the Condominium Organizational Documents shall accrue only to such successor and assigns as are designated in writing by Declarant as successors and assignees of such rights.

1.25 **Declaration** shall mean the instrument by which the property hereinafter described is submitted to the provisions of the Ohio Condominium Act and any and all Amendments thereto.

1.26 **Developer** shall mean the Declarant, any successor to the Declarant who stands in the same relation to the Condominium Property as the Declarant, and any person who directly or indirectly sells or offers for sale a Condominium Ownership Interest.

1.27 **Development Period** shall mean a period of time seven (7) years from the date on which this Declaration is Recorded.

1.28 **Director** shall mean that person serving at the time pertinent on the Board of Directors.

1.29 **Drawings** shall mean those drawings, as the same may be lawfully amended from time to time, which are attached as Exhibit “B”.

1.30 **Eligible Holder(s)** shall mean the holder of a valid Recorded first mortgage on a Unit, which holder has given written notice to the Association requesting notification of any proposed action that requires the consent of a specified percentage of Eligible Holders.

1.31 **Exhibit** shall mean any document or instrument attached to the Declaration.

1.32 **Insurance Trustee** shall mean any bank located in Logan County, Ohio with trust powers and total assets in excess of Fifty Million Dollars ($50,000,000.00) which has been selected by the Association pursuant to the provisions of the Declaration.

1.33 **Limited Common Elements** shall mean those Common Elements serving exclusively one (1) Unit or more than one (1) Unit but less that all Units, the enjoyment, benefit or use of which are reserved to the lawful Occupants of that Unit or Units either in this Declaration or by the Board.

1.34 **Majority of Unit Owners** shall mean those Unit Owners holding fifty-one percent (51%) of the voting power of the Association.

1.35 **Managing Agent** shall mean a manager or managing agent retained or employed by the Association pursuant to the provisions of the Declaration.

1.36 **Member** depending on its context, shall mean a Unit Owner that is subjected hereto and/or a member of the Association.

1.37 **Occupant** means a person lawfully residing in a Unit, regardless of whether that person is a Unit Owner.

1.38 **ODNR** shall mean the Division of Parks and Recreation, Department of Natural Resources, State of Ohio or any successor or assign.

1.39 **Ohio Condominium Act** means Chapter 5311 of the Ohio Revised Code, the statutory law of the State of Ohio regulating the creation and operation of Condominiums.

1.40 **Per Unit Expenses** shall mean Common Expenses that arise out of the following, which are not allocated, on a Percentage of Ownership but on an equal per Unit basis:

(a) Expenses that arise out of the administration, operation, maintenance, repair and replacement of security, telecommunications, rubbish removal, roads, entrances, recreation facilities, if any, landscaping, and grounds care;

(b) Legal, accounting and management expenses.

1.41 **Percentage of Ownership** shall mean the undivided interest of each Unit in the Common Elements as set forth in this Declaration which is included with a Unit and cannot be separately conveyed.

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

1.43 **Property** shall mean the real property described in Exhibit "A" attached hereto.

1.44 **Quorum** shall mean the presence in person or by proxy of a Majority of Unit Owners.

1.45 **Recorded** shall mean the recording with the Recorder of Logan County, Ohio and the prior filing thereof with the Auditor of Logan County, Ohio, if required.

1.46 **Rules and Regulations** shall mean those rules and regulations as may be amended from time to time adopted by the Board.

1.47 **Special Individual Unit Assessment** shall mean an assessment levied or charged by the Board against a Unit or Units pursuant to the provisions of the Declaration which provides that a particular Unit or Units may be responsible for expenses, charges or costs which are not chargeable or assessable against all Units in the Condominium.

1.48 **Underwriter** shall mean Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Governmental National Mortgage Association, Government Mortgage Guaranty Insurance Corporation, Department of Housing and Urban Development, the Veterans Administration or any such other organizations or agencies insuring or guaranteeing first mortgages on Units.

1.49 **Unit** shall mean a part of the Condominium Property consisting of one (1) or more rooms on one (1) or more floors of a building(s) that are designated a Unit by this Declaration or Amendment and are delineated on the Drawings and in the Drawings attached to an Amendment.

1.50 **Unit Owner** shall mean a Person who owns a Condominium Ownership Interest in a Unit.

ARTICLE II
NAME, PURPOSE AND ADMINISTRATION

2.01 **Name**. The Condominium Property shall be known as Pirate's Cove at Indian Lake Condominium.

2.02 **Purpose**. The Condominium Property shall be used for single family residence purposes and common recreational purposes auxiliary thereto and for no other purpose; provided, however, (i) that consistent with applicable zoning, professional and quasi-professional Occupants may use a Unit as an auxiliary or

secondary facility to an office established elsewhere; (ii) an Occupant maintaining a personal or professional library, keeping personal, business or professional telephone calls or correspondence, in or from a Unit, is engaging in a use expressly declared customarily incidental to principal residential use and is not in violation of these restrictions; and (iii) it shall be permissible for the Declarant to maintain, during the period of its sale of Units, one (1) or more Units as sales models and offices and/or for storage and maintenance purposes.

2.03 **Administration**. The Condominium Property shall be administered in accordance with the provisions of the Condominium Organizational Documents and the Rules and Regulations, as the same may be amended from time to time. Each Unit Owner, tenant or Occupant shall comply with the provisions of the Condominium Organizational Documents and the Rules and Regulations together with the decisions and resolutions of the Board.

ARTICLE III
LEGAL DESCRIPTION OF PROPERTY

3.01 **Legal Description**. The real property subject to this plan for condominium ownership is described in Exhibit "A" attached hereto.

ARTICLE IV
DESCRIPTION AND LOCATION OF BUILDING(S)

4.01 **General**. Unless or until Amended, the following building(s) are located on the Condominium Property. These building(s) are generally described as follows:

(a) Building A is a one (1) story building to be utilized as a shelter house and bath.

(b) Building B is a one (1) story building to be utilized as a pump house.

(c) Building 1 is two (2) stories in height containing four (4) Units.

(d) Building 2 is two (2) stories in height containing four (4) Units.

(e) Building 3 is two (2) stories in height containing six (6) Units.

(f) Building 4 is two (2) stories in height containing six (6) Units.

(g) Building 5 is two (2) stories in height containing six (6) Units.

(h) Building 6 is two (2) stories in height containing four (4) Units.

(i) Building 7 is two (2) stories in height containing six (6) Units.

4.02 **Specific**. All of the building(s) containing Units are constructed on block or poured concrete walls, with frame exterior walls, some brick veneer, stucco and siding, windows, a wood truss roof with asphalt shingle or wood covering, wood floor joints, wall studs and drywall. A specific graphic description of the building(s) is set forth in the Drawings.

4.03 **Location**. The building(s) have access to State Route 366 a public roadway by way of Pirate's Cove Boulevard, Sir Francis Drake Avenue and Port Royale Avenue. private roadways.

ARTICLE V
DESCRIPTION OF UNITS

5.01 **General.** Each of the Units within this Declaration, or any additional Units brought within the provisions of the Declaration by an Amendment shall consist of all of the space bounded by the undecorated surfaces of the perimeter walls, the unfinished surface of the lower floor, and the unfinished interior surface of the roof deck, all projected, if necessary by reason of structural divisions such as interior walls and partitions to constitute a complete enclosure of space, and all improvements within that space, the dimensions and descriptions of each such Unit being shown on the Drawings and in the Drawings attached to an Amendment and including without limitation:

(a) The decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and other finishing material(s) applied to the interior surface of such perimeter walls, floors and ceilings;

(b) All windows, screens and doors, including the frames, sashes and jams and the space occupied thereby and as hardware therefore;

(c) All fixtures and appliances located within the bounds of a Unit, installed in and for the exclusive use of said Unit, commencing at the point of disconnection from the structural body of the building(s) or from the point of disconnection of utility pipes, lines or systems serving the entire building(s) or more than one Unit thereof, whichever may be applicable; including without limitation, built-in cabinets, dishwashers, garbage disposal units, and components thereof, if any, even if located outside the bounds of the Unit, serving only that Unit;

(d) All control knobs, switches, thermostats and base plugs, floor plugs and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein, together with the space occupied thereby;

(e) All interior walls, floors and ceilings;

(f) All plumbing, electric, heating, security, alarm, vacuum, cooling and other utility lines, pipes, wires, ducts or conduits which exclusively serve either the Unit or the fixtures located therein, and which are located within the bounds of the Unit, or within the exterior walls of that Unit.

But excepting therefrom, any structural element of the building contained in interior walls and all plumbing, electric, heating, cooling and other utility service lines, pipes, wires, ducts or conduits which are located within the bounds of a Unit but which any other Unit.

5.02 **Type of Units**. Unless or until amended, there is one (1) type of Unit which is generally described as follows:

(a) The Units are two (2) stories in height containing approximately 2,024 square feet of living area, together with a 479 square foot garage.

5.03 **Graphic Description**. A graphic description of the Units is set forth in the Drawings.

5.04 **Designation of Units by Building**. Following is a listing of Units by their Buildings:

Unit No.	Building	Unit No.	Building
1-A	1	5-A	5
1-B	1	5-B	5
1-C	1	5-C	5
1-D	1	5-D	5
		5-E	5
2-A	2	5-F	5
2-B	2		
2-C	2	6-A	6
2-D	2	6-B	6
		6-C	6
3-A	3	6-D	6
3-B	3		
3-C	3	7-A	7
3-D	3	7-B	7
3-E	3	7-C	7

3-F	3	7-D	7
		7-E	7
4-A	4	7-F	7
4-B	4		
4-C	4		
4-D	4		
4-E	4		
4-F	4		

ARTICLE VI
RELOCATION OF BOUNDARIES OF UNITS AND LIMITED COMMON ELEMENTS

6.01 **General**. Notwithstanding any provision in this Declaration to the contrary, the boundaries between adjoining Units and appurtenant Limited Common Elements may be relocated and the Percentage of Ownership appurtenant to those Units may be reallocated by an Amendment pursuant to the following procedures.

(a) The Unit Owners of the adjoining Units shall submit to the Board a written application for the relocation and reallocation. The application shall be accompanied by the written consents of the holders of all liens on those Units, except liens for real estate taxes and assessments not yet due and payable.

(b) In the application the Unit Owners of the adjoining Units may request a specific reallocation of their Percentage of Ownership allocated to the adjoining Units.

6.02 **Board Approval**. Unless the Board finds any requested reallocation of the Percentage of Ownership to be unreasonable, within thirty (30) days after the Board receives the application the Association shall prepare, at the expense of the Unit Owners of the adjoining Units, an Amendment that is executed by the Unit Owner(s) of the affected Units and that includes all of the following:

(a) Identification of the affected Units;

(b) Words of conveyance between the Unit Owners of the Units; and

(c) A specification of the Percentages of Ownership and the voting powers of each Unit resulting from the relocation and reallocation, the total of which shall equal the interests, shares and powers of the former adjoining Units.

6.03 **Recordation of Amendment**. At the expense of the Unit Owners of the affected Units the Association shall have the Amendment Recorded along with:

(a) Any Drawing necessary to show the altered boundaries of the affected Units;

(b) The dimensions and identifying number of each Unit that results from the relocation and reallocation.

6.04 **Existing Liens**. Existing liens automatically shall attach to each Unit those results from the relocation and reallocation.

ARTICLE VII
DESCRIPTION OF COMMON ELEMENTS

7.01 **General**. The entire balance of the land and improvements thereon, including but not limited to all buildings, foundations, roofs, main and supporting walls, patios, decks, balconies, driveways, parking areas, swimming pools, docks, sea walls, bath/shelter house, trees, lawns, stoops, wires, conduits, utility lines , pumps, housing and ducts, now or hereafter situated on the Condominium Property, are hereby declared and established as the Common Elements.

7.02 **Easements**. The Common Elements shall include and be subject to any easements granted or reserved on the Condominium Property.

7.03 **Status**. All Common Elements included in the Condominium subjected by the Declaration and any Amendment are fully installed, completed and in operation for the use of the Unit Owners.

ARTICLE VIII
DESCRIPTION OF LIMITED COMMON ELEMENTS

8.01 **General Uses**. All plumbing, electrical, heating, cooling and other utility service lines, pipes, wires, ducts and conduits which serve only one (1) Unit shall be Limited Common Elements for the exclusive use of the Unit served thereby.

8.02 **Specific Uses**. The areas hereinafter described, included within the Common Elements appurtenant to a Unit, are deemed Limited Common Elements designated as reserved for the exclusive use of the appurtenant Unit or Units as hereinafter set forth.

(a) The patios, decks and adjacent areas thereto are designated as Limited Common Elements for the Unit adjoining such patio and deck.

(b) The boat dock(s) assigned by the Declarant to a particular Unit at the time the Unit is conveyed to the first purchaser of a Unit is hereby designated as Limited Common Elements to the Unit assigned such dock(s).

(c) The entranceways, stairways and stoops are designated as Limited Common Elements for the Unit(s) adjoining such entranceway, stairway and stoop.

(d) The air conditioning pad, compressor, duct and conduits thereto are designated as Limited Common Elements for the Unit being serviced by such equipment.

(e) The structural walls between the Units are designated as Limited Common Elements for such Units.

(f) Those additional areas shown, delineated and designated on the Drawings as Limited Common Elements for a particular Unit or building(s) are designated as Limited Common Elements for such Unit or Units within such building(s).

ARTICLE IX
REALLOCATION OF USE AND CONSTRUCTION ON LIMITED COMMON ELEMENTS

9.01 **Reallocation**. Notwithstanding any provision in this Declaration to the contrary, rights to the use of Limited Common Elements may be reallocated between or among Units by an Amendment pursuant to the following procedures:

(a) The Unit Owners of the affected Units shall prepare and execute at their expense an Amendment that identifies the affected Units and specifies the reallocated rights to the affected Limited Common Elements;

(b) The Unit Owners of the affected Units shall submit to the Board the Amendment, accompanied by the written consents of the Owners of all affected Units and the holders of all liens on those Units except liens for real estate taxes and assessments not yet due and payable; and

(c) At the expense of the Unit Owners of the affected Units, the Association shall have the submitted Amendment Recorded.

9.02 **Construction of Improvements**. Notwithstanding any provision in this Declaration to the contrary, the Board may authorize the use of the Limited Common Elements appurtenant to a particular Unit to be used for the construction of open or enclosed patios, hedges, decks, fences or similar improvements, provided that:

(a) Such improvements comply with the use restrictions herein and have been approved pursuant to the architectural review provisions hereof;

(b) All such improvements are insured and maintained by the Owner to which such Limited Common Elements are appurtenant; and

(c) The obligations to insure and maintain are memorialized in an agreement at the direction of the Board, but at the expense of the requesting Unit Owner, and Recorded in the chain of title to the Unit so that all successors in title shall have notice that the insurance and maintenance of such improvements are not the responsibility of the Association.

ARTICLE X
USE OF COMMON ELEMENTS

10.01 General. Each Unit Owner shall own an undivided interest in the Common Elements as a tenant in common with all other such Unit Owners and, except as otherwise limited in the Condominium Organizational Documents, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of his Unit as a place of residence and such other incidental uses as permitted by the Condominium Organizational Documents, including the non-exclusive, perpetual easement, together with other Unit Owners to the use and enjoyment of the Common Elements and for ingress and egress to and from their respective Units, which right shall be appurtenant to and shall run with his Unit.

ARTICLE XI
OWNERSHIP OF COMMON ELEMENTS

11.01 Percentage of Ownership. Unless or until amended, the Percentage of Ownership of the Common Elements attributable to the ownership interest in each Unit and for the division of Common Profits, Common Surplus and Common Expenses, is as follows:

Unit No.	Percentage of Ownership	Unit No.	Percentage of Ownership
1-A	2.77 7/9	5-A	2.77 7/9
1-B	2.77 7/9	5-B	2.77 7/9
1-C	2.77 7/9	5-C	2.77 7/9
1-D	2.77 7/9	5-D	2.77 7/9
2-A	2.77 7/9	5-E	2.77 7/9
2-B	2.77 7/9	5-F	2.77 7/9
2-C	2.77 7/9	6-A	2.77 7/9
2-D	2.77 7/9	6-B	2.77 7/9
3-A	2.77 7/9	6-C	2.77 7/9
3-B	2.77 7/9	6-D	2.77 7/9
3-C	2.77 7/9	7-A	2.77 7/9

3-D	2.77 7/9	7-B	2.77 7/9
3-E	2.77 7/9	7-C	2.77 7/9
3-F	2.77 7/9	7-D	2.77 7/9
4-A	2.77 7/9	7-E	2.77 7/9
4-B	2.77 7/9	7-F	2.77 7/9
4-C	2.77 7/9		
4-D	2.77 7/9		
4-E	2.77 7/9		
4-F	2.77 7.9		

11.02 **Computation**. Each Unit's Percentage of Ownership as herein set forth was determined and based on a par value approach utilizing the approximate square footage of a Unit as set forth in Section 5.02. Each Unit's Percentage of Ownership as herein set forth was determined by comparing the approximate square footage of a Unit to the total approximate square footage of all of the Units on the date when the Declaration is Recorded, or stated in another way, the Percentage of Ownership of a particular Unit is equal to a fraction, the numerator of which is the approximate square footage of such Unit and the denominator of which is the total approximate square footage of all of the Units.

11.03 **Amendment**. Except as specifically provided for in this Declaration, the Percentage of Ownership as herein set forth shall not be altered except by an Amendment unanimously approved by all Unit Owners.

ARTICLE XII
REGULATION OF COMMON ELEMENTS

12.01 **General**. The Board may by majority vote adopt reasonable Rules and Regulations and may amend the same which the Board may deem advisable for the maintenance, conservation and beautification of the Condominium Property and for the health, comfort, safety and general welfare of the Unit Owners and Occupants. Written notice of the Rules and Regulations and copies thereof shall be made available to all Unit Owners and occupants of the Condominium Property.

12.02 **Penalties and Fines**. The Rules and Regulations may establish reasonable fines and penalties for violations of such Rules and Regulations. Any such fines and penalties shall be considered a Special Individual Unit Assessment against the Unit for which it is imposed or charged.

12.03 **Conflict**. In the event of any conflict between the Rules and Regulations and the provisions of the Condominium Organizational Documents, the provisions of the Condominium Organizational Documents shall govern.

ARTICLE XIII
RESTRICTIONS ON THE USE OF CONDOMINIUM PROPERTY

13.01 **Obstruction of Common Elements.** There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Board, except as hereinafter expressly provided.

13.02 **Hazardous Uses and Waste**. Nothing shall be done or kept in any Unit or in the Common Elements that will increase the rate of insurance on the building(s) or contents thereof applicable for residential use, without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the

Common Elements which will result in the cancellation of insurance on the building(s) or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Elements.

13.03 Exterior Surfaces of Building(s). Unit Owners shall not cause or permit anything to be hung or displayed on the outside or inside of windows or placed on the outside walls of a building, and no sign, awning, canopy, shutter, radio or television antenna or receiving dish or disk shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior consent of the Board, other than those originally provided by Declarant. Notwithstanding the foregoing, an awning is permitted to cover the living room slider on the deck to a particular Unit, provided that the distributor, type of material, style, size and color has been approved in advance by the Board. Any such awning shall be maintained in good condition and repair by the Unit Owners.
(As Amended)

13.04 **Animals and Pets.** No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Elements, except that dogs, cats or other household pets, not in excess of two (2), may be kept in Units subject to the Rules and Regulations, 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 shall be permanently removed from the Condominium Property subject to these restrictions upon three (3) days written notice from the Board.

13.05 **Nuisances**. No noxious or offensive activity shall be carried on in any Unit or in the Common Elements nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or Occupants.

13.06 **Impairment of Structural Integrity of Building(s)**. Nothing shall be done in any Unit or in, on, or to the Common Elements that will impair the structural integrity of the building(s) or which would change the building(s).

13.07 **Laundry or Rubbish in Common Elements**. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials.

13.08 **Lounging or Storage in Common Elements.** There shall be no playing, lounging, parking of campers or boats, inoperable vehicles, trucks, motorcycles, baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Elements except in accordance with the Rules and Regulations.

13.09 **Prohibited Activities.** No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Condominium Property, nor shall any "For Sale" or "For Rent" signs or other window displays or advertising be maintained or permitted on any part of the Condominium Property. The right is reserved by the Declarant or his agent to place "For Sale" or "For Rent" signs on any unsold or unoccupied Unit. In addition, the right is hereby given to the Association or its representatives to place "For Sale" or "For Rent" signs on any Unit or on the Condominium Property for the purpose of facilitating the disposal of Units by any Unit Owner, mortgagee or the Association. Notwithstanding the foregoing, an awning is permitted to cover the living room slider on the deck to a particular Unit, provided that the distributor, type of material, style, size and color has been approved in advance by the Board. Any such awning shall be maintained in good condition and repair by the Unit Owners.
(As Amended)

13.10 **Alteration of Common Elements.** Nothing shall be altered, constructed in, or removed from the Common Elements except as herein provided.

13.11 **Rental and Leasing Units**. The respective Unit shall not be rented by the Unit Owners thereof for transient or hotel purposes, which shall be defined as: (a) rental for any period less than twelve (12) consecutive months;(b) any rental if the occupants of the Unit are provided customary hotel services such as room service for food and beverage, maid service, and furnishing of laundry and linen services; or (c) rental to roomers or boards, that is, rental to one (1) or more persons of a portion of a Unit only. No lease may be of less than an entire Unit. Any lease agreement executed after the submission of a Unit to the Condominium shall be in writing, shall provide that the tenant shall be subject in all respects to the provisions hereof, and to the Rules and Regulations, and shall provide that the failure by the lessee to comply with the terms of the Condominium Organizational Documents and lawful Rules and Regulations shall be a default under the lease. Whether or not such provisions are included in a lease of a Unit, any tenancy of a Unit shall be subject to termination for a violation by the Occupants of any covenant, condition and restriction contained in the Condominium

Organizational Documents or the Rules and Regulations, all as lawfully amended from time to time. All such tenancies shall be subject to termination by legal proceedings in eviction brought by the Association pursuant to Chapters 1923 and 5321 of the Ohio Revised Code, as agent for and in the name of the Unit Owner, for any such violation, provided that the Association give the Unit Owner at least ten (10) days written notice of its intent to bring such an eviction proceeding. The costs of any eviction action brought by the Association, including reasonable attorney fees, shall be a Special Individual Unit Assessment against the Unit, enforceable in the same manner as all other assessments.

13.12 Boat Docks and Slips.

(a) Boat docks and slips, which are designated as Limited Common Elements herein, shall not be rented, leased or licensed for use by a non-Unit Owner;

(b) Boats shall not exceed twenty-four (24) feet in length without Board approval; provided however, in no event shall a boat, including its motor(s), exceed beyond the end of a dock to the extent that they unduly restrict the passage of boats coming from both directions;

(c) Boat dock covers and boat lift covers are prohibited;

(d) Boats, including their mooring covers, shall not be raised above the water level to the extent it unreasonably restricts the view from another Unit. A determination as to such obstruction may be made by the affected Unit Owner to the Board; and

(e) Boats shall only be docked parallel with docks. Docking along the common seawall is prohibited except for temporary, non-overnight situations.
(As Amended)

13.13 Declarant. Notwithstanding any of the above, the Declarant may do what is reasonably necessary to complete the additional building(s) and improvements on the Additional Property, including the storage of construction materials, construction office on location, and what is reasonably necessary to promote and sell the Units thereon constructed.

ARTICLE XIV
CONVEYANCES

14.01 General. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof. The undivided interest of a Unit in the Common Elements shall be deemed to be conveyed or encumbered with the Unit even though that interest is not expressly mentioned or described in the deed, mortgage or other instrument of conveyance or encumbrance. The right of a Unit Owner to sell, transfer or otherwise convey that

owner's Unit is not subject to any right of first refusal or similar restrictions, and any Unit Owner may transfer that owner's Unit free of any limitations.

14.02 **Records**. To enable the Association to maintain accurate records of the names and address of Unit Owners, each Unit Owner is required, at the following times, to provide the Association, by delivery to the office of the Association or to any member of the Board, written notice of the name, home address, home and business mailing addresses, and the home and business telephone numbers of the Unit Owner and all Occupants and the name, business address and business telephone number of any person who manages the Owner's Unit as an agent of that Owner:

(a) Within thirty (30) days after the Unit Owner accepts delivery of a deed to a Unit;

(b) Within thirty (30) days after a change in any of the above-described information; and

(c) At any time that the Board requests verification or updating of the above-described information.

14.03 **Documents**. Each Unit Owner shall provide to a purchaser of that owner's Unit a copy of the Condominium Organization Documents and all effective Rules and Regulations in such Owner's possession.

ARTICLE XV
UNIT OWNER'S ASSOCIATION

15.01 **General.** Declarant formed the Association to administer the Condominium Property. The Association shall be governed by the Condominium Organizational Documents. A Board and the officers of the Association elected as provided in the By-Laws shall exercise the powers and rights set forth in the Condominium Organizational Documents and the Ohio Condominium Act that are not specifically reserved to Unit Owners.

15.02 **Membership in the Association**. Membership in the Association is limited to Unit Owners. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a Member. The foregoing is not intended to include persons or entities that hold an interest merely as security of an obligation. Such membership shall terminate upon the sale or other disposition by such Member of his Condominium Ownership Interest, at which time the new Unit Owner shall automatically become a Member. Declarant shall be a Member as long as it retains title to any Unit.

15.03 **Voting Rights**. There shall be one (1) vote for each of the Units compromising the Condominium Property. The Unit Owner or Unit Owners of each Unit shall be entitled to one (1) vote for their Unit. In the event a Unit has been acquired by the Association in its own name or in the name of its agent, designee or nominee on

behalf of all Unit Owners, the voting rights of such Unit shall not be exercised so long as it continues to be so held. If two (2) or more persons, whether fiduciaries, tenants in common or otherwise own individual interests in a Unit, each may exercise the proportion of the voting power of all of the owners of the Unit that is equivalent to his proportionate interest in the Unit; provided, however that unless timely challenged by a Unit Owner of a fee simple interest in a Unit, any Unit Owner of a fee simple interest in that Unit may cast the entire vote with respect to that Unit.

15.04 **Service of Process**. The person to receive service of process for the Association shall be the president of the Association. Until such time as a president is elected, service may be made upon William A. Simms, Jr., 7575 McEwen Road, Dayton, Ohio 45458.

15.05 **First Meeting of Association**. A first meeting of the Association shall be held no later than sixty (60) days after the date on which twenty-five percent (25%) of the Condominium Ownership Interests have been sold and conveyed by the Declarant. The purpose of such meeting shall be to elect two (2) members to the Board from Unit Owners, other than Declarant.

15.06 **Declarant's Rights**. During the Control Period, the powers, rights, duties and functions of the Association shall be exercised by a Board selected by the Declarant; provided however, that no later than sixty (60) days after the date on which twenty-five percent (25%) of the Condominium Ownership Interests have been sold and conveyed by Declarant, two-thirds (2/3) of such members shall be elected by the Unit Owners, other than Declarant.

15.07 **Turnover**. Within sixty (60) days after the expiration of the Control Period, the Association shall meet and elect all members of the Board and all other officers of the Association. The persons so elected shall take office immediately after such election. After said meeting, the Declarant shall deliver to such Board or officers:

(a) Correct and complete books and records of account that specify the receipts and expenditures relating to the Common Elements and other common receipts and expenses;

(b) Records showing the allocation, distribution and collection of the Common Profits, Common Losses and Common Expenses among and from the Unit Owners;

(c) Minutes of the meetings of the Association and Board;

(d) Records of the names and addresses of the Unit Owners and their Percentages of Ownership;

(e) Copies of the Condominium Organizational Documents, Articles and any Amendments;

(f) Available documents, information and sources of information concerning the location of underground utility lines and plans and specifications that are not proprietary or copyrighted, of the buildings, other improvements and structures on the Condominium Property that are reasonably available to Declarant.

15.08 **Contract Limitations**. Any contract entered into by the Declarant during the Control Period shall terminate when the Declarant releases or relinquishes such control unless such contract is renewed by a vote of the Unit Owners at the meeting called for turning over control of the Association.

ARTICLE XVI
VETERANS ADMINISTRATION APPROVAL

16.01 **General**. During the Control Period, if the Veterans Administration has guaranteed any loan secured by a Unit, any Amendments or actions set forth as follows shall require the prior approval of the Veterans Administration.

16.02 **Amendments**. Any Amendment which includes adding, deleting or modifying any provision regarding the following:

(a) Assessment basis or assessment liens;

(b) Any method of imposing or determining any charges to be levied against individual Unit Owners;

(c) Reserves for maintenance, repair or replacement of Common Element improvements;

(d) Maintenance obligations;

(e) Allocation of rights to use Common Elements;

(f) Any scheme of regulation or enforcement of standards for maintenance, architectural design or exterior appearance of improvements on units;

(g) Reduction of insurance requirements;

(h) Restoration or repair of Common Element improvements;

(i) The addition, annexation or withdrawal of land to or from the project;

(j) Voting rights;

(k) Restrictions affecting leasing or sale of a Unit;

(l) Any provision which is for the express benefit of mortgagees;

(m) The rights of any specific class of Members;

(n) Termination of the Declaration;

(o) Dissolution of the Association except pursuant to a consolidation or merger; or

(p) Conveyance of all Common Elements.

16.03 **Actions**. Any of the following action(s) taken by the Association:

(a) Merging or consolidating the Association, other than with another non-profit entity formed for purposes similar to the subject association;

(b) Determining not to require professional management if that management has been required by the Association documents, a majority of Eligible Holders or a vote of the Majority of Members;

(c) Expanding the Association to include land not previously described as Additional Property which increases the overall land area of the project or number of Units by more than ten percent (10%);

(d) Abandoning, partitioning, encumbering, mortgaging, conveying, selling or otherwise transferring or relocating the boundaries of Common Elements except for: (1) granting easements which are not inconsistent with or which do not interfere with the intended Common Element use; (ii) dedicating Common Elements as required by a public authority; (iii) limited boundary-line adjustments made in accordance with the provisions of the Declaration; or (iv) transferring Common Elements pursuant to a merger or consolidation with a non-profit entity formed for purposes similar to the subject association;

(e) Using insurance proceeds for purposes other than construction or repair of the insured improvements;

(f) Making capital expenditures other than for repair or replacement of existing improvements during any period of twelve (12) consecutive months costing more than twenty percent (20%) of the annual operating budget;

(g) Terminating the Declaration;

(h) Dissolving the Association except pursuant to a consolidation or merger; or

(i) Conveying all Common Elements.

ARTICLE XVII
AMENDMENTS OF CONDOMINIUM ORGANIZATIONAL DOCUMENTS

17.01 **General**. Unless otherwise specifically provided for herein, the Condominium Organizational Documents may be amended only upon the written consent of the Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association.

17.02 **Seventy-Five Percent (75%) of Eligible Holders**. The following Amendments shall require the consent of Eligible Holders on Units to which at least seventy-five percent (75%) of the votes of Units subject to mortgages held by Eligible Holders appertain:

(a) The boundaries of any Unit or the convertibility of Units into Common Elements or visa versa;

(b) The construction of an addition to or an expansion of a Unit into Limited Common Elements or Common Elements;

(c) The Percentage of Ownership of a Unit or the liability for Common Expenses appertaining thereto or the right to use Common Elements and Limited Common Elements;

(d) The number of votes in the Association appertaining to any Unit; or

(e) The fundamental purposes to which any Unit or the Common Elements are restricted.

17.03 **Fifty-One Percent (51%) of Eligible Holders**. The following Amendments shall require the consent of Eligible Holders on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Holders appertain:

(a) A change to any of the provisions governing voting rights;

(b) A change to any of the provisions governing the increasing of assessments that raise the previously assessed amount by more than twenty-five percent (25%);

(c) A change to any of the provisions governing assessment basis, assessment liens, or the priority of assessment liens;

(d) A change to any of the provisions governing reserves for maintenance, repair or replacement of Common Elements improvements;

(e) A change to any of the provisions governing maintenance obligations or the responsibility for maintenance and repairs;

(f) A change to any of the provisions governing: (a) the method of expansion or contraction of the Condominium; or (b) the method of addition, annexation or withdrawal of land to or from the Condominium;

(g) A change to any of the provisions governing hazard, fidelity or other insurance requirements;

(h) A change to any of the provisions governing restrictions affecting the leasing of a Unit;

(i) A change to any of the provisions governing restrictions affecting the sale of a Unit;

(j) A change to any of the provisions governing the method of determining whether professional management shall be established or discontinued;

(k) A change to any of the provisions governing restoration or repair of improvements in the Condominium;

(l) A change to any of the provisions which provision is for the express benefit or mortgagees;

(m) A change to any of the provisions which affect the scheme of regulation or enforcement of standards for maintenance, architectural design or exterior appearance of improvements on Units;

(n) A change to any of the provisions governing dissolution of the Association except pursuant to a consolidation or merger;

(o) A change to any of the provisions governing the conveyance of any or all of the Common Elements; or

17.04 **Presumed Consent**. Any Eligible Holder shall be presumed to have consented to an Amendment or any action requiring their consent if a notice of the proposed Amendment or action is sent to such Eligible Holder, or its successors or assigns as appearing of public record at the address listed in the mortgage by certified mail and no objection thereto is received by the Association within thirty (30) days after the receipt by the Eligible Holder. Such notice shall be retained by the Secretary of the Association and his certification as to the names of the consenting and non-consenting

Eligible Holders of the various Units shall be sufficient for reliance by the general public. If less than all Eligible Holders consent to such Amendment or action, said Amendment or action shall be valid among the Unit Owners, provided that the rights of a non-consenting Eligible Holder shall not be derogated thereby.

17.05 Amendments Not Requiring Consent of Unit Owners or Eligible Holders. Notwithstanding any provision in this Declaration to the contrary, the following Amendments to the Condominium Organizational Documents shall not require the consent of the Owners or Eligible Holders.

(a) Amendments by Declarant to Expand Condominium. Amendments aiding the expansion of the Condominium pursuant to this Declaration shall not require the consent of any parties other than the Declarant;

(b) Amendments by Declarant to Address Compliance and Other Issues. The Declarant reserves the right and power, and each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable, except by Declarant, during the Development Period, to amend the Condominium Organizational Documents: (i) to the extent necessary to conform to the requirements then governing the purchase or insurance of mortgages by the Underwriters, provided that the appropriate percentage, as described elsewhere herein, of Eligible Holders is obtained; or (ii) to correct typographical errors or obvious factual errors the correction of which would not impair the interest of any Unit Owner or mortgagee; and further provided that if there is a Unit Owner other than the Declarant, the Declaration shall not be amended to increase the scope or the period of control of the Declarant; and further provided that the project has been approved by the Veterans Administration, such Amendment, except those aiding the expanding of the Condominium in accordance with the provisions of this Declaration, must be approved by the Veterans Administration.

(c) Amendments by Board Pursuant to Statutory Authority. The Board may amend the Condominium Organizational Documents in any manner necessary for any of the following:

(i) To meet the requirements of institutional mortgagees, the Underwriters and similar institutions;

(ii) To meet the requirements of insurance underwriters;

(iii) To bring the Condominium Organizational Documents into compliance with the Ohio Condominium Act.

(iv) To correct clerical or typographical errors or obvious factual errors in the Condominium Organizational Documents; or

(v) To designate a successor to the person named to receive service of process for the Association;

(vi) Pursuant to Article VI and IX of the Declaration.

17.06 **Method to Amend**. An Amendment adopted with the consents hereinbefore provided shall be executed with the same formalities as this Declaration by two (2) officers of the Association and shall contain their certification that the Amendment was duly adopted in accordance with the foregoing provisions. Any Amendment adopted by the Declarant or a duly empowered successor Declarant pursuant to authority granted it pursuant to the Declaration shall be duly executed by it with the same formalities as to execution as this Declaration and shall contain the certification of such signor or signors as such Amendment is made pursuant to authority vested in the Declarant or any duly empowered successor Declarant by the Declaration. Any Amendment duly adopted and executed in accordance with the foregoing provisions shall reference the recording references of the Declaration and shall be effective upon its being Recorded.

ARTICLE XVIII
ODNR REQUIREMENTS

18.01 **General**. The Channel has been constructed by the Declarant at no expense to ODNR and shall be part of the waters of Indian Lake and as such shall be subject to all laws of the State of Ohio, the jurisdiction of ODNR, and all rules and regulations promulgated by the State of Ohio or its agencies.

18.02 **Public**. The general public shall be permitted to use the waters in the Channel for fishing and boating purposes.

18.03 **Maintenance**. The Association shall provide for and be responsible for all Channel operation and maintenance, including but not limited to cutting weeds and maintaining the originally specified length, width and depth at no expense to the ODNR or the State of Ohio now or in the future. No spoil materials shall be deposited in waters of the State of Ohio or on State of Ohio owned property. The ODNR and State of Ohio shall have the right, in perpetuity, to direct the extent and methods by which the Association conducts such operation and maintenance. Neither the State of Ohio nor the ODNR assume any responsibility for the maintenance of access to the Channel.

18.04 **Water Levels**. ODNR retains the right to regulate water levels of the source supplying the Channel without liability for any injury or damage to the Condominium Property, the Association, its contractors, successors in interest, lessees or assignees. Neither the ODNR nor the State of Ohio make any warranty or guarantee that there will be water in the Channel or that the forces of nature will not cause it to rise.

18.05 **Docks**. No dock or other super aqueous structure shall be constructed over the Channel without first having applied for and received a written permit therefore from the ODNR.

18.06 **Alteration, Modification, Extension**. The Association, its successors or assigns, shall not alter, modify or extend the Channel or construct additional channels from the original authorized construction without having requested and received, prior to any excavation, additional written permission from ODNR and payment of any required fees. The Association also agrees to abide by and conform with any modification of the contiguous body of water made by ODNR.

18.07 **License, Easement**. The Association hereby grants to the ODNR a license and/or easement over the Condominium Property, at all reasonable times, for the purpose of inspecting the Channel.

18.08 **Release, Indemnity, Hold Harmless**. The Association and Unit Owners release and agreed to hold harmless and indemnify ODNR and the State of Ohio, their agents and employees, from and against any and all claims, actions, damages, liability and expenses which may arise in connection with the operation, maintenance, dredging and excavation of the Channel or its surrounding areas now or in the future. In no event shall the Association, the Unit Owners, their lessees, agents, contractors, assignees or successors in interest have any remedy or recourse of any nature against ODNR in connection with the water levels. ODNR shall not be liable for damages to the Channel or its surrounding area and property from natural disasters and floods.

18.09 **Amendment**. The provisions of this Article shall be binding on the Declarant, the Association, the Unit Owners and their successors and assigns and may not be amended, modified or eliminated without the prior written consent of ODNR.

ARTICLE XIX
MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS

19.01 **Association**. Except as otherwise provided herein, management, maintenance, repairs, alterations and improvements of the Common Elements shall be the responsibility of the Association.

19.02 **Delegation of Authority; Professional Management**. The Board may delegate all or any portion of its authority to discharge it responsibilities to a Managing Agent. This delegation of authority and responsibility to a Managing Agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such Managing Agent as a common expense, provided, however, that any agreement for professional management: shall be terminable by the Association for cause on thirty (30) days written notice; shall be terminate by either party, without penalty, on ninety (90) days written notice; shall not exceed one (1) year unless renewed by agreement of the parties for successive one (1) year periods; and

shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing. Subject to the foregoing, nothing contained herein shall preclude Declarant, or any other entity designated by Declarant, from being employed as Managing Agent. The Managing Agent, or the Board, if there is no Managing Agent, shall have the authority to enter into contracts with Declarant, as defined by an Underwriter, for goods, services, or for any other thing, including, without limiting the generality of the foregoing, contracts for the providing of management, maintenance and repair services, provided the same are bona fide and commercially reasonable to the Unit Owners at the time entered into under the circumstances then prevailing and are terminable by the Association, without cause and without penalty, on ninety (90) days written notice.

19.03 **Rights of Eligible Holders and Unit Owners**. The decision by the Board not to have professional management, or to terminate professional management and assume self management, shall not be made without the consent of Eligible Holders to which at least fifty-one percent (51%) of votes of Units subject to such mortgages appertain and the prior written consent of Unit Owners entitled to exercise not less than sixty-seven percent (67%) of the voting power of Unit Owners, including the consent of Owners other than the Declarant who hold a majority of the voting power of Units owned by Owners other than the Declarant. Eligible Holders on at least fifty-one percent (51%) of Units subject to such mortgages held by Eligible Holders may require the Association to employ professional management.

19.04 **Unit Owner**. The responsibility of each Unit Owner shall be as follows:

(a) To maintain, repair and replace, at his expense, all portions of his Unit and all internal installations of such Unit such as appliances, heating, plumbing, electrical and air conditioning fixtures or installations, and any portion of any other utility service facilities located within the Unit boundaries and which exclusively serve such Unit.

(b) To maintain, repair and replace, at his expense those areas or items which are designated by this Declaration as Limited Common Elements for the exclusive use of such Unit Owner, excepting however, the boat docks which are to be maintained, repaired and replaced by the Association.

(c) To maintain, repair and replace the springs, tracks or any other mechanism relating to the garage doors, including without limitation, any garage door opener and the mechanisms associated therewith whether installed by the Declarant or Unit Owner.

(d) To maintain, repair and replace, at his expense, all portions of the Common Elements which may be damaged or destroyed by reason of the willful or uninsured negligent act or neglect of himself, or by the willful or uninsured negligent act or neglect of any invitee, licensee or guest of such Unit Owner.

(e) To perform his responsibilities in such a manner so as not to unreasonably disturb other persons residing within the Condominium Property.

(f) To promptly report to the Association or its Managing Agent any defect or need for repairs, the responsibility of which is with the Association.

(g) Not to make any alterations in the portions of the Unit or the building(s) which are to be maintained by the Association or remove any portion thereof or make any addition thereto, or do anything which would or might jeopardize or impair the safety or soundness of the building, without first obtaining the written consent of the Board and of the Unit Owner or Unit Owners of whose benefit such easement exists.

19.05 Exterior Surfaces. Any exterior maintenance, repair or replacements to be performed by a Unit Owner shall be subject to the prior architectural review and approval of the Board or its delegated committee.

19.06 Failure to Maintain. In the event a Unit Owner shall fail to maintain his Limited Common Element to such extent that in the opinion of the Board the conditions require maintenance, repair or service for purposes of protecting the public safety or residents in or visitors to the Condominium, or in order to prevent or avoid damage or destruction of any part, portion or aspect of the value thereof, the Association shall have the right, upon approval of the majority of the Board, to enter upon that Limited Common Element and maintain, repair or service the same. The cost of such maintenance, repair or service shall be added to and become a Special Individual Unit Assessment chargeable to such Unit. In addition to a Unit Owner maintaining his/her Limited Common Elements, such Unit Owner shall also be obligated to maintain the personal property located thereon. As to such personal property, the Association shall have the right, upon approval of a majority of the Board, to cause the removal of any objectionable property. The cost of such removal shall be a Special Individual Unit Assessment chargeable to such Unit.
(As Amended)

19.07 Construction Defects. The obligation of the Association and of the Unit Owners to repair, maintain and replace the portions of the property for which they are respectively responsible shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in material or workmanship in the construction of the Condominium Property. The undertaking of repair, maintenance or replacement by the Association or the Unit Owners shall not constitute a waiver of any rights against any warrantor, but such rights shall be specifically reserved.

19.08 **Effect of Insurance or Construction Guarantees**. Notwithstanding the fact that the Association and/or any Unit Owner may be entitled to the benefit of any guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of a construction guarantee or insurance coverage shall not excuse any delay by the Association or any Unit Owner in performing his obligations hereunder.

ARTICLE XX
ARCHITECTURAL REVIEW

20.01 **General**. Except for improvements constructed by the Declarant, or as specifically permitted herein, no building, fence, wall, sign or other structure shall be commenced, erected or maintained upon the Condominium Property, or any part thereof, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Board or its designated representative, as to lawfulness and appropriateness, and as to harmony of external design, color and location in relation to surrounding structures and topography. In the event the Board, or its designated representative, fails to approve or disapprove such plans and specifications within sixty (60) days after they have been submitted to it, approval will not be required and these provisions will be deemed to have been fully complied with. The Board may condition such approval upon the requesting Unit Owner's agreement to maintain the same, and such agreement shall be binding upon the Unit Owner and the Unit Owner's successors in ownership of the Unit, notwithstanding any provision of the Condominium Organizational Documents to the contrary.

ARTICLE XXI
EASEMENTS

21.01 **Encroachments**. In the event that by reason of the construction, settlement or shifting of a building(s) or by reason of the partial or total destruction and rebuilding of a building, any part of a building(s) presently encroaches or shall hereafter encroach upon any part of the Common Elements, or if by reason of the design or construction of any Unit it shall be necessary or advantageous to a Unit Owner to use or occupy for formal uses and purposes any portions of the Common Elements consisting of unoccupied space within a building(s) and adjoining his Unit, or if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving either any other Unit or more than one Unit, presently encroaches or shall hereafter encroach upon any part of any Unit, then valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit and the Common Elements as the case may be, so

long as all or any part of a building(s) containing such Unit shall remain standing; provided however, that no valid easement for any encroachment shall be created in favor of the Unit Owner of any Unit or in favor of the Common Elements, if such encroachment is caused by the willful conduct of said Unit Owner.

21.02 Easements for Repair, Maintenance and Restoration. The Association shall have a right of access and an easement to, over and through all of the Condominium Property, including each Unit, for ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties with regard to maintenance, repair and restoration, provided that exercise of this easement, as it affects the individual Units, shall be at reasonable times with reasonable notice to the individual Unit Owners. Any damage resulting to a particular Unit through the provisions of this Article shall be repaired by the Association, the cost of which will be a Common Expense to all of the Unit Owners.

21.03 Easements Through Walls Within Units. Easements are hereby declared and granted to the Association to install, lay, maintain, repair and replace the pipes, wires, ducts, conduits, public utility lines, or structural components running through the walls of the Units, whether or not such walls be in whole or in part within the Unit boundaries. The Unit Owner shall have the permanent right and easement to and through the Common Elements and walls for the use of water, sewer, power, television antenna and other utilities now or hereafter existing within the walls, and further shall have an easement to hang pictures, mirrors and the like upon the walls of the Unit. Any damage resulting to a particular Unit as a result of the easement herein granted to the Association, shall be repaired by the Association, the cost of which will be a Common Expense to all of the Unit Owners.

21.04 Easements for Certain Services. The Association may hereafter grant easements on behalf of Unit Owners to entities for utility, cable television, fiber optic and internet purposes for the benefit of the Condominium Property.

21.05 Easements for Construction. Declarant hereby reserves for itself a right and easement to enter upon the Common Elements to do all things necessary to complete construction and to complete development of the Condominium Property, including the Additional Property.

21.06 Tie-In Easements. Declarant reserves the right and easement over, on and under the Common Elements to use, tie into and extend all existing utility lines for purposes of serving the Additional Property during the period in which it has the right to add the Additional Property.

21.07 Service Easements. An easement is hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all other similar persons and to the local governmental authorities, but

not the public in general, to enter upon the Common Elements in the performance of their duties.

21.08 **Water Easement**. The Association shall have a right and easement to the exterior water taps or faucets of any Unit for the purpose of watering any Common Element landscaping; provided however, that such use shall be reasonable and the Association shall reimburse the Unit Owner for any excessive use of water.

21.09 **Emergency Easement**. The Association and its Managing Agent shall have a right of entry and easement to any Unit in the case of an emergency originating in or threatening such Unit, whether the Unit Owner is present at the time or not.

21.10 **Additional Property Easement**. Declarant hereby reserves a right to grant and/or reserve an easement for ingress and egress over and through the Common Elements for itself and for the benefit of any subsequent owner or owners or part of all of the Additional Property.

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

21.12 **Easements Shall Run With Land**. All easements and rights herein described are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, its successors and assigns and any owner, purchaser, mortgagee and any other person having an interest in the Condominium Property or any part or portion thereof. Failure to refer specifically to any or all of the easements described in this Declaration in any deed or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said easements, but same shall be deemed conveyed or encumbered along with the Unit.

ARTICLE XXII
HAZARD INSURANCE

22.01 **Fire and Extended Coverage Insurance**. The Association shall obtain and maintain for the benefit of all Unit Owners and mortgagees, insurance on all building(s), structures, supplies, machinery, fixtures and equipment, common personal property or other improvements now or at any time hereafter constituting a part of the Common Elements against loss or damage by fire, lightning and such perils as are at this time comprehended within the term “extended coverage”, with no co-insurance and in an amount not less than one hundred percent (100%) of the replacement value thereof. In the event such policy contains co-insurance provisions, such policy shall contain an agreed amount endorsement. Such insurance shall be written in the name of

and the proceeds thereof shall be payable to the Association for each of the Unit Owners and mortgagees for the purposes set forth herein, in accordance with the Percentage of Ownership. Said policy shall be issued by a generally acceptable carrier acceptable to lenders, first mortgagees and their insurers or guarantors. The policy providing such coverage shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Said policy shall also provide that despite any clause that gives the insurer the right to restore damage in lieu of a cash settlement, such right shall not exist in case the Condominium Property is removed from the provisions of the Ohio Condominium Act pursuant to the provisions of this Declaration. Such policy shall provide coverage for built-in installed fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement value thereof, and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Unit Owner as hereinafter permitted.

22.02 **Qualifications**. The insurance hereunder shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a current rating of Class A/VIII or better as determined by the then latest edition of Best's Insurance Reports, or its successor guide, or comparable rating by a nationally recognized rating agency, or such higher rating as may, from time to time, be required by any Underwriter or if the insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has a Class A/VIII or comparable rating or better.

22.03 **Prohibition**. No Unit Owner may purchase an individual policy of fire and extended coverage insurance for his Unit or his interest in the Common Elements as real property. If irrespective of this prohibition a Unit Owner purchases and individual policy insuring such Unit or interest, said Unit Owner shall be responsible to the Association for any loss or expense that such policy may cause in adjusting the Association's insurance and such amount of loss shall be a lien on his Unit and enforced in the manner provided for in the Declaration.

22.04 **Certificates and Notice of Cancellation**. Such policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice not less than thirty (30) days prior to any expiration or cancellation of such coverage to any mortgagee or mortgagees of any Unit.

22.05 **Subrogation**. Such policy shall also provide for the release by the issuer thereof of any and all rights of subrogation or assignment and all causes and rights of recovery against any Unit Owner, member of his family, his tenant or other occupant of the Condominium Property, for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under such insurance policy.

22.06 **Mortgagee's Rights**. If the required insurance coverage under this Article ceases to exist for any reason whatsoever, any mortgagee of any portion of the Condominium Property may remedy that lack of insurance by purchasing policies to

supply that insurance coverage. The funds so advanced shall be deemed to have been loaned to the Association, shall bear interest at a per annum rate two percent (2%) higher than the basic interest rate in any note secured by the mortgagee's mortgage against a portion of the Condominium Property, and shall be due and payable to the mortgagee by the Association immediately. The repayment of said obligation shall be secured by an assessment against all Unit Owners and shall not require a vote of the Members, anything to the contrary in this Declaration notwithstanding.

22.07 **Sufficient Insurance**. In the event the improvements forming a part of the Condominium Property or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied by the Association in payment therefor; provided however, that in the event, within thirty (30) days after such damage or destruction, the Unit Owners, if they are entitled to do so pursuant to the provisions of the Declaration, shall elect to sell the Condominium Property or to withdraw the same from the provisions of this Declaration, then such repair, restoration or reconstruction shall not be undertaken.

22.08 **Insufficient Insurance**. In the event the improvements forming a part of the Condominium Property or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction thereof, unless the Unit Owners shall within ninety (90) days after such damage or destruction, if they are entitled to do so pursuant to the provisions of the Declaration, elect to withdraw the property from the provisions of this Declaration, such repair, restoration or reconstruction of the Units so damaged or destroyed shall be undertaken by the Association at the expense of all the Unit Owners in the same proportions in which they shall own the Common Elements. Should any Unit Owner refuse or fail, after reasonable notice, to pay his share of such cost in excess of available insurance proceeds, the excess shall be assessed to such Unit Owner and such assessments shall have the same force and effect and, if not paid, may be enforced in the same manner as hereinbefore provided for the non-payment of assessments.

22.09 **Procedure for Reconstruction or Repair**. Immediately after a casualty causing damage to any portion of the Condominium Property the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board deems necessary.

22.10 **Construction Funds**. The insurance proceeds and the sums received by the Association from the collection of assessments against Unit Owners on account of such casualty shall be considered a special construction fund to be disbursed by the

Association to the payment of the cost of reconstruction and repair of Condominium Property from time to time as the work progresses. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance funds.

22.11 **Adjustment**. Each Unit Owner shall be deemed to have delegated to the Board his right to adjust with insurance companies all losses under the insurance policies referred to in the Declaration.

22.12 **Non-Restoration of Damage or Destruction**. In the event of substantial damage to or destruction of two-thirds (2/3) or more of the Units, the Unit Owners, by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power, may elect not to repair or restore such damage or destruction; provided the consent of the Eligible Holders and Underwriters of first mortgages on over fifty-one percent (51%) of the Units has been first obtained. Upon such election, all of the Condominium Property shall be subject to an action for sale as upon partition by any Unit Owner. In the event of any such sale or a sale of the Condominium Property after such election by agreement of all Unit Owners, the net proceeds of the sale, together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective Percentage of Ownership. No Unit Owner shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

22.13 **Deductible**. Any amounts paid by the Association on the account of any insurance claim shall be a Special Individual Unit Assessment against the Unit for which such claim was presented.

ARTICLE XXIII
INSURANCE TRUSTEE

23.01 **General**. At the option of the Declarant, or upon the written request by any Eligible Holders on over fifty-one percent (51%) of the Units, or by any group of Eligible Holders who in the aggregate hold mortgages on over fifty-one percent (51%) of the Units, the Association shall select an Insurance Trustee for the purposes herein set forth.

23.02 **Selection Prior to a Loss**. If such selection is prior to any loss, the Association shall make all insurance policies under the Declaration payable to such Insurance Trustee for and on behalf of each of the Unit Owners and mortgagees for the purposes set forth in the Declaration in accordance with the Percentage of Ownership. All insurance policies shall be deposited with the Insurance Trustee who must first acknowledge that the policies and any proceeds thereof will be held in accordance with the terms hereof.

23.03 **Selection After a Loss**. If such selection of an Insurance Trustee is after a loss, the Association shall pay over to the Insurance Trustee any funds received under such insurance policies and resulting from any assessments against the Unit Owners. Said funds are to be held by the Insurance Trustee in accordance with the provisions hereof.

23.04 **Non-Liability**. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal of the policies, nor for the form or contents of the policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Association, the Unit Owners and their respective mortgagees.

23.05 **Procedure for Reconstruction or Repair if an Insurance Trustee Has Been Selected**. The insurance proceeds and the sums deposited with the Insurance Trustee by the Association from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed to the Insurance Trustee and be applied by the Insurance Trustee to the payment of the cost of reconstruction and repair of the Condominium Property from time to time as the work progresses, but not more frequently than once in any calendar month. Said Insurance Trustee shall make such payments upon the written request of the Association, accompanied by a certificate dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Association and by an architect in charge of the work who shall be selected by the Association, setting forth: (a) that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate; (b) that except for the amount stated in such certificate to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry which might become the basis of a vendor's, mechanic's, materialman's or similar lien arising from such work; and (c) that the cost, as estimated by the person signing such certificate, of the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining in the hands of the Insurance Trustee after the payment of the sum so requested. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds and if their is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association.

23.06 **Reliance**. The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the damaged property is to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

ARTICLE XXIV
LIABILITY AND OTHER INSURANCE

24.01 **Liability Insurance**. As a Common Expense, the Association shall insure itself, the Board, all Unit Owners and Occupants and all other persons lawfully in the possession or control of any part of the Condominium Property, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from the Common Elements; such insurance to afford protection to a limit of not less than One Million Dollars ($1,000,000.00) in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than One Million Dollars ($1,000,000.00) in respect to any one occurrence, and to the limit of not less that One Hundred Thousand Dollars ($100,000.00) in respect to damage to or destruction of property arising out of any one (1) accident.

24.02 **Prohibition**. Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units or Limited Common Elements appertaining thereto.

24.03 **Insufficient Liability Insurance**. In the event that the proceeds of any liability policy be insufficient, any deficit shall be charged to all Unit Owners as a Special Individual Unit Assessment.

24.04 **Other Insurance**. The Association shall also obtain such additional insurance as the Board considers necessary, including without limitation, fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association.

24.05 **Amount of Fidelity Coverage**. The amount of such fidelity bond shall be equal to, at a minimum, the maximum funds that will be in the custody of the Association at any time such bond is in effect. In addition, such fidelity bond coverage must equal the sum of three (3) months Common Assessments, together with the reserve funds, if any.

24.06 **Notice of Cancellation or Substantial Changes**. Any insurance coverage obtained by the Association shall contain a provision requiring the insurer to notify the Association and any mortgagee named in the mortgage clause, if applicable, in writing of the cancellation or a substantial change of coverage at least thirty (30) days prior to such cancellation or substantial change.

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

ARTICLE XXV
REMEDIES FOR BREACH OF COVENANTS AND RESTRICTIONS

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

25.02 **Procedures for Enforcement of Violations**.

(a) Notice. Prior to imposing charges for damages to the Common Elements or other property, or assessments for the enforcement of violations of the provisions of the Condominium Organizational Documents or Rules and Regulations of the Association, the Board shall give the Unit Owner of the Unit written notice containing:

(i) A description of the property damages or the violation;

(ii) The amount of the proposed charge or assessment;

(iii) A statement that the owner has a right to a hearing before the Board to contest the proposed charge or assessment;

(iv) A statement setting forth the procedures to request a hearing pursuant to subsection 24.02(b) of this Article; and

(v) A reasonable date by which the Unit Owner must cure the violation to avoid the proposed charge or assessment.

(b) Hearing. A Unit Owner may request a hearing by delivering written notice of such request no later than the tenth day after receiving the notice provided in Subsection 24.02(a) of this Article. If the Unit Owner fails to make a timely request for a hearing, the right to such hearing shall be considered waived, and the Board may immediately impose the charge for damages or enforcement assessment referenced in the notice provided in Subsection 24.02(a) of this Article, or may allow a reasonable time to cure the violation before imposing a charge or assessment. If a Unit Owner requests a hearing, the Board shall not levy the charge or assessment before holding a hearing, and will, at least seven (7) days prior to the hearing, provide the Unit Owner with a written notice of the date, time and location of the hearing. Within thirty (30) days

following a hearing at which the Board imposes a charge or assessment, the Board shall deliver a written notice of the charge or assessment to the Unit Owner.

(c) Manner of Notice. Any notice required under this Section to be served:

(i) Upon the Unit Owner, shall be delivered personally to the Unit Owner or Occupant at the Unit, or mailed, by certified mail, return receipt requested, to the Unit Owners at the address of the unit, provided that if the Unit Owners have provided the Association with an alternate address, all such notices shall be mailed (by certified mail, return receipt requested) to the Unit Owner at such alternative address;

(ii) Upon the Association, shall be delivered personally to any officer of the Association or to any on-site representative of any professional management company hired by the Association; or mailed, by certified mail, return receipt requested, to any officer of the Association or to the management company hired by the Association.

25.03 **Civil Action**. Declarant, Developer, Agent, Unit Owner or Occupant are liable in a civil action for damages caused to any person by his failure to comply with any lawful provision of the Condominium Instruments. Any interested person may commence an action for a declaratory judgment to determine his legal relations under the Condominium Instruments or to obtain an injunction against a Declarant, Developer, Agent, Unit Owner, or person entitled to occupy a Unit who refuses to comply, or threatens to refuse to comply, with any provision of the instruments. One (1) or more Unit Owners may bring a class action on behalf of all Unit Owners. The lawful provisions of the Condominium Instruments may, if necessary to carry out their purposes, be enforced against the Condominium Property or any person who owns or has previously owned any interest in the Condominium Property.

25.04 **Proper Party**. An action by the Association under this article may be commenced by the Association in its own name or in the name of its Board or in the name of its Managing Agent.

ARTICLE XXVI
ASSESSMENTS AND LIEN OF ASSOCIATION

26.01 **General**. Assessments for the maintenance, repair and insurance of the Common Elements and for the insurance of the Units, together with the payment of the Common Expenses, shall be made in the manner provided herein and in the manner provided in the By-Laws. Such assessments are the personal obligation of a Unit Owner together with any costs and/or expenses, including reasonable attorney's fees incurred by the Association in any foreclosure or collection action.

26.02 **Division of Common Profits and Common Expenses**. The proportionate shares of the Unit Owners for the Common Profits and Common Expenses of the operation of the Condominium Property shall be in accordance with their Percentage of Ownership or as a Per Unit Expense as set forth in the By-Laws.

26.03 **Non-Use of Facilities**. No Unit Owner may be exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Unit.

26.04 **Special Assessments for Capital Improvements**.

(a) In addition to the annual operating assessments, the Board may levy, in any fiscal year, special assessments to construct, reconstruct or replace capital improvements on the Common Elements to the extent that reserves therefore are insufficient, provided that new capital improvements not replacing existing improvements, except new capital improvements required by governmental regulation or to correct any deficiency or defect creating a safety or health hazard, shall not be constructed nor funds assessed therefore, if the cost thereof in any twelve (12) consecutive month period would exceed an amount equal to five percent (5%) of that fiscal year's budget, without the prior consent of Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Unit Owners, including the consent of Unit Owners other than the Declarant who hold a majority of the voting power of Units owned by Unit Owners other than the Declarant, and the consent of Eligible Holders on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Holders.

(b) Any such assessment shall be pro-rated among all Units on the basis of Percentage of Ownership, and shall become due and payable on such date or dates as the Board determines following written notice to the Unit Owners.

26.05 **Special Individual Unit Assessment.** Notwithstanding anything to the contrary herein, if the Association shall incur any cost or expense, including without limitation filing fees and/or attorney's fees, for or on account of any item of maintenance, repair or other matter directly or indirectly occasioned or made necessary by any wrongful or negligent act or omission or failure to pay assessments or comply with the provisions of the Condominium Organizational Documents or Rules and Regulations of and by any Unit Owner or his invites or lessees, such cost of expense shall be borne by such Unit Owner and not by the Association, and if paid by the Association, shall be paid or reimbursed to the Association by such Unit Owner as a Special Individual Unit Assessment forthwith upon the Association's demand.

26.06 **Non-Payment of Assessment; Remedies of the Association**. If any assessment, or any installment or portion of any assessment is not paid within ten (10) days after the same has become due, the entire unpaid balance shall immediately, without notice or demand, become due and payable, and the Board, at its option, without notice or demand, may charge additional amounts for:

(a) Reasonable, uniform administrative late fees as determined by the Board from time to time;

(b) Enforcement charges and collection costs (including, without limitation, attorney and paralegal fees) the association incurs or estimates that it will incur in connection with the collection of the delinquency;

(c) Interest on the entire unpaid balance of assessments and costs incurred by the Association in connection with such collection, at the rate of eight percent (8%) per annum or at such other rate as the Board may, from time to time, determine; and

(d) Any other charges authorized by the Condominium Organizational Documents or the Rules and Regulations.

26.07 Application of Payments. Payments made by a Unit Owner for assessments shall be applied:

(a) First, for the payment of interest accrued on the delinquent installments or portions of unpaid assessments and on costs incurred by the Association in connection with such collection, at the rate of eight percent (8%) per annum or at such other rate as the Board may, from time to time, have otherwise determined;

(b) Second, for the payment of administrative late fees charges with respect to the delinquency applicable to the Unit;

(c) Third, to reimburse the Association for enforcement charges and collection costs, including, without limitation, attorney and paralegal fees incurred by the Association in connection with the delinquency; and

(d) Fourth, to the payment of delinquent installments or portions of assessments which remain unpaid.

26.08 Lien of Association. The Association shall have a lien upon the estate or interest in any Unit and its Percentage of Ownership for the payment of any delinquent assessments chargeable against such Unit. At any time after such delinquency, a certificate of lien for all or any part of the unpaid assessments, including late charges, interest and if monthly assessments are delinquent, then the remaining unpaid monthly assessments under the then current budget may be Recorded pursuant to authorization given by the Board. The certificate shall contain a description of the Unit against which the lien exists, the name or names of the record Unit Owner(s) thereof, and the amount of the delinquency, and shall be signed by the President of the Association.

26.09 Term and Validity of Lien. The lien provided for in the preceding Section shall remain valid for a period of five (5) years from the date filing, unless sooner

released or satisfied, in the same manner provided by law in the state of Ohio for the release and satisfaction of mortgages or real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.

26.10 Priority of Association's Lien. The lien provided for in the preceding Section is prior to any lien or encumbrance subsequently arising or created except liens for real estate taxes and assessments and liens of bona fide first mortgages that have been filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Association by its President, pursuant to authority given to him by the Board.

26.11 Dispute as to Common Expenses. Any Unit Owner who believes that the portion of Common Expenses chargeable to his Unit for which a certificate of lien has been filed by the Association has been improperly charged against him or his Unit may commence as action for the discharge of such lien in the Court of Common Pleas for Logan County, Ohio.

26.12 Non-Liability of Mortgagee for Past Due Common Expenses. When the mortgagee of a first mortgage of record acquires title to the Unit as a result of the remedies provided in such mortgage or a foreclosure of the first mortgage, such mortgagee, its successors and assigns shall not be liable for the share of Common Expenses or other assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such mortgagee. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Units, including that of such mortgagee, its successors or assigns.

26.13 Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Unit the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and his Unit for his share of Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Such grantee hereby expressly assumes and agrees to pay such assessments. However, upon request any such grantee and his mortgagee shall be entitled to a statement from the Board setting forth the amount of all unpaid and current assessments against the grantor due the Association, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to, a lien for any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement.

26.14 Legal Actions. In addition to the lien permitted by this Article, the Association, as authorized by the Board, may bring an action at law against the owner or owners personally obligated to pay the same, an action to foreclose a lien, or any other action permitted by law. In any foreclosure action, the Unit Owner or Owners affected shall be required to pay a reasonable rental for that Unit during the pendency of

such action, and the Association shall be entitled to the appointment of a receiver to collect rental. Rental collected by a receiver during the pendency of a foreclosure action shall be applied first to the payment of the portion of the Common Expenses chargeable to the Unit during the pendency of the foreclosure action. The Association shall be entitled to become a purchaser at any foreclosure sale.

ARTICLE XXVII
ADDITIONAL PROPERTY

27.01 **Contemplated Annexation by Declarant**. Declarant is the owner in fee simple of the Additional Property. It is the desire of the Declarant to submit the Additional Property, together with the building(s) and other improvements to be constructed thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and the Ohio Condominium Act so that the same will become in all respects part of the Condominium Property.

27.02 **Reservation of Option to Expand**. Declarant hereby expressly reserves the option at any time during the Development Period, to take the action so contemplated in submitting all or any part of the Additional Property, together with the building(s) and other improvements to be built thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and the Ohio Condominium Act, so that the same will become, in all respects, part of the Condominium Property.

27.03 **Limitations on Declarant's Option**. Unless otherwise specified in this Article, there are no limitations on Declarant's option to annex or add the Additional Property to the Condominium Property. The consent of Unit Owners to annex or add such Additional Property is not required.

27.04 **Additional Property**. Declarant, in its absolute discretion, may annex or add all or any part of the Additional Property in whatever quantity, amount, sequence or order that it may determine. There are no limitations on Declarant as to the amount of the Additional Property to be added, the sequencing or order of such additions, nor as to the boundaries or size of such additions.

27.05 **Location and Type of Improvements**. Unless otherwise specified in this Article, there are no limitations imposed on Declarant as to the location of any improvements that may be made to any portion of the Additional Property, nor any restrictions as to the type and amount of improvements which must or may be made on the Additional Property by Declarant.

27.06 **Structures**. The structures to be constructed on the Additional Property shall be compatible with the existing structures on the Condominium Property in terms of quality of construction. The structures to be constructed on the Additional Property need not be compatible with the existing structures on the Condominium Property in terms of principal materials used, architectural style, size or elevation.

27.07 **Units**. There will be a maximum of 56 Units constructed on the Additional Property, with a density not to exceed six (6) Units per acre. Such Units need not be substantially identical to the Units constructed on the Condominium Property. Unless otherwise specified in this Article, there are no limitations imposed on Declarant as to the types of Units that may be created on the Additional Property.

27.08 **Limited Common Elements**. Declarant reserves the right to designate any portion of the Additional Property as Limited Common Elements for the use and enjoyment of any Unit or Units to be constructed thereon.

27.09 **Substantial Completion**. All improvements on the Additional Property, when added, must be substantially completed.

27.10 **Non-Residential Uses**. The maximum percentage of the aggregate land and floor area of all Units that may be created on the Additional Property or portions thereof and added to the Condominium Property that are not restricted exclusively to residential use is zero, since no commercial units may be so created and added. There is no restriction on the use of the Additional Property or any portion thereof which is not added to the Condominium.

27.11 **Improvements other than Structures**. With respect to improvements other than structures on any Additional Property added to the Condominium Property, there is no requirement that any such improvements must be made and there are no restrictions or limitations upon what, if any, such non-structural improvements, shall be made; except that any such non-structural improvements shall not be incompatible with current improvements that are on the Condominium Property.

27.12 **Successor Owner not Liable for Actions of Declarant**. A successor owner of the Condominium Property or of Additional Property added to the Condominium Property who is not an Affiliate of the Developer and who is a *bona fide* purchaser of the property for value, or a purchaser who acquires the property at a sheriff's sale or by deed-in-lieu of a foreclosure, is not liable in damages for harm caused by an action or omission of the Declarant or a breach of an obligation by the Declarant.

27.13 **Procedures for Expansion**. All or any portion of the Additional Property shall be added to the Condominium Property by the execution and filing for record by the Declarant in the manner provided by the Condominium Act, of an Amendment that

contains the information, drawings and plans with respect to the Additional Property and improvements thereon added required by the Condominium Act.

27.14 **Effects of Expansion**. Upon the filing for record of an Amendment adding all or any portion of the Additional Property to the Condominium Property:

(a) The added portion shall thereafter be subject to all of the terms and provisions hereof, to the same extent and with the same effect as if that added portion had been provided herein as constituting part of the Condominium Property, that is, the rights, easements, covenants, restrictions and assessment plan set forth herein shall run with and bind the added portion in the same manner, to the same extent, and with the same force and effect as the terms of this Declaration apply to the Condominium Property;

(b) The Unit Owner(s) of the added portion shall thereupon become Members, to the same extent, with the same effect, subject to the same obligations, and imbued with the same rights, as all other Members;

(c) The Percentages of Ownership, as so expanded, shall be reallocated so that each Unit has a Percentage of Ownership including those originally submitted with this Declaration and those added after the date hereof; and

(d) In all other respects, all of the provisions of this Declaration shall include and apply to such additional portions, and to the owners, mortgagees and lessees thereof, with equal meaning and of like force and effect.

ARTICLE XXVIII
LIMITED WARRANTIES BY DECLARANT

28.01 **Two (2) Year Limited Warranty**. The Declarant does hereby give and grant a two (2) year limited warranty covering the full cost of labor and materials for any repair or replacement of the roof and structural components and mechanical, electrical, plumbing and Common Elements serving the Condominium Property, occasioned or necessitated by a defect in material or workmanship.

28.02 **Commencement of Two (2) Year Limited Warranty**. The two (2) year limited warranty shall commence for the property submitted by this Declaration on the date the deed is filed for record following the sale of the first Unit, and for any Additional Property submitted by an Amendment to this Declaration on the date the deed is filed for record following the sale of the first Unit; in either case, to a purchaser in good faith for value.

28.03 **One (1) Year Limited Warranty**. The Declarant does hereby give and grant a one (1) year limited warranty covering the full cost of labor and materials for any repair or replacement of structural, mechanical or other elements pertaining to each Unit, occasioned or necessitated by a defect in material or workmanship performed by or for the Declarant.

28.04 **Commencement of One (1) Year Limited Warranty**. The one (1) year limited warranty shall commence on the date the deed or other evidence of ownership is filed for record following the Declarant's sale and conveyance of the Condominium Ownership Interest in the Unit to a purchaser in good faith for value.

28.05 **Appliances**. The valid assignment by the Declarant of the express and implied warranty of the manufacturer satisfies the Declarant's obligation with respect to ranges, refrigerators, washing machines, clothes dryers, hot water heaters and other similar appliances installed and furnished as part of the Unit by the Declarant. The warranty in Section 27.03 is limited to the installation of the appliances.

28.06 **Assignment**. All warranties made to the Declarant that exceed the time periods specified above with respect to any part of the Units or Common Elements shall be assigned to the Unit Owner or Association.

ARTICLE XXIX
EMINENT DOMAIN

29.01 **General**. If all or any part of the Condominium Property is taken, injured or destroyed by the exercise of the power of eminent domain, each affected Unit Owner and mortgagee shall be entitled to notice of the taking and to participate in the proceedings.

29.02 **Common Elements**. To the extent that an eminent domain taking affects the Common Elements, the Association shall represent the Unit Owners in such condemnation or in negotiations, settlements and agreements with the condemning authority for any acquisition of any part or all of the Common Elements, and each Unit Owner shall be deemed to have appointed the Association as his attorney-in-fact for such purpose.

29.03 **Damages**. Any damages for the taking, injury or destruction of the Common Elements shall be considered as a whole and shall be collected by the Association and distributed among the Unit Owners and among any mortgagees as their interests may appear in proportion to their Percentage of Ownership.

29.04 **Reallocation**. Any reallocation of the Percentage of Ownership after a partial taking shall be effected by an Amendment which shall require the approval of all Unit Owners affected by such reallocation and their mortgagees.

ARTICLE XXX
MISCELLANEOUS PROVISIONS

30.01 **Grantees and Incorporation Into Deeds**. Each grantee of Declarant, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such Unit Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

30.02 **Removal**. Upon the removal of the Condominium Property from the provisions of the Ohio Condominium Act, all easements, covenants and other rights, benefits, privileges, impositions and obligations declared herein to run with the land or any Unit, shall terminate and be of no further force nor effect.

30.03 **Non-Waiver**. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.

30.04 **Invalidity**. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

30.05 **Additional Consent Provisions**. In addition to any consent provisions set forth in the Condominium Organizational Documents, the consent of Eligible Holders on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Holders appertains shall be required for the following:

(a) An increase in assessments that raise the previously assessed amount by more than twenty-five percent (25%);

(b) A reduction in the reserves for maintenance, repair or replacement of Common Element Improvements;

(c) The imposition of any new restrictions affecting the leasing of a Unit;

(d) The imposition of any new restrictions affecting the sale of a Unit;

(e) The decision by the Association not to restore or repair any portion of the Condominium Property after damage or destruction or partial condemnation, or not to restore or repair such property in a manner specified by the Condominium Organizational Documents;

(f) A substantial relaxation in the regulation or enforcement of standards for maintenance, architectural design or exterior appearance of improvements on Units;

(g) A decision by the Association to establish self-management if the professional management has been required previously by the Condominium Organizational Documents or by an Eligible Holder or by a Majority of Unit Owners.

30.06 **Additional Notice Provisions**. In addition to any notice provision set forth in the Condominium Organizational Documents, an Eligible Holder shall be provided with copies of the following related to the Unit secured by such first mortgage or to the Condominium in general:

(a) A copy of any and all notices and other documents permitted or required by the Condominium Organizational Documents to be given to the Unit Owner;

(b) A copy of any lien filed by the Association against a Unit;

(c) Any proposed Amendment affecting a change in the boundaries of the Unit or in its exclusive easement rights appertaining thereto; in the interests of a Unit to the Common Element or its liability for the Common Expenses; the voting rights of a Unit or Unit Owner; or to the purposes to which any Unit or the Common Elements are restricted;

(d) Any proposed termination of the Condominium;

(e) Any condemnation loss or any casualty loss affecting a material portion of the Condominium or affecting a Unit;

(f) Any delinquency in the payment of assessments exceeding sixty (60) days for a Unit;

(g) Any lapse, cancellation or material modification of insurance coverage.

30.07 **Availability of Condominium Instruments and Financial Statements**. Upon request and at reasonable charge, the Association shall make available to any Unit Owner, lenders, first mortgage holders, and prospective purchasers, copies of the

Condominium Instruments and the most recent audited financial statements of the Association if the latter has been prepared.

30.08 **No Adverse Action by Declarant**. That so long as said Declarant, his successors and assigns own one or more of the Units established and described herein, said Declarant, his successors and assigns shall be subject to the provisions of this Declaration and said Declarant covenants to take no action which would adversely affect the rights of the Association with respect to assurances against latent defects in the property or other right assigned to the Association by reason of the establishment of the Condominium.

30.09 **Headings**. The heading of each Article and to each Section hereof is inserted only as a matter of convenience and for reference, and in no way defines, limits or describes the scope or intent of this Declaration nor in any way affects this Declaration.

30.10 **Liberal Construction**. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first class condominium development.

30.11 **Deposits or Down Payments**. Any deposit or down payment made in connection with the sale of a Condominium Ownership Interest will be held in trust or escrow until delivered at settlement or returned to or otherwise credited to the purchaser or forfeited to the Developer, and that if a deposit or down payment of Two Thousand Dollars ($2,000.00) or more is held for more than ninety (90) days, interest at the rate of at least four percent (4%) per annum for any period exceeding ninety (90) days shall be credited to the purchaser at settlement or upon return or other credit made to the purchaser or added to any forfeiture to the Developer.

30.12 **Developer's Interest in Common Elements**. Except in its capacity as a Unit Owner of unsold Condominium Ownership Interests, the Developer will not retain a property interest in any of the Common Elements after control of the Condominium is assumed by the Association.

30.13 **Rights and Obligations of Developer as a Unit Owner**. The Developer will assume the rights and obligations of a Unit Owner in its capacity as an owner of Condominium Ownership Interests not yet sold, including without limitation, the obligation to pay Common Expenses, including reserves, attaching to such interests from the date the Declaration is Recorded.

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

30.15 **Full Compliance**. The Condominium has been created and exists in full compliance with the requirements of the Ohio Condominium Act, and all other applicable law.

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

****

EXECUTED on the date set forth in the acknowledgement of the signature below.

WASHINGTON VILLAGE HOMES, LLC

By: _____
Dennis A. Moore
Member

By: _____
William A. Simms, Jr.
Member

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this _____ day of _____, 2007 by Dennis A. Moore and William A. Simms, Jr., Members of Washington Village Homes, LLC, an Ohio limited liability company, on behalf of such company.

_____
Notary Public

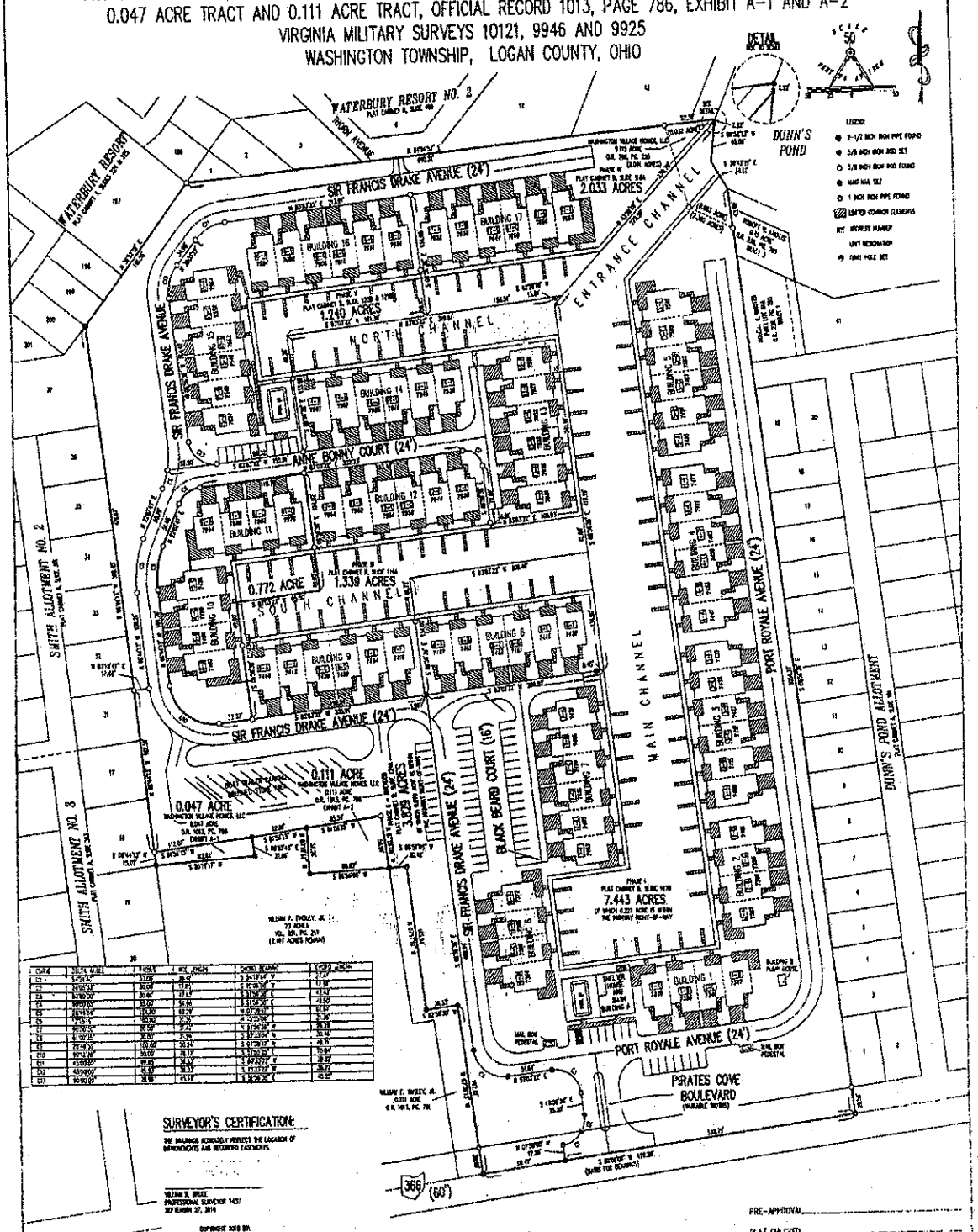
THIS INSTRUMENT PREPARED BY:

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

EXHIBIT B TO DECLARATION AND BYLAWS OF

PIRATE'S COVE AT INDIAN LAKE CONDOMINIUM PHASE VI

16.752 ACRE TRACT, OFFICIAL RECORD 795, PAGE 858, 0.115 ACRE TRACT, OFFICIAL RECORD 796, PAGE 255
0.047 ACRE TRACT AND 0.111 ACRE TRACT, OFFICIAL RECORD 1013, PAGE 786, EXHIBIT A-1 AND A-2
VIRGINIA MILITARY SURVEYS 10121, 9946 AND 9925
WASHINGTON TOWNSHIP, LOGAN COUNTY, OHIO



SURVEYOR'S CERTIFICATION:

ARCHITECT'S CERTIFICATION:

NOTES:

1. EASEMENTS IF SHOWN ARE AS PROVIDED OF BENEFIT. THE SURVEYOR DID NOT SEARCH FOR ADDITIONAL EASEMENTS.
2. THE WORD "CERTIFY" IS INTENDED TO BE AS DEFINED IN OHIO ADMINISTRATIVE CODE 4733-38-04(E).
3. BUILDING HEIGHT FROM PEAK OF ROOF TO GROUND.
BUILDING 10 IS 30.3'
BUILDING 11 IS 30.3'

PRE-APPROVAL _____
PLAT CHECKED _____
TRANSFERRED THIS _____ DAY OF _____, 2010
_____
AUDITOR, LOGAN COUNTY, OHIO
RECORDED IN PLAT CABINET _____, SLIDE _____
RECEIVED FOR RECORD AT _____ O'CLOCK ___M.
THIS _____ DAY OF _____, 2010
_____
RECORDER, LOGAN COUNTY, OHIO

CALL TOLL FREE 800-362-2764