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AUDITOR
FRANKLIN COUNTY, OHIO

DECLARATION AND BYLAWS

CREATING AND ESTABLISHING A PLAN FOR

CONDOMINIUM OWNERSHIP

UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO

FOR

40 WEST CONDOMINIUM

CERTIFICATE OF AUDITOR

April 1, 2016

Receipt is hereby acknowledged of a copy of the Declaration, Bylaws, and Drawings of the above-named Condominium.

Clarence E Mingo II
Franklin County Auditor

By: Michael Dotson
Deputy Auditor

This instrument prepared by Calvin T. Johnson, Jr., attorney at law, Brosius, Johnson & Griggs, LLC, 1600 Dublin Road, Suite 100, Columbus, Ohio 43215.

DECLARATION INDEX

ITEM	PAGE
RECITALS	1
DEFINITIONS	1
THE PLAN	2
THE LAND (ARTICLE I)	2
NAME (ARTICLE II)	3
PURPOSES; RESTRICTIONS (ARTICLE III)	3
Purposes (Section 1)	3
Restrictions (Section 2)	3
(a) Animals	3
(b) Architectural Control	3
(c) Common Element Uses	3
(d) Construction in Easements	3
(e) Conveyances	4
(f) Discrimination/Handicapped Accommodation	4
(g) Limited Common Element Uses	4
(h) Offensive Activities	4
(i) Reallocations	4
(j) Renting and Leasing	4
(k) Replacements	5
(l) Rules and Regulations	5
(m) Signs; Commercial Devices	5
(n) Structural Integrity	5
(o) Unit Uses	5
(p) Vehicles	5
(q) Visible Areas	5
IMPROVEMENT DESCRIPTIONS (ARTICLE IV)	6
Buildings (Section 1)	6
Other (Section 2)	6
UNITS (ARTICLE V)	6
Unit Designations (Section 1)	6
Composition of Units (Section 2)	6
(a) Unit Composition	6
(b) Unit Types, Sizes, Locations and Components	7
Conversion of Units (Section 3)	7
(a) General; Conditions	7
(b) Mechanics	7
(c) Effect of Conversion	7
Relocation of Boundaries between Adjoining Units and Reallocation of Undivided Interest in Common Elements (Section 4)	8
(a) Right to Relocate and/or Combine Boundaries of Units	8
(b) Board Approval of Relocation of Boundaries and Reallocation of Undivided Interests in Common Elements	8
(c) Recordation of Amendment	8
COMMON AND LIMITED COMMON ELEMENTS (ARTICLE VI)	8
Common Elements - Description (Section 1)	8
Limited Common Elements - Description (Section 2)	8
Par Values; Undivided Interests (Section 3)	9
ASSOCIATIONS (ARTICLE VII)	9
Establishment of Condominium Association (Section 1)	9
Membership (Section 2)	9
Voting Rights (Section 3)	9
Board of Directors (Section 4)	9
Security (Section 5)	9
Other Associations (Section 6)	9

DECLARATION INDEX

ITEM	PAGE
AGENT FOR SERVICE (ARTICLE VIII)	9
MAINTENANCE AND REPAIR (ARTICLE IX)	9
Condominium Association Responsibility (Section 1)	9
Individual Responsibility (Section 2)	10
UTILITY SERVICES (ARTICLE X)	10
INSURANCE; LOSSES (ARTICLE XI)	10
Special Broad Form Casualty Insurance (Section 1)	10
Liability Insurance (Section 2)	11
Fidelity Coverage (Section 3)	11
Hazard Insurance Carrier (Section 4)	12
Flood Insurance (Section 5)	12
Other Condominium Association Insurance (Section 6)	12
Insurance Representative; Power of Attorney (Section 7)	12
Unit Owners' Insurance (Section 8)	12
Sufficient Insurance (Section 9)	13
Insufficient Insurance (Section 10)	13
Lender Requirements (Section 11)	13
DAMAGE; RESTORATION; TERMINATION (ARTICLE XII)	13
Restoration of Substantial Damage or Destruction (Section 1)	13
Election Not to Restore; Termination (Section 2)	13
CONDEMNATION (ARTICLE XIII)	13
Standing (Section 1)	13
Use of Proceeds (Section 2)	14
Insufficient Proceeds (Section 3)	14
Non-Restorable Unit (Section 4)	14
Power of Attorney (Section 5)	14
GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS (ARTICLE XIV)	14
Easements of Enjoyment; Limitations (Section 1)	14
Easements for Encroachments (Section 2)	15
Easements Reserved to Declarant (Section 3)	15
Easements for Proper Operations (Section 4)	15
Easement for Support (Section 5)	15
Easement for Services (Section 6)	15
Entry for Repair, Maintenance and Restoration (Section 7)	15
Power of Attorney (Section 8)	15
General (Section 9)	16
ASSESSMENTS AND ASSESSMENT LIENS; RESERVE FUNDS (ARTICLE XV)	16
Types of Assessments (Section 1)	16
Purpose of Assessments (Section 2)	16
Elements-Apportionment: Due Dates (Section 3)	16
(a) Operating Assessments	16
(b) Special Assessments for Capital Improvements	17
(c) Special Individual Unit Assessments	17
Effective Date of Assessment (Section 4)	18
Effect of Nonpayment of Assessment; Remedies of the Condominium Association (Section 5)	18
Subordination of the Lien to First Mortgages (Section 6)	19
Certificate Regarding Assessments (Section 7)	19
NOTICES TO AND VOTING RIGHTS OF LENDING INSTITUTIONS; FIRST MORTGAGEES RIGHTS CONFIRMED (ARTICLE XVI)	20
Notices to Eligible Mortgagees (Section 1)	20
Voting Rights (Section 2)	20
Notices to Mortgagees (Section 3)	20
First Mortgagee's Rights Confirmed (Section 4)	21
AMENDMENTS (ARTICLE XVII)	21

DECLARATION INDEX

ITEM	PAGE
Power to Amend (Section 1)	21
Method to Amend (Section 2)	22
GENERAL PROVISIONS (ARTICLE XVIII)	22
Covenants Running With the Land (Section 1)	22
Actions (Section 2)	23
Severability (Section 3)	23
Gender and Grammar (Section 4)	23
Captions (Section 5)	23

EXHIBITS

LEGAL DESCRIPTION, CONDOMINIUM PROPERTY	EXHIBIT A
SKETCH PLOT PLAN, CONDOMINIUM PROPERTY	EXHIBIT B
UNIT INFORMATION SHEET	EXHIBIT C
UNIT TYPE INFORMATION SHEET	EXHIBIT D

DECLARATION

This is the Declaration of 40 West Condominium made on or as of the 18th day of March, 2016, pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio.

Recitals

A. 40 West, LLC, an Ohio limited liability company, "Declarant", is the owner in fee simple of all of the real property hereinafter described as being submitted hereby to the provisions of the Condominium Act and the improvements thereon and appurtenances thereto.

B. Declarant desires to create of this property a site of individually owned units and commonly owned areas and facilities, and to these ends to submit this property to condominium ownership under the Condominium Act.

Definitions

The terms used in this document shall have these meanings, unless the context requires otherwise:

1. "Articles of Incorporation" means the articles of incorporation filed with the Secretary of State of Ohio incorporating 40 West Condominium Association as a corporation not-for-profit under the provisions of Chapter 1702 of the Revised Code of Ohio (the State of Ohio's enabling nonprofit corporation act).

2. "Assessments" means all charges, of whatever nature, levied by the Condominium Association against a Unit and its owners, and includes:

(a) "Operating Assessments;"

(b) "Special Assessments for Capital Improvements;" and

(c) "Special Individual Unit Assessments," each of which is hereinafter defined in this Declaration.

3. "Board" and "Board of Directors" mean those persons who, as a group, serve as the board of directors of the Condominium Association.

4. "Bylaws" means the bylaws of the Condominium Association, created under and pursuant to the provisions of the Condominium Act for the Condominium, and which also serve as the code of regulations of the Condominium Association under and pursuant to the provisions of Chapter 1702 of the Revised Code of Ohio. A true copy of the Bylaws is attached to this Declaration and made a part hereof.

5. "Common Elements" means all of the Condominium Property except that portion described in this Declaration as constituting a Unit or Units.

6. "Condominium" and "40 West Condominium" mean the condominium regime for the Condominium Property created under and pursuant to the provisions of the Condominium Act.

7. "Condominium Act" means Chapter 5311 of the Revised Code of Ohio.

8. "Condominium Association" and "40 West Condominium Association" mean the corporation not-for-profit created by the filing of the Articles of Incorporation and is also one and the same as the association created for the Condominium under and pursuant to the provisions of the Condominium Act.

9. "Condominium Instruments" means this Declaration, the Bylaws, the Drawings, any contracts pertaining to the management of the Condominium Property, the condominium development disclosure statement provided by the Condominium Act, and, as provided therein, "any other documents, contracts, or instruments establishing ownership of or exerting control over a condominium property or unit."

10. "Condominium Organizational Documents" means the Articles of Incorporation, the Bylaws, the Drawings, and this Declaration.

11. "Condominium Property" means the tract of land hereinafter described as being submitted to the provisions of Condominium Act, all buildings, structures and improvements situated thereon, and all easements, rights and appurtenances belonging thereto, and all property being described as being part of the Condominium.

12. "Convertible Unit" means Units which may, at any time and from time to time, be converted or subdivided into one or more Units or Common Elements, including Limited Common Elements, pursuant to the provisions of Section 3 of Article V of this Declaration and the provisions of the Condominium Act. Unit 40 initially part of the Condominium is hereby identified as a Convertible Unit.

13. "Declarant" means whoever is designated in the recitals of this Declaration as creating the Condominium, and Declarant's successors and assigns, provided the rights specifically reserved to Declarant under the Condominium Organizational Documents shall accrue only to such successors and assigns as are designated in writing by Declarant as successors and assigns of such rights.

14. "Declaration" means this instrument by which the Condominium Property is hereby submitted to the provisions of the Condominium Act.

15. "Director" and "Directors" mean that person or those persons serving, at the time pertinent, as a Director or Directors of the Condominium Association.

16. "Drawings" means the drawings for the Condominium and are the Drawings required pursuant to the provisions of the Condominium Act. A set thereof has accompanied the filing of this Declaration for record and will be filed separately from this Declaration by the appropriate public authorities.

17. "Eligible Mortgagees" means the holders of valid first mortgages on Units who have given written notice to the Condominium Association stating their names, addresses and Units subject to their mortgages.

18. "Limited Common Elements" means those Common Elements serving exclusively one Unit or more than one but less than 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.

19. "Mortgagee" and "Mortgagees" mean the holder or holders of a valid mortgage or mortgages on a Unit or Units.

20. "Occupant" means a person lawfully residing in a Unit, regardless of whether or not that Person is a Unit Owner.

21. "Person" means a natural individual, trustee, corporation, partnership, limited liability company, or other legal entity capable of holding title to real property.

22. "Unit" and "Units" mean that portion or portions of the Condominium Property described as a unit or units in this Declaration and designated by Unit designation on the Drawings, and is that portion of the Condominium constituting a "unit" or "units" of the Condominium under the provisions of the Condominium Act and includes both dwelling Units and Convertible Units.

23. "Unit Owner" and "Unit Owners" mean that Person or those Persons owning a fee simple interest in a Unit or Units, each of whom is also a "member" of the Condominium Association, as defined in Chapter 1702 of the Revised Code of Ohio.

The Plan

NOW, THEREFORE, Declarant hereby makes and establishes the following plan for condominium ownership of the property described in this Declaration and/or the exhibits attached to the Declaration as "Condominium Property" under and pursuant to the provisions of the Condominium Act:

ARTICLE I

THE LAND

A legal description of the land consisting of 0.384 acre, more or less, and constituting a part of the Condominium Property, located in the City of Columbus, Franklin County, Ohio, is attached to this Declaration and marked "Exhibit A", and made a part of this Declaration by this reference.

ARTICLE II

NAME

The name by which the Condominium shall be known is "40 West Condominium".

ARTICLE III

PURPOSES; RESTRICTIONS

Section 1. Purposes. This Declaration is being made to establish separate individual parcels from the Condominium Property to which fee simple interests may be conveyed; to create restrictions, covenants and easements providing for, promoting, and preserving the values of Units and the Common Elements and the well-being of Unit Owners and Occupants; and to establish a Unit Owners' association to administer the Condominium and the Condominium Property, to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth, and to raise funds through Assessments to accomplish these purposes.

Section 2. Restrictions. The Condominium and the Condominium Property shall be benefited by and subject to the following restrictions:

(a) Animals. Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or on the Common Elements. The foregoing notwithstanding, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (i) the maintaining of animals shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the right to place limitations on the size, number and type of such pets, and the right to levy enforcement charges against Persons who do not clean up after their pets; and (ii) the right of an Occupant to maintain an animal in a Unit shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Condominium or other Units or Occupants.

(b) Architectural Control. Except for improvements constructed by Declarant or its designee during the initial construction, or as specifically permitted in this Declaration, no building, fence, wall, sign or other structure or improvement 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 or representatives, in its or their sole and unfettered discretion. Nothing visible to the exterior shall be permitted to be hung, placed, displayed or maintained in Limited Common Elements unless approved, in writing, by the Board or its designated representative or representatives, in its or their sole and unfettered discretion, or unless the same is authorized by existing rule or regulation adopted by the Board. Notwithstanding any repair or maintenance provision contained herein to the contrary, the Board may require, as a condition to approval, that the responsibility for repairing and maintaining the addition or improvement shall be the responsibility of the requesting Unit Owner and all future owners of that Unit.

(c) Common Element Uses. The Common Elements (except the Limited Common Elements) shall be used in common by Unit Owners and Occupants and their agents, servants, customers, invitees and licensees, in accordance with the purposes for which they are intended, reasonably suited and capable, and as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of Units. Unless expressly provided otherwise in this Declaration, no Common Elements shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation or enjoyment of Unit Owners and Occupants, and the Common Elements shall be subject to the provisions of the Condominium Organizational Documents and to such rules and regulations as may from time to time be duly promulgated by the Board.

(d) Construction in Easements. No structure, planting or other material shall be placed or permitted to remain within the easements for the installation and maintenance of utilities and drainage facilities which may damage or interfere with the installation and maintenance of utility lines or which may change the direction of the flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easement areas. The utility facilities within the

easement areas shall be subject to the right of the Condominium Association to maintain the same, and its right to delegate that right to a public authority or utility.

(e) Conveyances. Each Unit shall be conveyed or transferred (voluntarily or involuntarily) as a separately designated and legally described freehold estate subject to the terms, conditions and provisions of the Condominium Organizational Documents. 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. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an interest in the Common Elements will be void unless the Unit to which that interest is allocated is also transferred to the same transferee. In any instrument of conveyance or instrument creating an encumbrance, or in any other document legally describing a Unit, it shall be sufficient to lawfully describe a Unit and its interest in the Common Elements by referring to the Unit designation of the Unit and the appropriate recording references of the initial page of this Declaration and the Drawings. The right of a Unit Owner to sell, transfer or otherwise convey that Unit Owner's Unit is not subject to any right of first refusal, and any Unit Owner may transfer that owner's Unit free of any such limitation. To enable the Condominium Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Condominium Association, in writing, within five days after an interest in that Unit Owner's Unit has been transferred to another Person. In addition, each Unit Owner agrees to provide to a purchaser of that owner's Unit a copy of the Condominium Organizational Documents and all effective rules and regulations.

(f) Discrimination/Handicapped Accommodation. No action shall at any time be taken by the Condominium Association or its Board which in any manner would discriminate against any Unit Owner in favor of another. In addition, notwithstanding any provision hereof, or any rule or regulation, the Board shall make reasonable accommodation if necessary to afford a handicapped Person equal opportunity to use and enjoy the Condominium Property, provided, that nothing contained herein shall be construed to mean or imply that any such accommodation be at the cost of the Condominium Association.

(g) Limited Common Element Uses. Those portions of the Common Elements described herein and/or shown on the Drawings as Limited Common Elements shall be used and possessed exclusively by the Unit Owners and Occupants of the Unit or Units served by the same, as specified in this Declaration, and shall be used only for the purposes intended and subject to the other provisions of this Declaration, and such rules and regulations as may from time to time be duly promulgated by the Board.

(h) Offensive Activities. No noxious or offensive activity or abusive or harassing behavior, or any form of intimidation or aggression, either verbal or physical, shall be engaged in or carried on in any Unit, or upon the Common Elements or Limited Common Elements, nor shall any be used in any way or for any purpose which may endanger the health of or unreasonably disturb any Occupant, or which might intimidate or interfere with the activities of any Occupant or representative of the Condominium Association or its managing agent, or their licensees or invitees.

(i) Reallocations. Except as otherwise provided by this Declaration or Ohio law, boundaries between Units and/or appurtenant Limited Common Elements shall not be adjusted nor undivided interests in Units reallocated, nor rights to use Limited Common Elements reallocated, without the express prior written consent of the Board, which it may exercise in its sole and unfettered discretion.

(j) Renting and Leasing. No Unit or part thereof shall be rented or used for transient or hotel purposes, which is defined as rental under which Occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services. No lease may have an initial term of less than six (6) months. Any lease agreement shall be in writing, shall provide that the lease shall be subject in all respects to the provisions of the Condominium Organizational Documents, and to the rules and regulations duly promulgated from time to time by the Board, and shall provide that the failure by the tenant to comply with the terms of the Condominium Organizational Documents and lawful rules and regulations shall be a default under the lease. Prior to the commencement of the term of a lease the Unit Owner shall notify the Board, in writing,

the name or names of the tenant or tenants, and all Occupants, and the time during which the lease term shall be in effect.

(k) Replacements. Any building erected to replace an existing building containing Units shall be of new construction, be of comparable structure type, size, design and construction to that replaced, and shall contain a like number of Units of comparable size to the Units in the building replaced.

(l) Rules and Regulations. In addition to adopting and enforcing rules and regulations in the instances specifically herein mentioned, the Board may, from time to time, adopt and enforce such further reasonable rules and regulations as it deems necessary or desirable to promote harmony, to serve the best interests of the Unit Owners, as a whole, and the Condominium Association, and to protect and preserve the nature of the Condominium and the Condominium Property. A copy of all rules and regulations shall be furnished by the Board to the owners of each Unit prior to the time when the same are intended to become effective.

(m) Signs; Commercial Devices. No sign, insignia, display, device, or form of external evidence of commercial advertising or use, of any kind, shall be displayed to the public view on the Condominium Property or on anything on the Condominium Property, except: (i) on the Common Elements, signs regarding and regulating the use of the Common Elements, provided they are approved by the Board; (ii) on the interior side of the window of a Unit, one professionally prepared sign not in excess of nine square feet in size, advertising the Unit for sale or rent; and (iii) on the Common Elements and model Units, signs advertising the sale and/or rental of Units by Declarant during the period of its sale and rental of Units shall be permitted, provided, if these limitations on use of signs, or any part thereof, are determined to be unlawful, only the signs described in subitem (i), above, shall be permitted after Declarant's period of sales and rental of Units.

(n) Structural Integrity. Nothing shall be done in any Unit, or in, on or to the Common Elements or Limited Common Elements, which may impair the structural integrity of any improvement.

(o) Unit Uses. Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility. Notwithstanding the foregoing: (i) an Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees or invitees coming to the Unit), making professional telephone calls, or corresponding in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions; (ii) it shall be permissible for Declarant to maintain, during the period of its sale or rental of Units, one or more Units, whether hereby made a part of the Condominium, or added hereafter, as sales and rental models and offices, and for storage and maintenance purposes, and (iii) one or more of such Units or a portion thereof may be maintained for the use of the Condominium Association in fulfilling its responsibilities.

(p) Vehicles. The Board may promulgate rules and regulations restricting or prohibiting the parking of automobiles, vans, buses, inoperable vehicles, trucks, trailers, boats and recreational vehicles on the Common Elements, including the Limited Common Elements, or parts thereof, and may enforce such regulations or restrictions by levying enforcement charges, having such vehicles towed away, or taking such other lawful actions as the Board, in its sole discretion, deems appropriate.

(q) Visible Areas. Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except interior inoffensive drapes, curtains, or louvered blinds) or placed on the outside walls of a building or otherwise outside of a Unit, or any part thereof, and no awning, canopy, shutter or television or citizens' band or other radio antenna or transmitter, or any other device or ornament, shall be affixed to or placed upon an exterior wall or roof or any part thereof, or the exterior of any door or window, or in, on, or over a patio, deck, porch or balcony, visible to the exterior, unless authorized by the Board or required by applicable law to be permitted,

but, in such case, subject to such lawful rules and regulations as the Board may adopt from time to time.

ARTICLE IV

IMPROVEMENT DESCRIPTIONS

Section 1. Buildings. The Condominium consists of one two-story building containing three Units and one four-story building containing one Convertible Unit, a total of four Units. The two-story building is constructed on a stone foundation with a masonry stone, wood frame, a painted brick exterior, and an asphalt shingle roof. The two-story building has an unfinished limited access basement area. The building that is four stories above grade is constructed with a concrete and block foundation, with a wood frame, a combination of brick Hardie Plank exterior, and a TPO roof. The four-story building does not have a basement.

Section 2. Other. In addition, the Condominium contains sidewalks, paved drive and parking areas, an open-air covered parking area and lawn and landscaped areas. There are no recreation facilities a part of the Condominium. The Condominium Property includes all areas and improvements described in this Article.

ARTICLE V

UNITS

Section 1. Unit Designations. Each Unit will be legally designated by a two digit number or by a two digit number and a letter (the Unit's "Unit Designation") and is shown on the Drawings and the attached "Exhibit B", and made part of the Declaration by this reference, where that Unit is located, and is listed on the attached "Exhibit C" attached to the Declaration and made part of by this reference.

Section 2. Composition of Units.

(a) Unit Composition. Each Unit constitutes a single freehold estate and consists of, among other things, the space in the building designated by that Unit's designation on the Drawings that is bounded by the undecorated interior surfaces of the perimeter walls, the unfinished surface of the floor at the lowest level, and the unfinished interior surface of the ceiling of the highest floor, all projected, if necessary by reason of structural divisions such as interior walls and partitions, to constitute complete enclosures of space, and all improvements within that space. Without limiting the generality of the foregoing, or, as appropriate, in addition, each Unit shall include:

(i) the decorated surfaces, including paint, lacquer, varnish, wall covering, tile and other finishing material applied to floors, ceilings, and interior and perimeter walls, carpeting, if any, and the drywall, paneling and other finishing floor, ceiling and wall material;

(ii) the finished walls, ceilings and floors themselves, including, but not limited to, drywall plaster and paneling, but not the building's supporting elements, such as, but not limited to, rafters and joists above the ceiling at the Unit's highest level, the sub-flooring below the finished floors themselves at the lowest level of the Unit, and the structural walls or structural components thereof to which the finished walls, floors and ceilings such as, but not limited to, plaster, drywall, and paneling, are affixed;

(iii) all windows, skylights, if any, and screens and doors, including storm doors and windows, if any, and the frames, sashes and jambs, and the hardware therefor;

(iv) all fixtures and appliances installed for the exclusive use of that Unit, commencing at the point of disconnection from the structural body of the building and from utility pipes, lines or systems serving the entire building or more than one Unit thereof, including, without limiting the generality hereof, built-in cabinets, dishwashers, garbage disposal units, refrigerators, stoves and hoods, television antennas and cables, furnaces, hot water heaters, HVAC system (even if located outside the bounds of a Unit), and components of the foregoing, if any;

(v) all plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts, conduits and apparatus, wherever located, which serve only that Unit;

(vi) all control knobs, switches, thermostats and electrical outlets and connections affixed to or projecting from the walls, floors and ceilings which service only the Unit or the fixtures located therein;

(vii) all interior walls that are not necessary for support of the structure, and all components thereof and all space encompassed thereby;

(viii) the portion of fireplaces, if any, actually within the interior of a Unit and the vents and dampers therefor accessible from the Unit's interior; and

(ix) the attic space or storage space above the living area of a Unit, and the crawl space and/or basement area below a Unit, if any, to which the Unit has direct and exclusive access;

excluding therefrom, however, all of the following items, whether or not located within the bounds of that Unit:

(i) any supporting element of the building contained in interior walls, floors and ceilings;

(ii) all plumbing, electric, heating, cooling and other utility or service lines, pipes, sump pumps and accessories thereto, wires, ducts and conduits which serve any other Unit; and

(iii) fireplace stacks, liners and chimneys, if any.

(b) Unit Types, Sizes, Locations and Components. The type, composition, and approximate interior area of each Unit that is part of the Condominium are shown on "Exhibit D", and made part of the Declaration by this reference. The location, dimensions, type and composition of each Unit are shown on the Drawings. Each Unit has direct access to Common Elements, which lead directly to an unnamed public alley and/or West Third Avenue, both public streets.

Section 3. Conversion of Units.

(a) General; Conditions. Notwithstanding any other provision in this Declaration to the contrary, and provided that: (i) the same may be accomplished without contradicting the provisions of the Condominium Act; (ii) the same meets all requirements of the appropriate governmental authorities in all respects, including, without limitation, building, zoning, and health and safety requirements; and (iii) no structural change is made to the building without the approval of the Board; the owners of a Unit may, at any time and from time to time, convert all or any portion of a Unit into one or more Units or Common Elements, including Limited Common Elements.

(b) Mechanics. A Unit Owner desiring to convert a Unit shall prepare and execute an amendment to the Declaration that describes the conversion and record the amendment together with the drawings described in division (E) of Section 5311.07 of the Condominium Act. The amendment shall specify the square footage, undivided interests in the Common Elements, proportionate shares of common surplus and common expenses, and the voting powers of each Unit resulting from the conversion. The aggregate totals of the foregoing shall equal the undivided interest in the Common Elements, proportionate share of common surplus and common expenses, and the voting power of the Unit being converted. The amendment to the Declaration shall also assign an identifying number to each Unit formed, describe or delineate the Limited Common Elements formed out of the Convertible Unit, and show or designate each Unit to which those Limited Common Elements are reserved.

(c) Effect of Conversion. The conversion of a Convertible Unit pursuant to this section is deemed to occur at the time that the amendment and drawings are filed with the Franklin County Recorder. The Unit or Units created out of the Convertible Unit may be any type of Unit provided for herein even though the Convertible Unit may have been identified as a different Unit type. That fact notwithstanding, the conversion of one type of Unit into one or more Units of a different type shall be subject to the provisions of

Section 3(b) of this Article and shall not result in a change in the par value calculation initially used for the original Convertible Unit.

Section 4. Relocation of Boundaries between Adjoining Units and Reallocation of Undivided Interest in Common Elements.

(a) Right to Relocate and/or Combine Boundaries of Units. Notwithstanding any provision in this Declaration to the contrary, to the extent not prohibited by Ohio Law, the boundaries between adjoining Units may be relocated and the undivided interests in the Common Elements appurtenant to those Units may be reallocated by an amendment to the Declaration pursuant to the following procedures:

(i) The owners of the adjoining Units shall submit to the Board a written application for the relocation, reallocation or combination. 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 due and payable.

(ii) In the application, the owners of the adjoining Units may request a specific reallocation of their undivided interests in the Common Elements allocated to the adjoining Units.

(b) Board Approval of Relocation of Boundaries and Reallocation of Undivided Interests in Common Elements. Unless the Board finds any requested reallocation of the undivided interests in the Common Elements to be unreasonable, within thirty (30) days after the Board receives the application, the Condominium Association shall prepare, at the expense of the owners of the adjoining Units, an amendment to the Declaration that is executed by the owners of the affected Units and that includes all of the following:

(i) Identification of the affected Units;

(ii) Words of conveyance between the owners of the Units; and

(iii) A specification of the undivided interests in the Common Elements, the proportionate shares of common surplus and common expenses and the voting powers of each Unit resulting from the relocation, reallocation or combination, the total of which shall equal the interests, shares and powers of the former adjoining Units.

(c) Recordation of Amendment. At the expense of the owners of the affected Units, the Condominium Association shall record the amendment to the Declaration together with both of the following:

(i) Any drawing, plat, or plans necessary to show the altered boundaries of the affected Units; and

(ii) The dimensions and identifying number of each Unit that results from the relocation, reallocation and/or combination.

Existing liens automatically shall attach to each Unit that results from the relocation and reallocation.

ARTICLE VI

COMMON AND LIMITED COMMON ELEMENTS

Section 1. Common Elements - Description. All of the Condominium Property, including all of the land and all improvements thereon and appurtenances thereto, except those portions labeled or described herein or on the Drawings as a part of a Unit, are Common Elements.

Section 2. Limited Common Elements - Description. Those portions of the Common Elements that are labeled or designated "Limited Common Elements" on the Drawings, or so described herein, are Limited Common Elements. The Unit located exclusively in the four-story building will have one or more Limited Common Element terraces or balconies and one or more parking spaces in the enclosed parking areas located on the first floor of the new building as Limited Common Elements. One Unit in the two-story building will have a Limited Common Element porch, two Units in the two-story building will have one parking space in the open air garage bay, and one Unit in the two-story building will have two parking spaces in the open air garage bay, all as Limited Common Elements. Each such Limited Common

Element is reserved for the exclusive use of the owners and Occupants of the Unit or Units it is described, designed or designated in this Declaration or on the Drawings to serve.

Section 4. Par Values; Undivided Interests. The undivided interest in the Common Elements of each Unit is shown on the attached Exhibit C, and, in each case, is based on a par value for each Unit as set forth on Exhibit C. The Common Elements shall be owned by the Unit Owners as tenants in common, and ownership thereof shall remain undivided. No Unit Owner may waive or release any rights in the Common Elements. Further, the undivided interest in the Common Elements of a Unit shall not be separated from the Unit to which it appertains.

ARTICLE VII

ASSOCIATIONS

Section 1. Establishment of Condominium Association. The Condominium Association has been formed to be and to serve as the Unit Owners' association of the Condominium. Declarant is presently the sole member of the Condominium Association.

Section 2. Membership. Membership in the Condominium Association shall be limited to the Unit Owners, and every Person who is or becomes a record owner of a fee or undivided fee simple interest in a Unit is a Unit Owner and shall be a member. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Unit, and transfer of a Unit shall automatically transfer membership to the transferee.

Section 3. Voting Rights. Voting rights of members are as set forth in the Bylaws.

Section 4. Board of Directors. The number and composition, and the authority, rights and responsibilities, of the Board of Directors shall be as provided in the Bylaws, provided that no member of the Board need be a Unit Owner, but shall meet the qualifications set forth in the Bylaws.

Section 5. Security. The Condominium Association may, from time to time, provide measures of security on or with respect to the Condominium Property and/or its Unit Owners, Occupants, invitees and licensees. However, the Condominium Association is not and shall not be deemed to be a provider of security, shall have no duty to provide any security on the Condominium Property or with respect to its Unit Owners, Occupants, invitees or licensees, and shall not be held liable for any loss, cost, or damage arising by failure of the Condominium Association to provide security or the effectiveness of security measures it undertakes, if any. The obligation to provide security lies solely with each Unit Owner and Occupant individually.

Section 6. Other Associations. There is no requirement that the Condominium Association or that any Unit Owners be members of a not-for-profit organization that provides facilities or recreation, education or social services to owners of property other than the Condominium Property.

ARTICLE VIII

AGENT FOR SERVICE

The name of the Person to receive service of process for the Condominium Association, the Condominium Association's "Statutory Agent", and that Person's residence or place of business, which is in the State of Ohio, is:

Stephanie Murphy
600 Stonehenge Parkway, 2nd Floor
Dublin, Ohio 43017

In the event this Person for any reason ceases to be registered with the Secretary of State of Ohio as Statutory Agent for the Condominium Association, the Person so registered shall be the Person to receive service of process for the Condominium Association.

ARTICLE IX

MAINTENANCE AND REPAIR

Section 1. Condominium Association Responsibility. The Condominium Association, to the extent and at such times as the Board, in its exercise of business judgment, determines to allocate funds therefor, shall maintain, repair and replace all improvements constituting a part of the Common Elements,

including the Limited Common Elements, and including, but not limited to, the utility facilities serving more than one Unit, utility lines in the Common Elements, lawns, shrubs, trees, walkways, drives, parking areas, fireplace stacks, liners and chimneys, if any, and the structural portions and exterior portions of all buildings and improvements which are a part of the Common Elements, and that do not constitute part of a Unit, provided that the Condominium Association shall not be responsible for the cleaning and housekeeping of Limited Common Elements or components thereof. Except to the extent, if any, that a loss is covered by insurance maintained by the Condominium Association, and then only to the extent the net proceeds, after deductibles, are available for that purpose, the Condominium Association shall not have the responsibility to pay the cost of repair or maintenance of any Unit, or component thereof, or repair, maintenance or replacement of personal property within a Unit, or improvements made by Unit Owners hereafter.

Section 2. Individual Responsibility. Each Unit Owner shall repair and maintain the Unit or Units, and all components thereof, owned by that Unit Owner, and improvements made by that Unit Owner, and perform cleaning and housekeeping with respect to Limited Common Elements appurtenant to that Owner's Unit. Without limiting the generality of the foregoing, this repair and maintenance responsibility of a Unit Owner shall include repair, maintenance and replacement of all windows, screens and doors, including the frames, sashes and jambs, and the hardware therefor and the HVAC system for the Unit. In the event a Unit Owner shall fail to make a repair or perform maintenance required of that Unit Owner, or in the event the need for maintenance or repair of any part of any Unit or part of any of the Common Elements or Limited Common Elements is caused by the negligent or intentional act of any Unit Owner or occupant, or is as a result of the failure of any Unit Owner or that Unit Owner's predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law, the Condominium Association may perform the same, and if the cost of such repair or maintenance is not covered by insurance, whether because of a deductible or otherwise, the cost thereof shall constitute a Special Individual Unit Assessment, on the Unit owned by that Unit Owner and on that Unit Owner. The determination that such maintenance or repair is necessary shall be made by the Condominium Association's Board, in its sole discretion.

ARTICLE X

UTILITY SERVICES

Each Unit Owner by acceptance of a deed to a Unit agrees to pay for utility services separately metered or separately charged by the utility company to that Unit, and to reimburse the Condominium Association for that Unit Owner's Unit's share of any utility cost that the Board, or its designee, reasonably determines is attributable to use by that Unit Owner's Unit. All other utility costs shall be common expenses and paid by the Condominium Association.

ARTICLE XI

INSURANCE; LOSSES

Section 1. Special Broad Form Casualty Insurance. Subject to the provisions relating to insurance deductibles set forth in Article IX of this Declaration, the Board shall have the authority to and shall obtain insurance for all buildings, structures, fixtures and equipment, and common personal property and supplies now or at any time hereafter constituting a part of the Common Elements, the Limited Common Elements, or common property of the Condominium Association, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against under "special form" policies, or, if not available, or not available at competitive rates, a policy that includes the "broad form" covered causes of loss, in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable coinsurance clause or provision and not less than one hundred percent (100%) of the current insurable replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage). This insurance shall also:

(a) provide for coverage of interior walls, windows and doors and the frames, sashes, jambs and hardware therefor, even though these improvements may be parts of Units;

(b) provide coverage for built-in or installed improvements, fixtures and equipment that are part of a Unit;

(c) have (i) an agreed amount and inflation guard endorsement, when that can be obtained, (ii) building ordinance or law endorsement, if any building, zoning, or land-use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs, providing for contingent liability from the operation of building laws, demolition costs, and increased costs of construction; and, (iii)

when applicable, a steam boiler and machinery coverage endorsement, which provides that the insurer's minimum liability per accident at least equals the lesser of two million dollars or the insurable value of the building or buildings housing the boiler or machinery (or a separate stand-alone boiler and machinery coverage policy);

(d) provide that no assessment may be made against a first mortgage lender, or its insurer or guarantor, and that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a first mortgage;

(e) be written in the name of the Condominium Association for the use and benefit of the Unit Owners, or its authorized representative, including any insurance trustee with whom the Condominium Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit Owners;

(f) contain or have attached the standard mortgagee clause commonly accepted by institutional first mortgage holders, insurers, and guarantors, which (i) must provide that the carrier shall notify the named insured and each first mortgagee named in the mortgage clause at least ten days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy, and (ii) must be endorsed to provide that any loss shall be paid to the Condominium Association (or its insurance trustee), as a trustee for each Unit Owner and each such Unit Owner's mortgagee, and, unless otherwise prohibited by a nationally recognized institutional first mortgage holder, insurer, or guarantor, to the holders of first mortgages on Units;

(g) have a deductible amount no greater than the lesser of ten thousand dollars or one percent of the policy face amount;

(h) be paid for by the Condominium Association, as a common expense;

(i) contain a waiver of the transfer of recovery rights by the carrier against the Condominium Association, its officers and Directors, and all Unit Owners;

(j) provide that the insurance shall not be prejudiced by any acts or omissions of individual Unit Owners who are not under the control of the Condominium Association; and

(k) be primary, even if a Unit Owner has other insurance that covers the same loss.

Section 2. Liability Insurance. The Condominium Association shall obtain and maintain, at the Condominium Association's cost and as a common expense, a policy of commercial/general liability insurance covering all of the Common Elements, public ways and any other areas under the Condominium Association's supervision, and Units, if any, owned by the Condominium Association, even if leased to others, insuring the Condominium Association, the Directors, and the Unit Owners and Occupants, with such limits as the Board may determine, but no less than the greater of (a) the amounts generally required by institutional first mortgage holders, insurers, and guarantors for projects similar in construction, location and use, and (b) one million dollars arising out of a single occurrence. This insurance shall contain a "severability of interest" provision, or, if it does not, an endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Condominium Association, the Board, Unit Owners or Occupants, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons resulting from the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts in which the Condominium Association is a party. Each such policy must provide that it may not be canceled or substantially modified, by any party, without at least ten days' prior written notice to the Condominium Association and to each holder of a first mortgage on a Unit.

Section 3. Fidelity Coverage. From and after such time as Declarant no longer controls the Condominium Association, the Board shall obtain, or cause to be obtained, and maintain, a fidelity bond or policy providing coverage for the Condominium Association against dishonest acts on the part of Directors, managers, trustees, employees, agents, and volunteers responsible for or handling funds belonging to or administered by the Condominium Association. The fidelity bond or policy shall name the Condominium Association as the named insured and shall be written in an amount sufficient to provide protection, which is in no event less than the greater of (a) an amount equal to the Condominium Association's reserve funds plus three months' Assessments on all Units, and (b) the maximum amount

that will be in the custody of the Condominium Association or its managing agent at any time while the bond or policy is in force. In connection with such coverage, an appropriate endorsement to the bond or policy to cover any persons who serve without compensation shall be added if the bond or policy would not otherwise cover volunteers. The bond or policy shall provide that it shall not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Condominium Association, and any insurance trustee, and any servicer on behalf of any holder, guarantor or insurer of any mortgage on a Unit who requires such rights. Any management agent who handles funds of the Condominium Association shall maintain a fidelity bond or policy providing coverage of no less than that required of the Condominium Association, which bond or policy names the Condominium Association as an additional obligee or obligee.

Section 4. Hazard Insurance Carrier. Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's *Insurance Reports*, an "A" or better general policyholder's rating *and* a financial size category of "VIII" or better in Best's *Insurance Reports—International Edition*, an "A" or better rating in Demotech's *Hazard Insurance Financial Stability Ratings*, a "BBBq" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's *Insurer Solvency Review*, or a "BBB" or better claims-paying ability rating in Standard and Poor's *International Confidential Rating Service*. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder's ratings or one of the Standard and Poor's claims-paying ability ratings mentioned above.

Section 5. Flood Insurance. In the event that any part of the improvements on the Condominium Property are located in a "Special Flood Hazard Area" which is designated as A, AE, AH, AO, AR, A1-30, A-99, V, VE, VI-30, or VO on a Flood Insurance Rate Map, the Condominium Association shall obtain and maintain a "master" or "blanket" policy of flood insurance. The flood insurance policy shall cover the Common Element buildings and any other common property, but generally need not cover individual Units. The premiums shall be paid as a common expense. The amount of coverage, if required, should be at least equal to the lesser of (a) one hundred percent (100%) of the insurable value of each insured building (including all Common Elements and property) or (b) the maximum coverage available under the applicable National Flood Insurance Program. The maximum deductible amount for policies covering the Common Elements shall be the lesser of (a) $5,000 or (b) one percent (1%) of the policy's face amount.

Section 6. Other Condominium Association Insurance. In addition, the Board may purchase and maintain, at the Condominium Association's cost and as a common expense, contractual liability insurance, Directors' and officers' liability insurance, and such other insurance as the Board may determine.

Section 7. Insurance Representative; Power of Attorney. There may be named under any policy obtained by the Condominium Association, as an insured on behalf of the Condominium Association, its authorized representative, including any trustee with whom the Condominium Association may enter into any insurance trust agreement, or any successor to such trustee, who shall have exclusive authority to negotiate losses under any such policy. Each Unit Owner, by acceptance of a deed to a Unit, irrevocably appoints the Condominium Association or such designated representative, or such successor, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Condominium Association, or such designated representative, or such successor, shall receive, hold or otherwise properly dispose of any proceeds of insurance, in trust, for Unit Owners and their first mortgage holders, as their interests may appear. This power is for the benefit of each and every Unit Owner, and their respective first mortgage holders, and the Condominium Association, and the Condominium, runs with the land, and is coupled with an interest.

Section 8. Unit Owners' Insurance. Any Unit Owner or Occupant may carry such insurance in addition to that provided by the Condominium Association pursuant hereto as that Unit Owner or Occupant may determine, subject to the provisions hereof, and provided that no Unit Owner or Occupant may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried pursuant hereto by the Condominium Association. In the event any Unit Owner or Occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit Owner who acquired or whose Occupant acquired such other insurance, who shall be liable to the Condominium Association to the extent of any diminution and/or loss of proceeds. Without limiting the foregoing, a Unit Owner or Occupant may obtain insurance against liability for events occurring within a Unit, losses with respect to personal property and furnishings, and losses to improvements owned by the Unit Owner or Occupant, provided that if the Condominium Association obtains insurance for permanent improvements and built-in fixtures and equipment, then the insurance obtained by the Unit Owner with respect to improvements within the Unit

shall be limited to the type and nature of coverage commonly referred to as "tenants' improvements and betterments". All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Condominium Association, its officers and Directors, and all other Unit Owners and Occupants.

Section 9. Sufficient Insurance. In the event the improvements forming a part of the Common Elements 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 Condominium Association and the insurance proceeds shall be used in payment therefor; provided, however, that in the event that within sixty (60) days after such damage or destruction the Unit Owners and Eligible Mortgagees, if they are entitled to do so pursuant to the provisions of this Declaration, shall elect to terminate the Condominium, then such repair, restoration or reconstruction shall not be undertaken.

Section 10. Insufficient Insurance. In the event the improvements forming a part of the Common Elements 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, then, unless the Unit Owners and Eligible Mortgagees if they are entitled to do so pursuant to the provisions of this Declaration, shall elect within sixty (60) days after such damage or destruction not to make such repair, restoration or reconstruction, the Condominium Association shall make repairs, restoration or reconstruction of the Common Elements so damaged or destroyed at the expense (to the extent not covered by insurance) of all Unit Owners in proportion to their respective undivided interests in the Common Elements. Should any Unit Owner refuse or fail after reasonable notice to pay that Unit Owner's share of such cost in excess of available insurance proceeds, the amount so advanced by the Condominium Association shall be assessed against the Unit of such Unit Owner and that Assessment shall have the same force and effect, and, if not paid, may be enforced in the same manner as herein provided for the nonpayment of Assessments.

Section 11. Lender Requirements. Notwithstanding the foregoing provisions of this Article, the Condominium Association shall at all times maintain hazard insurance, liability insurance, and fidelity insurance coverage conforming with the requirements then governing the making of a first mortgage loan, or the purchase, guaranty, or insurance of first mortgages, by national institutional lenders, guarantors or insurers of first mortgage loans on condominium units.

ARTICLE XII

DAMAGE; RESTORATION; TERMINATION

Section 1. Restoration of Substantial Damage or Destruction. In the event of substantial damage to or destruction of all Units in a residential building, or the taking of one or more Units in any condemnation or eminent domain proceedings, the Condominium Association shall promptly restore or replace the same, unless an election is made not to do so, as hereinafter provided.

Section 2. Election Not to Restore; Termination. The Condominium Association may, with the consent of Unit Owners entitled to exercise not less than eighty percent (80%) of the voting power of Unit Owners, and the consent of Eligible Mortgagees whose mortgages represent seventy-five percent (75%) or more of Units subject to mortgages held by Eligible Mortgagees, both given within sixty (60) days after damage or destruction, determine not to repair or restore the damage or destruction, and to terminate the Condominium. In any such an event, all of the Condominium Property shall be sold as upon partition. In the event of such an election not to repair or restore substantial damage or destruction or reconstruct such Unit or Units, the net proceeds of insurance paid by reason of such damage or destruction, or the net amount of any award or proceeds of settlement arising from such proceedings, together with the proceeds received from the sale as upon partition, or in the case of an election otherwise to terminate the Condominium, the net proceeds from the partition sale, shall be distributed among the Unit Owners, and the holders of their respective first mortgage liens, (as their interests may appear), in the proportions of their undivided interests in the Common Elements.

ARTICLE XIII

CONDEMNATION

Section 1. Standing. Except as hereinafter provided, the Condominium Association, or its designated representative, or authorized successor, as trustee, shall represent the Unit Owners in any condemnation or eminent domain proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of all or any part of the Condominium Property, and shall have the sole and exclusive right to settle losses with the condemning authority and to receive the award or

proceeds of settlement, for the use and benefit of the Unit Owners and their mortgagees as their interests may appear. Notwithstanding the foregoing, in the event that a Unit Owner may lawfully separately pursue and realize upon a claim for incidental and consequential losses or damage to that Unit Owner resulting from a taking under the power of eminent domain, such as for relocation and moving expenses, loss of favorable mortgage terms, and other such individual incidental or consequential losses, that Unit Owner may, at that Unit Owner's election, separately pursue such claim, provided, that the pursuing of the same, or the realization of an award thereof, neither jeopardizes, in any way, an action by the Condominium Association to recoup the losses incurred by it, or any other Unit Owner, or the direct loss with respect to the Unit itself, or with regard to the usability thereof, nor diminishes any award for any such loss.

Section 2. Use of Proceeds. The award or proceeds of settlement in any actual or threatened condemnation or eminent domain proceedings, after reduction by the costs, if any, incurred in obtaining the same, shall be applied first to the cost of restoring or replacing all damaged or taken improvements on the remaining Condominium Property in accordance with the Drawings, or in accordance with any new plans and specifications therefor approved by Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Unit Owners, and the consent of Eligible Mortgagees hereinafter provided.

Section 3. Insufficient Proceeds. If the award or proceeds are insufficient for such purpose, the excess cost shall be paid by the Condominium Association and, to the extent funds of the Condominium Association are insufficient therefor, in the judgment of the Board, such excess cost shall be a common expense and assessed among the Units in the same manner as Special Assessments for Capital Improvements are assessed. Except as hereinafter provided, the balance of any such award or proceeds of settlement, if there is an excess, shall be allocated and disbursed to the Unit Owners, and their first mortgagees, as their interests may appear, in proportion to the relative undivided interests of the Units in the Common Elements.

Section 4. Non-Restorable Unit. Notwithstanding the foregoing, in the event that as a result of any such taking, and consequent restoration or replacement, any Unit could not reasonably be restored to a condition comparable to that which existed prior to the taking, or could not be replaced, prior to the allocation and disbursement of any sum to any other Unit Owner or that Unit Owner's mortgagee, there shall be allocated and disbursed from such award or proceeds, to each Unit Owner whose Unit cannot be so restored or replaced, and that Unit Owner's respective first mortgagee, as their interests may appear, such amount as is equal to the then fair market value of the Unit that cannot be so restored or replaced. Thereupon, such Unit or Units, and the Unit Owners thereof, shall be immediately and automatically divested of any interest in the Condominium, the Condominium Property, and the Condominium Association, including, without limiting the generality of the foregoing, divestment of an undivided interest, vote, membership in the Condominium Association, and liability for common expenses. All such rights and interests shall be reallocated among all other Units and Unit Owners in the same relative proportions as those rights and interests were prior to such taking. To illustrate, upon a Unit being divested from the Condominium, (a) the voting right of that Unit will be reallocated among all other Units, and their owners, in the proportions of their relative undivided interests prior to such taking, and (b) the undivided interest of that Unit will be reallocated among all other Units in the proportions of their relative undivided interests prior to such taking.

Section 5. Power of Attorney. Each Unit Owner, by acceptance of a deed to a Unit, appoints the Condominium Association, or its designated representative, as that Unit Owner's attorney-in-fact to represent that Unit Owner, settle losses, receive and utilize the award or proceeds of settlement, and do all things necessary or desirable for such attorney-in-fact to exercise the rights and fulfill the responsibilities of the Condominium Association set forth in this Article with respect to condemnation or eminent domain proceedings. This power is for the benefit of each and every Unit Owner, each holder of a first mortgage on a Unit, the Condominium Association, and the real estate to which it is applicable, runs with land, is coupled with an interest, and is irrevocable.

ARTICLE XIV

GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS

Section 1. Easements of Enjoyment; Limitations. Every Unit Owner shall have a right and easement of enjoyment in, over and upon the Common Elements and an unrestricted right of access to and from that Unit Owner's Unit and an easement for utilities serving that Unit, subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Elements and the Limited Common Elements, provided that no such rule or regulation shall limit or prohibit the right of ingress and egress to a Unit, or any part thereof. Each Unit Owner shall be deemed to have delegated that Unit Owner's right of enjoyment to the Common Elements and to ingress and egress to the Occupants of that Unit Owner's Unit.

Section 2. Easements for Encroachments. Each Unit and the Common Elements and Limited Common Elements shall be subject to and benefited by easements for encroachments on or by any other Unit and upon the Common Elements and Limited Common Elements created or arising by reason of overhangs; or by reason of deviations in construction, reconstruction, repair, shifting, settlement, or other movement of any portion of the improvements; or by reason of errors on the Drawings. Valid easements for these encroachments and for the maintenance of same, as long as the physical boundaries of the Units after the construction, reconstruction, repairs, etc. will be in substantial accord with the description of those boundaries that appears herein or on the Drawings, shall and do exist so long as the encroachments remain.

Section 3. Easements Reserved to Declarant. Non-exclusive easements are hereby reserved to Declarant, its successors and assigns, over and upon the Common Elements and Limited Common Elements as follows:

(a) for the periods provided for warranties hereunder or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with Unit purchasers;

(b) for the initial sales and rental period, to maintain and utilize one or more Units and appurtenances thereto, for sales and management offices and for storage and maintenance, and model Units, and advertising signs;

The rights and easements reserved pursuant to the provisions of this section shall be exercised and utilized, as the case may be, in a reasonable manner, and in such way as not to unreasonably interfere with the operation of the Condominium Association and the rights of Unit Owners and Occupants of Units.

Section 4. Easements for Proper Operations. Easements to the Condominium Association shall exist upon, over and under all of the Condominium Property for ingress to and egress from, and the installation, replacing, repairing and maintaining of, all utilities, including, but not limited to water, sewer, gas, telephone, electricity, security systems, master television antennas and cable television, and the road system and all walkways, and for all other purposes necessary for the proper operation of the Condominium Property. By these easements it shall be expressly permissible for the Condominium Association to grant to the appropriate public authorities and/or the providing companies and contractors permission to construct and maintain the necessary appurtenances and improvements on, above, across and under the Condominium Property, so long as such appurtenances and improvements do not unreasonably interfere with the use and enjoyment of the Condominium Property. Should any public authority or other company furnishing a service request a specific easement, permit, or license, the Board shall have the right to grant such easement, permit, or license without conflicting with the terms hereof. In addition, in the event the Board determines that the grant of easement rights to others is in the best interests of the Condominium Association, the Condominium Association shall have the right to grant the same, provided that use of the same would not, in the sole judgment of the Board, unreasonably interfere with the use and enjoyment of the Condominium Property by Unit Owners and Occupants.

Section 5. Easement for Support. Every portion of a building or utility line or any improvement on any portion of the Condominium Property contributing to the support of another building, utility line or improvement on another portion of the Condominium Property shall be burdened with an easement of support for the benefit of all other such buildings, utility lines, improvements and other portions of the Condominium Property.

Section 6. Easement for Services. Non-exclusive easements are hereby granted to all police, firemen, ambulance operators, mailmen, delivery men, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities and the Condominium Association, but not to the public in general, to enter upon the Common Elements in the performance of their duties, subject to such reasonable rules and regulations as the Board may establish from time to time.

Section 7. Entry for Repair, Maintenance and Restoration. The Condominium Association shall have a right of entry and access to, over, upon and through all of the Condominium Property, including each Unit and the Limited Common Elements, to enable the Condominium Association to perform its obligations, rights and duties pursuant hereto with regard to maintenance, repair, restoration and/or servicing of any items, things or areas of or in the Condominium Property. In the event of an emergency, the Condominium Association's right of entry to a Unit and its appurtenant Limited Common Elements may be exercised without notice; otherwise, the Condominium Association shall give the Unit Owners or Occupants of a Unit no less than twenty-four hours advance notice prior to entering a Unit or its appurtenant Limited Common Elements.

Section 8. Power of Attorney. Each Unit Owner, by acceptance of a deed to a Unit, appoints the Condominium Association or its designated representative, as that Unit Owner's attorney-in-fact, to

execute, deliver, acknowledge and record, for and in the name of such Unit Owner, such deeds of easement, licenses, permits, and other instruments as may be necessary or desirable, in the sole discretion of the Board, or its authorized representative, to further establish or effectuate the foregoing easements and rights. This power is for the benefit of each and every Unit Owner, the Condominium Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

Section 9. General. Unless specifically limited herein otherwise, the foregoing easements shall run with the land and pass with the title to the benefited properties, shall be appurtenant to the properties benefited thereby, shall be enforceable by the owners of the properties benefited thereby, and shall be perpetual. The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or constitute an intention not to reserve said rights or easements, but the same shall be deemed conveyed or encumbered, as the case may be, along with the Unit.

ARTICLE XV

ASSESSMENTS AND ASSESSMENT LIENS; RESERVE FUNDS

Section 1. Types of Assessments. Declarant for each Unit within the Condominium hereby covenants and agrees, and each Unit Owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to pay to the Condominium Association: (a) Operating Assessments, (b) Special Assessments for Capital Improvements, and (c) Special Individual Unit Assessments, all of such Assessments to be established and collected as hereinafter provided.

Section 2. Purpose of Assessments. The Assessments levied by the Condominium Association shall be used exclusively to promote and provide for the health, safety and welfare of Unit Owners and Occupants and the best interests of the Condominium Property.

Section 3. Elements-Apportionment: Due Dates.

(a) Operating Assessments.

(i) Prior to the time any Unit Owner is to be charged Assessments by the Condominium Association, the Board shall establish for the remainder of the Condominium Association's fiscal year, and prior to the beginning of each fiscal year of the Condominium Association thereafter, the Board shall estimate for the next fiscal year, and, in each case, prorate among all Units and their Unit Owners on the basis of the undivided interest of each Unit in the Common Elements, common expenses of the Condominium Association, consisting of the following:

a. that period's estimated cost of the maintenance, repair, and other services to be provided by the Condominium Association;

b. that period's estimated costs for insurance premiums to be provided and paid for by the Condominium Association;

c. that period's estimated costs for utility services not separately metered or charged to Unit Owners;

d. the estimated amount desired to be collected to maintain a working capital reserve fund, to assure availability of funds for normal operations of the Condominium Association, in an amount deemed adequate by the Board;

e. an amount deemed adequate by the Board in its sole and unfettered discretion, and without vote of Unit Owners, to establish or augment an existing reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained; and

f. that period's estimated costs for the operation, management and administration of the Condominium Association,

including, but not limited to, fees for property management, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Condominium Association, and the salaries, wages, payroll charges and other costs to perform these services, and any other costs constituting common expenses not otherwise herein specifically excluded.

(ii) The Board shall thereupon allocate to each Unit that Unit's share of all of these items, prorated in accordance with each respective Unit's undivided interest in the Common Elements, and thereby establish the Operating Assessment for each separate Unit. For administrative convenience, any such Assessment may be rounded so that monthly installments will be in whole dollars.

(iii) The Operating Assessment shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying Assessments in annual, semiannual, or quarterly increments. The due dates of any such installments shall be established by the Board, or, if it fails to do so, an equal monthly pro rata share of the Operating Assessment for a Unit shall be due the first day of each month.

(iv) If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units and their owners on the same basis as heretofore set forth, provided, that if common expenses are incurred by the Condominium Association prior to the time the Condominium Association commences to levy Assessments against Units, Declarant shall pay the same (subject to its right, if any, to reimbursement from Unit purchasers contained in individual contracts for the sale of a Unit or Units or, if not, from the Condominium Association).

(v) If Operating Assessments collected are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves, or as reductions in future Assessments, as determined by the Board, in its sole discretion, and shall in no event be deemed profits nor available, except on dissolution of the Condominium Association, for distribution to Unit Owners, and each Unit Owner by virtue of acceptance of a deed to a Unit consents to the same and grants to the Board an irrevocable power of attorney and proxy to approve and authorize the retention of any excess as reserves or reductions.

(b) Special Assessments for Capital Improvements.

(i) In addition to Operating Assessments, the Board may levy, at any time, Special Assessments for Capital Improvements to construct, reconstruct or replace capital improvements on the Common Elements to the extent that reserves therefor are insufficient, provided that new capital improvements not replacing existing improvements (except new capital improvements required to comply with applicable law or governmental regulation, or to correct any deficiency or defect creating a safety or health hazard to Occupants) shall not be constructed nor funds assessed therefor, if the cost thereof in any fiscal year would exceed an amount equal to five percent (5%) or more of that fiscal year's budget, without the prior consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners and the consent of Eligible Mortgagees hereinafter provided.

(ii) Each Special Assessment for Capital Improvements shall be prorated among all Units and their owners in proportion to the respective undivided interests of the Units in the Common Elements, and shall become due and payable on such date or dates as the Board determines following written notice to the Unit Owners.

(c) Special Individual Unit Assessments. Subject to the applicable provisions of the Bylaws regarding procedures with respect thereto, the Board may levy Special Individual Unit Assessments against an individual Unit, or Units, and the Unit Owner or Unit Owners thereof, to reimburse the Condominium Association for those costs incurred in connection with that Unit or Units properly chargeable by the terms

hereof to a particular Unit (such as, but not limited to, the cost of making repairs the responsibility of a Unit Owner, the cost to reimburse the Condominium Association for that Unit Owner's Unit's share of any utility cost that the Board, or its designee, reasonably determines is attributable to that Unit Owner's Unit, the portion of the cost of casualty and/or liability insurance provided by the Condominium Association that the Board determines is attributable to a particular use of a Unit or course of conduct by a Unit Owner or Occupant of that Unit Owner's Unit, returned check charges, and a Unit Owner's interest, late charges, collection costs, and enforcement, and arbitration charges properly chargeable to a Unit and its Unit Owners pursuant hereto). Each Special Individual Unit Assessment shall become due and payable on such date as the Board determines, and gives written notice to the Unit Owners subject thereto.

Section 4. Effective Date of Assessment. Any Assessment created pursuant hereto shall be effective, provided it is created as provided herein, if written notice of the amount thereof is sent by the Board to the Unit Owner subject thereto at least ten (10) days prior to the due date thereof, or if to be paid in installments, the due date of the first installment thereof. Written notice mailed or delivered to a Unit Owner's or Unit Owners' Unit shall constitute notice to that or those Unit Owners, unless the Unit Owner or Unit Owners have delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address shall constitute notice to that Unit Owner or those Unit Owners.

Section 5. Effect of Nonpayment of Assessment; Remedies of the Condominium Association.

(a) If any Assessment or installment or portion of any installment of an Assessment is not paid within at least ten (10) days after the same is due, the entire unpaid balance of the Assessment shall immediately become due and payable, without demand or notice, unless the Board, in its sole discretion, determines not to accelerate the installments.

(b) If any Assessment or installment or portion of any installment of an Assessment is not paid within at least ten (10) days after the same is due, the Board, at its option, and without demand or notice, may (i) charge interest on the entire unpaid balance (including the accelerated portion thereof) at such rate as the Board, from time to time, establishes by rule; or if the Board fails to establish a rate by rule, at the rate of eight percent (8%) per annum, (ii) charge a reasonable, uniform, late fee, as established from time to time by the Board, by rule, and (iii) charge the cost of collection, including attorney fees and other out-of-pocket expenses.

(c) Operating and both types of Special Assessments, together with interest, late fees, and costs, including attorney fees, shall be a charge in favor of the Condominium Association upon the Unit against which each such Assessment is made.

(d) Payments made by a Unit Owner for Assessments shall be applied in the following priority: (i) to interest accrued on the delinquent Assessment(s), or installments or portions of installments thereof; (ii) to administrative late fees charged with respect to the delinquency; (iii) to reimburse the Condominium Association for enforcement charges and collection costs, including, but not limited to, attorney fees and paralegal fees incurred by the Condominium Association in connection with the delinquency; and (iv) to the delinquent Assessment, or installment or portion thereof.

(e) At any time after any Assessment or any installment of an Assessment, or any portion of any installment of an Assessment levied pursuant hereto remains unpaid for ten (10) or more days after the same has become due and payable, a certificate of lien for the unpaid balance of that Assessment, including all future installments thereof, interest, late fees, collection costs and expenses, including attorney fees, and court costs and filing fees ("collection costs"), may be filed with the Franklin County Recorder, pursuant to authorization given by the Board. The certificate shall contain a description or other sufficient legal identification of the Unit against which the lien exists, the name or names of the record Unit Owner or Unit Owners thereof, and the amount of the unpaid portion of the Assessments and charges, and shall be signed by the president or other designated representative of the Condominium Association.

(f) The lien provided for herein shall become effective from the time a certificate of lien or renewal certificate was duly filed therefor, and shall continue for a period of five (5) years unless sooner released or satisfied in the same manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property,

or discharged by the final judgment or order of a court in an action brought to discharge the lien.

(g) Any Unit Owner who believes that an Assessment chargeable to that Unit Owner's Unit (for which a certificate of lien has been filed by the Condominium Association) has been improperly charged against that Unit, may bring an action in the Court of Common Pleas of Franklin County for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the Assessment has been improperly charged to that Unit and its Unit Owners, the Court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.

(h) Each such Assessment together with collection costs, shall also be the joint and several personal obligation of the Unit Owners who owned the Unit at the time when the Assessment fell due. The obligation for delinquent Assessments, interest, late charges and costs shall not be the personal obligation of that or those Unit Owner's or Unit Owners' successors in title unless expressly assumed by the successors, or required by applicable law, provided, however, that the right of the Condominium Association to a lien against that Unit, or to foreclose any lien thereon for these delinquent Assessments, interest, late charges and costs, shall not be impaired or abridged by reason of the transfer, but shall continue unaffected thereby, except as provided in Section 6 of this Article.

(i) The Condominium Association, as authorized by the Board, may file a lien or liens to secure payment of Assessments and/or collection costs, bring or join in an action at law against the Unit Owner or Unit Owners personally obligated to pay the same, and/or an action to foreclose a lien, or any one or more of these. In any foreclosure action, the Unit Owner or Unit Owners affected shall be required to pay a reasonable rental for that Unit during the pendency of such action. The Condominium Association in any foreclosure action involving a Unit or Units shall be entitled to become a purchaser at the foreclosure sale. In any action, interest and costs of such action (including attorneys' fees) shall be added to the amount of any such Assessment, to the extent permitted by Ohio law.

(j) No claim of the Condominium Association for Assessments and charges, whether in a collection action, foreclosure action, or otherwise, shall be subject to setoffs, off sets, counterclaims, or cross claim, including, without limiting the generality of the foregoing, claims that the Condominium Association has failed to provide the Unit Owner with any service, goods, work, or materials, or failed in any other duty.

(k) No Unit Owner or Owners may waive or otherwise escape liability for the Assessments provided for in this Declaration by non-use of the Common Elements, or any part thereof, or by abandonment of that Unit Owner's or those Unit Owners' Unit.

(l) Assessments shall run with the land, are necessary to continue the care, repair and maintenance of Units and their undivided interests in the Condominium Property, and to continue to provide utility and security service, and, accordingly, Assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

Section 6. Subordination of the Lien to First Mortgages. The lien of the Assessments and charges provided for herein shall be subject and subordinate to the lien of any duly executed first mortgage on a Unit recorded prior to the date on which such lien of the Condominium Association arises, and any holder of such first mortgage which comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid installments of Assessments and charges against the mortgaged Unit which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vested in the successor Unit Owner. The foregoing will not relieve any successor Unit Owner from the obligation for Assessments accruing thereafter. Notwithstanding the foregoing, rental payments a receiver collects during the pendency of a foreclosure action shall first be applied to the payment of the portion of common expenses chargeable to the Unit and its owners during the foreclosure action.

Section 7. Certificate Regarding Assessments. The Board shall, upon demand, for a reasonable charge, furnish a certificate signed by the president, treasurer, secretary or other designated representative of the Condominium Association, setting forth whether the Assessments on a specified Unit have been paid. This certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

ARTICLE XVI
NOTICES TO AND VOTING RIGHTS OF LENDING INSTITUTIONS; FIRST MORTGAGEES RIGHTS CONFIRMED

Section 1. Notices to Eligible Mortgagees. Any Eligible Mortgagee, upon written request to the Condominium Association (which request states the name and address of such Eligible Mortgagee and the Unit Designation), shall be entitled to timely written notice by the Condominium Association of:

(a) any proposed addition to, change in, or amendment of the Condominium Organizational Documents of a material nature, including any addition to, change in, or amendment of any provision establishing, providing for, governing, or regulating: (i) voting rights; (ii) increases in Assessments that raise the previously assessed amount by more than twenty-five percent (25%), Assessment liens, or priority of such liens; (iii) reductions in reserves for maintenance, repair, and replacement of Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Elements (including the Limited Common Elements), or rights to their use; (vi) redefinition of boundaries of any Unit; (vii) convertibility of Units into Common Elements or vice versa; (viii) expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium; (ix) hazard or fidelity insurance requirements; (x) imposition of any restrictions on the leasing of Units, (xi) imposition of any restrictions on a Unit Owner's right to sell or transfer that Owner's Unit; (xii) restoration or repair of the Condominium Property after damage or partial condemnation in a manner other than specified in the Condominium instruments; (xiii) termination of the legal status of the Condominium after substantial destruction or condemnation occurs; or (xiv) expressly benefiting mortgage holders, insurers, or guarantors. No addition to, change in, or amendment of the Condominium Organizational Documents shall be considered material if it is for the purpose of correcting technical errors, for clarification only, or for the purpose of meeting the requirements of institutional Mortgagees, guarantors and insurers of first mortgage loans, or the requirements of insurance underwriters.

(b) any proposed decision or action that: (i) terminates professional management and establishes self-management when professional management has been required previously by an Eligible Mortgagee; (ii) causes restoration or repair of the Condominium Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Organizational Documents; (iii) substantial damage or destruction not be restored; (iv) the Condominium Property be renewed or rehabilitated; (v) significant new capital improvements not replacing existing improvements be constructed; or (vi) would, without addition to, change in, or amendment of the Condominium Organizational Documents, make any change with respect to the items described in subparagraph (a) of Section 1 of this Article.

(c) (i) any condemnation or casualty loss that affects either a material portion of the Condominium Property or the Unit securing its mortgage; (ii) any delinquency for sixty (60) days in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage; (iii) any lapse, cancellation, or material modification of any insurance policy maintained by the Condominium Association; and (iv) any proposed action that requires the consent of a specified percentage of Eligible Mortgagees. A holder, insurer or guarantor of a first mortgage lien on a Unit which has sent a written request to the Condominium Association stating both its name and address and the Unit Designation or address of the Unit on which it holds, insures or guarantees the mortgage shall be entitled to timely written notices of the events described in this subsection (c).

Section 2. Voting Rights. No action with respect to which Eligible Mortgagees are entitled to notice, as provided in subparagraphs (a) or (b) of Section 1 of this Article, may be taken without the consent of Eligible Mortgagees of Units to which not less than fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Mortgagees appertain, provided, further, that no action to terminate the Condominium or that would have that effect other than by reason of substantial destruction or condemnation of the Condominium Property, shall be taken without the consent of Eligible Mortgagees of Units to which not less than seventy-five percent (75%) of the votes of Units subject to mortgages held by Eligible Mortgagees appertain.

Section 3. Notices to Mortgagees. Each Mortgagee shall be entitled to timely written notice by the Condominium Association of:

(a) any proposed addition to, change in, or amendment of the Condominium Organizational Documents of a material adverse nature to Mortgagees (without limiting the generality of the following, no addition to, change in, or amendment of the Condominium Organizational Documents shall be considered material or adverse if it is for the purpose of correcting technical errors or for clarification only or for the purpose of meeting the requirements of institutional Mortgagees, guarantors and insurers of first mortgage loans, or the requirements of insurance underwriters);

(b) any sixty (60) day delinquency in the payment of Assessments or charges owed to the Condominium Association by a Unit Owner of a Unit on which it holds a mortgage;

(c) a lapse, cancellation, or material modification of any insurance policy maintained by the Condominium Association;

(d) any proposed action that requires the consent of a specified percentage of Mortgagees, as provided in this Amended Declaration; and

(e) any condemnation or casualty loss that affects either a material portion of the Condominium Property or the Unit securing its mortgage.

Section 4. First Mortgagee's Rights Confirmed. No provision of the Condominium Organizational Documents gives a Unit Owner or any other party priority over any rights of the first Mortgagee of a Unit pursuant to its mortgage in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

ARTICLE XVII
AMENDMENTS

Section 1. Power to Amend. Except as otherwise specifically provided herein, additions to, changes in, or amendment of this Declaration (or the other Condominium Organizational Documents) or the taking of any of the actions which require the consent of Eligible Mortgagees exercising not less than fifty-one percent (51%) of the voting power of Units subject to mortgages held by Eligible Mortgagees, as provided elsewhere herein, shall, in addition to such consents of Eligible Mortgagees, require the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners. Notwithstanding the foregoing:

(a) Except as provided in subparagraph (c) of this Section 1 and in the case of the expansion of Condominium, the consent of all Unit Owners, including Declarant, so long as it owns a Unit, shall be required for any amendment effecting a change in:

(i) the boundaries of any Unit;

(ii) the undivided interest in the Common Elements appertaining to a Unit or the liability for common expenses appertaining thereto;

(iii) the number of votes in the Condominium Association appertaining to any Unit or

(iv) the fundamental purposes to which any Unit or the Common Elements are restricted;

or to impose additional restrictions, limitations or prohibitions against or inhibiting the rental of any Unit or Units other that those provided in this Declaration at the time of its recording;

(b) the consent of Unit Owners exercising not less than eighty percent (80%) of the voting power of Unit Owners and the consent of Mortgagees on Units whose Owners are entitled to exercise fifty-one percent (51%) of the voting power of Units that are subject to mortgages, shall be required to terminate the Condominium;

(c) subject to the provisions of the Declaration and the Condominium Act, the owners of adjoining Units shall be permitted to relocate the boundaries between their respective Units and the undivided interests in the Common Elements appurtenant to those Units may be reallocated between them with the consent of all affected Unit Owners, all affected lien holders, and Board approval and any Convertible Unit may be converted into additional Units and Common Elements pursuant to the provisions of this Declaration and the Condominium Act;

(d) in any event, each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable:

(i) to Declarant, for so long as Declarant owns any Unit, to amend the Condominium Organizational Documents, to the extent necessary to (A) conform to the requirements then governing the making of a mortgage loan or the purchase, guaranty, or insurance of mortgages by an Institutional lender or an Institutional guarantor or insurer of a mortgage on a Unit, provided that the appropriate percentage (as described elsewhere herein) of Eligible Mortgagees is obtained (if required), or (B) correct typographical or factual or obvious errors or omissions, the correction of which would not impair the interest of any Unit Owner, Mortgagee, insurer, or guarantor, provided, further, that if there is a Unit Owner other than Declarant, the Declaration shall not be amended to increase the scope or the period of control of Declarant; and

(ii) to the Board, without a vote of Unit Owners, to amend the Declaration in any manner necessary for any of the following purposes:

a. to meet the requirements of institutional mortgagees, guarantors and insurers of first mortgage loans, or the requirements of insurance underwriters;

b. to bring the Declaration into compliance with requirements of the Condominium Act;

c. to correct clerical or typographical errors in this Declaration or an exhibit or amendment hereto; and

d. to designate a successor to the person named to receive service of process for the Condominium Association, provided, the naming of a successor need not be by amendment hereto if the change of statutory agent is appropriately filed with the Ohio Secretary of State;

but for no other purpose; and

(e) in addition to the consent of Unit Owners set forth in this Article, any addition to, change in, or amendment of the Condominium Organizational Documents of a material adverse nature to Mortgagees must also be agreed to by Mortgagees on Units whose owners are entitled to exercise fifty-one percent (51%) or more of the voting power of Unit Owners of Units that are subject to mortgages.

An Eligible Mortgagee or a Mortgagee of a Unit who receives a written request to approve changes, additions, or amendments sent by certified or registered mail, return receipt requested, and who does not deliver or post to the requesting party a negative response within sixty (60) days after receipt of the same, shall be deemed to have approved such request.

Section 2. Method to Amend. An amendment to this Declaration (or the Drawings or the Bylaws), adopted with the consents of Unit Owners and Mortgagees or Eligible Mortgagees hereinbefore required, or by the Board, shall be executed with the same formalities as to execution as this Declaration by two officers of the Condominium Association and shall contain their certification that such amendment was duly adopted in accordance with the foregoing provisions. Any amendment adopted by 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 that such amendment is made pursuant to authority vested in Declarant or any duly empowered successor Declarant by the Declaration. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the Franklin County Auditor and Recorder.

ARTICLE XVIII
GENERAL PROVISIONS

Section 1. Covenants Running With the Land. The covenants, conditions, restrictions, easements, reservations, powers of attorney, liens, and charges created hereunder or hereby shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Condominium Property, and the Condominium Association, and their respective heirs, executors, administrators, successors and assigns.

Section 2. Actions.

(a) In addition to any other remedies provided in this Declaration, Declarant (only with respect to those rights directly benefiting Declarant), the Condominium Association, and each Unit Owner, shall have the right, but not the duty, to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or in the Bylaws or now or hereafter imposed by or through the Condominium Association's rules and regulations. Failure by Declarant, the Condominium Association or any Unit Owner to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge.

(b) The Condominium Association and each Unit Owner shall have rights of action against each other for failure to comply with the provisions of the Condominium Organizational Documents, rules and regulations, and applicable law, and with respect to decisions made pursuant to authority granted thereunder, provided, the Condominium Association shall have the right to assess reasonable charges against a Unit Owner who fails to comply with the same, including the right to assess charges for the costs of enforcement, and provided, further, that neither the Condominium Association nor its Directors, officers, or other representatives, shall be liable to any Unit Owner or Occupant, or their invitees, for damage to any Unit or any part thereof, or any personal property of such Unit Owner, Occupant or invitee, or for injury to such person, unless the damage or injury was proximately caused by the gross negligence or the intentional tortious act of the Condominium Association or such Director, officer or other representative. In addition to all other remedies available by law, the Condominium Association may use summary abatement or similar means to enforce any provisions hereof or restrictions against the Unit or its use, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished by summary means.

Section 3. Severability. Invalidation of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect. In the event any language of this Declaration conflicts with mandatory provisions of the Condominium Act, the latter's requirements shall prevail and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall in no wise affect any other provisions of this Declaration, which provisions shall remain in full force and effect.

Section 4. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, men or women, shall in all cases be assumed as though in such case fully expressed.

Section 5. Captions. The captions of the various provisions of this Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

IN TESTIMONY WHEREOF, the undersigned has executed this instrument this 18 day of March, 2016.

40 West, LLC, an Ohio limited liability company

By SND Partners, LLC, a Delaware limited liability company, Member of 40 West, LLC.

By _____
LoriBeth M. Steiner, Manager of SND Partners, LLC

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

This instrument was executed and acknowledged before me by LoriBeth M. Steiner, Manager of SND Partners, LLC, a Delaware limited liability company and Member of 40 West, LLC, an Ohio limited liability company, on behalf of said limited liability companies, this 18 day of March, 2016.

_____
Notary Public

NOTARIAL SEAL STATE OF OHIO

Bethany Kungle
Notary Public, State of Ohio
My Commission Expires 10-21-19

EXHIBIT A

DECLARATION OF CONDOMINIUM
40 WEST CONDOMINIUM

Legal Description, Condominium Property
(0.384 acres)

Situated in the State of Ohio, County of Franklin, and in the City of Columbus:

Being Lots Numbered Fifteen (15) and Thirty Three (33) of Hershiser's Corrected and Second Amended Plat of Lots 11, 12, 13, 14 and 15 of Hershiser and Ashton's Addition to said City, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book No. 4, page 9, Recorder's Office, Franklin County, Ohio.

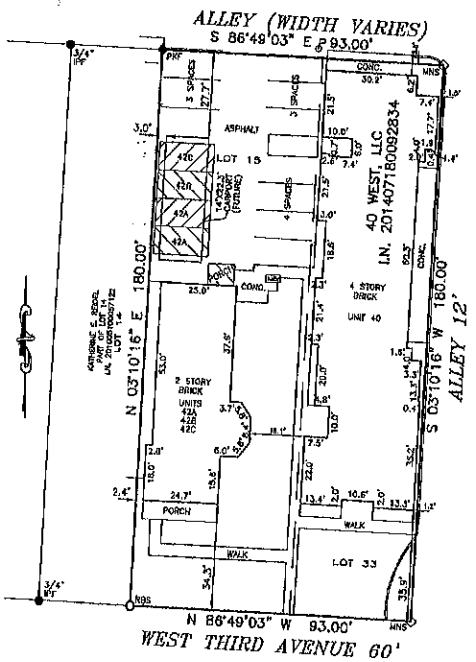
PN# 010-0003136 & 010-023151
Address: 40-42 West Third Avenue, Columbus, Ohio 43201
Prior Instrument No. 201407180092834

EXHIBIT B

DECLARATION OF CONDOMINIUM
40 WEST CONDOMINIUM

Sketch Plot Plan, Condominium Property

NOT OFFICIAL DOCUMENT



LEGEND

- IPF IRON PIN FOUND
- PKF P.K. NAIL FOUND
- RBS REBAR SET
- MNS MAG NAIL SET
- EXISTING FENCE
- LIMITED COMMON ELEMENTS
- LIMITED COMMON ELEMENTS

SEE ATTACHED FLOOR PLANS AND ELEVATION DRAWINGS FOR SPECIFIC UNIT LOCATIONS, INTERIOR COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.

AREAS NOT DESIGNATED AS LIMITED COMMON ELEMENTS OR UNITS ARE COMMON ELEMENTS.

ALL REBAR SET ARE 5/8 INCH DIA. 30" LONG, W/ RED PLASTIC CAP STAMPED "LANDMARK SURVEY"

BASIS OF BEARINGS:
THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARING OF N 86°49'03" W FOR THE NORTHERLY RIGHT-OF-WAY OF WEST THIRD AVENUE, BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83 DATUM (2011), TAKEN FROM GPS OBSERVATION.

FLOOD NOTE:
THE SUBJECT PROPERTY LIES IN ZONE X (AREA DETERMINED TO BE OUTSIDE THE 500 YEAR FLOODPLAIN), AS DETERMINED BY GRAPHIC INTERPOLATION FROM THE FLOOD INSURANCE RATE MAP NUMBER 39049C 0302K, WITH AN EFFECTIVE DATE OF JUNE 17, 2008, PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

GRAPHIC SCALE
0 15 30 60
(IN FEET)

CONDOMINIUM DRAWINGS
40 WEST CONDOMINIUM
LYING IN
LOTS 15 AND 33
HERSHISER'S CORRECTED AND
SECOND AMENDED PLAT OF
LOTS 11, 12, 13, 14 AND 15 OF
LOTS 11, 12, 13, 14 AND 15 OF
PLAT BOOK 4, PAGE 9
CITY OF COLUMBUS, COUNTY OF FRANKLIN
STATE OF OHIO

LS GI LANDMARK SURVEY GROUP, INCORPORATED
2099 WEST FIFTH AVENUE, COLUMBUS, OHIO 43212
PHONE: (614) 485-9000 FAX: (614) 485-9003
DATE: 1/8/16 FILE NO. 178226
REV: 3/14/16

EXHIBIT C

DECLARATION OF CONDOMINIUM
40 WEST CONDOMINIUM

Unit Information

Unit Designation	Approximate Gross Interior Square Feet	Number of Votes	Par Value	Undivided Interest
40	13,220	75	75	75%
42A	1,746	12	12	12%
42B	846	7	7	7%
42C	773	6	6	6%
			Total	100.00%

EXHIBIT D

DECLARATION OF CONDOMINIUM
40 WEST CONDOMINIUM

Unit Types

Unit	Description
Unit 40	Multi-story Unit, consisting of sixteen apartment dwelling units on various floors of the multi-story building and containing the approximate gross interior square footage set forth on Attachment 3. [1]
Unit 42A	One-story Unit which contains two bedrooms, two bathrooms, a living room, kitchen, and den/dining area, and containing approximately 1,746 gross interior square feet located on the second floor of the two story building. [1]
Unit 42B	One-story Unit which contains one bedroom, one bathroom, a powder room, living room, kitchen, and dressing area, and containing approximately 886 gross interior square feet located on the first floor of the two story building. [1]
Unit 42C	One-story Unit which contains one bedroom, one bathroom, a living room, and kitchen, and containing approximately 773 gross interior square feet located on the first floor of the two-story building. [1]

[1] Gross interior square feet means the approximate gross area constituting the Unit at all levels, is measured from the undecorated inner surfaces of its boundary walls, and includes space occupied by interior partitions, staircases and voids, if any. This measurement is not the measurement normally used in the real estate industry for sales and leasing purposes.

WEB CERTIFIED COPY

BYLAWS

(Code of Regulations)

OF

40 WEST CONDOMINIUM ASSOCIATION

BYLAWS INDEX

	PAGE
NAME AND LOCATION (ARTICLE I)	a
DEFINITIONS (ARTICLE II)	a
UNIT OWNERS (MEMBERS) (ARTICLE III)	a
Composition (Section 1)	a
Annual Meetings (Section 2)	a
Special Meetings (Section 3)	a
Notice of Meetings (Section 4)	a
Conduct of Meetings (Section 5)	a
Participation at Meetings (Section 6)	a
Quorum; Adjournment (Section 7)	b
Voting Rights (Section 8)	b
Voting Power (Section 9)	b
Proxies (Section 10)	b
Action in Writing Without Meeting (Section 11)	b
BOARD OF DIRECTORS (ARTICLE IV)	b
Initial Directors (Section 1)	b
Successor Directors (Section 2)	b
Removal (Section 3)	c
Qualification (Section 4)	c
Nomination (Section 5)	c
Election (Section 6)	c
Compensation (Section 7)	c
Regular Meetings (Section 8)	c
Special Meetings (Section 9)	c
Executive Session (Section 10)	c
Quorum (Section 11)	c
Voting Power (Section 12)	d
Action in Writing Without Meeting (Section 13)	d
Parliamentary Rules (Section 14)	d
Powers and Authority (Section 15)	d
Duties (Section 16)	e
Delegation of Authority; Management; Contracts (Section 17)	f
OFFICERS (ARTICLE V)	g
Enumeration of Officers (Section 1)	g
Election and Term (Section 2)	g
Special Appointments (Section 3)	g
Resignation and Removal (Section 4)	g
Duties (Section 5)	g
COMMITTEES (ARTICLE VI)	g
BOOKS AND RECORDS (ARTICLE VII)	g
AUDITS (ARTICLE VIII)	h
FISCAL YEAR (ARTICLE IX)	h
INDEMNIFICATION (ARTICLE X)	h
Third Party Actions (Section 1)	h
Derivative Actions (Section 2)	h
Other Determinations of Rights (Section 3)	i
Indemnification of Agents and Others (Section 4)	i
Advances of Expenses (Section 5)	i
Nonexclusiveness; Heirs (Section 6)	i
Purchase of Insurance (Section 7)	i
AMENDMENTS (ARTICLE XI)	i

BYLAWS

(Code of Regulations)

OF

40 WEST CONDOMINIUM ASSOCIATION

ARTICLE I

NAME AND LOCATION

The name of the Condominium Association is 40 West Condominium Association, (the "Condominium Association"), which nonprofit corporation is created pursuant to the provisions of Chapter 1702 of the Revised Code of Ohio, and which Condominium Association is also created pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio as the Unit Owners' Condominium Association for 40 West Condominium. The principal office of the Condominium Association shall be as set forth in its Articles of Incorporation (the "Articles of Incorporation"), and the place of meetings of Unit Owners (members) and of the Board of Directors (the "Board") of the Condominium Association shall be at such place in Franklin County as the Board may from time to time designate.

ARTICLE II

DEFINITIONS

All of the terms used herein shall have the same meanings as set forth in the Declaration of Condominium, (the "Declaration"), recorded simultaneously herewith with the Recorder's office of Franklin County, Ohio.

ARTICLE III

UNIT OWNERS (MEMBERS)

Section 1. Composition. Each Unit Owner, as defined in the Declaration, is a member of the Condominium Association.

Section 2. Annual Meetings. Regular annual meetings of the Unit Owners shall be held in the second calendar quarter of each year hereafter, on a date and at an hour established, from time to time, by the Board, provided, that, in any event, there shall be no more than fourteen (14) months between annual meetings of the members.

Section 3. Special Meetings. Special meetings of the Unit Owners may be called at any time by the president or by the Board, or upon written request of Unit Owners entitled to exercise one-fourth (1/4) or more of the voting power of Unit Owners, and when required by the Condominium Act.

Section 4. Notice of Meetings. Written notice of each meeting of Unit Owners shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least five days before such meeting, to each Unit Owner entitled to vote at such meeting, addressed to the Unit Owner's address last appearing on the books of the Condominium Association, or supplied by such Unit Owner to the Condominium Association for the purpose of notice, or by delivering a copy of that notice at such address at least five (5) days before the meeting. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the specific purposes of the meeting, and, in the case of special meetings called by the petition and written request of Unit Owners, the specific motion or motions (other than procedural) to be voted upon. Attendance by a Unit Owner, either in person or by proxy, at a meeting of Unit Owners without protesting prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by the Unit Owner of notice of such meeting.

Section 5. Conduct of Meetings. All meetings of the Unit Owners shall be conducted by the Board, and presided over by the president of the Condominium Association, or as otherwise directed by the Board.

Section 6. Participation at Meetings. Meetings of the Unit Owners shall be open to all Unit Owners unless specified by direction of the Board otherwise in the notice of meeting. The Board, in its sole discretion, may exclude from attendance at a meeting of the Unit Owners, Unit Owners and their agents and representatives (other than Declarant and its successors and assigns so long as Declarant owns a Unit or Units in the Condominium or has the right to expand the Condominium) in these instances:

(a) A determination by the Board that the Unit Owner has a threatened or pending adverse interest to the interests of the Condominium Association, or the Board, or any member of the Board, or any officer, employee, committee member, or agent of the Condominium Association, in such Person's capacity as such, if a subject of the meeting will be a discussion of a vote with regard to such adverse interest; or

(b) for any other reason deemed by the Board, from the standpoint of the Condominium Association's best interests, to be of sufficient merit that attendance and participation at a meeting by such Unit Owner would not be in the Condominium Association's best interests;

provided, that nothing contained in this Section shall preclude or exclude a Unit Owner from voting by proxy, on any matter properly voted upon at that meeting by Unit Owners.

Section 7. Quorum; Adjournment. The Unit Owners present, in person or by proxy, at any duly called and noticed meeting of Unit Owners, shall constitute a quorum for such meeting. Unit Owners entitled to exercise a majority of the voting power of Unit Owners represented at a meeting in person or by proxy, may, at any time, adjourn such meeting. If any meeting is so adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

Section 8. Voting Rights. The Unit Owners of each Unit shall be entitled to cast the number of votes allocated to that Unit Owner's Unit as set forth on Exhibit C to the Declaration, exercisable as the owners of the undivided fee simple interests in that Unit may from time to time determine. If the owners of the fee simple interests in a Unit are unable with respect to a particular matter to agree among themselves as to the vote to be cast with respect to that Unit, no vote shall be cast with respect to that Unit or that particular matter, provided, that unless timely challenged by an owner of a fee simple interest in a Unit, any owner of a fee simple interest in that Unit may cast the entire vote with respect to that Unit. The Board, from time to time, may suspend the right of the owner or owners of a Unit to cast a vote with respect to that Unit if Assessments with respect to that Unit are overdue, or there is at that time, with respect to the Unit Owners or Occupants of that Unit, a failure to observe any of the terms hereof, or rules and regulations duly adopted by the Board and then in effect.

Section 9. Voting Power. Except as otherwise provided in the Condominium Organizational Documents, or by law, a majority of the voting power of Unit Owners voting on any matter that may be determined by the Unit Owners at a duly called and noticed meeting shall be sufficient to determine that matter. The rules of Roberts Rules of Order shall apply to the conduct of all meetings of Unit Owners except as otherwise specifically provided in the Condominium Organizational Documents or by law.

Section 10. Proxies. At any meeting of Unit Owners, a Unit Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary prior to the meeting. A telegram or cablegram appearing to have been transmitted by a Unit Owner, or a photographic, photostatic, or equivalent reproduction of a writing, appointing a proxy, is a sufficient writing. Every proxy shall be revocable and shall automatically cease upon conveyance by a Unit Owner of that Unit Owner's fee simple interest in that Unit, and, in any event, shall not be valid after the expiration of eleven months after it is made unless it specifies the date on which it is to expire or the length of time it is to continue in force.

Section 11. Action In Writing Without Meeting. Unless otherwise required by law, any action that could be taken by Unit Owners at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of Unit Owners or their proxies having not less than seventy five percent (75%) of the voting power of Unit Owners, or such greater proportion of the voting power as may be required by the Condominium Organizational Documents, or by law.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Initial Directors. The initial Directors and their business addresses are as set forth in the Articles of Incorporation, or such other person or persons as may from time to time be substituted by Declarant.

Section 2. Successor Directors. No later than sixty (60) days after Declarant has sold and conveyed Units to which twenty-five percent (25%) of the undivided interests in the Common Elements appertain, the Unit Owners shall meet, and the Unit Owners other than Declarant shall elect one Director at such meeting to replace whichever Director Declarant designates. Within the earlier of (a) three years from the date of the establishment of the Condominium Association, and (b) sixty (60) days after the sale

and conveyance, to purchasers in good faith and for value, of Units to which seventy-five percent (75%) of the undivided interests in the Common Elements appertain, the Condominium Association shall meet and all Unit Owners, including Declarant, shall elect three Directors, whose terms shall commence at the end of the meeting during which they are elected, to replace all of those Directors earlier elected or designated by the Unit Owners or Declarant, respectively. The terms of the three Directors shall be staggered so that the terms of one-third (one) of the Directors will expire and a successor will be elected at each annual meeting of the Condominium Association. Thereafter, at such annual meetings, a successor to the Director whose term then expires shall be elected to serve a three-year term. Declarant shall have the right at any time to waive its right to select one or more Directors or to vote in an election of Directors. In addition, notwithstanding any requirement as to the maximum time period during which Directors appointed by Declarant may serve, Declarant reserves the right, at any time prior thereto to have the Unit Owners elect Directors and for Declarant to turn over the functions of operation of the Condominium Association to those elected Directors.

Section 3. Removal. Excepting only Directors named in the Articles of Incorporation or selected by Declarant, any Director may be removed from the Board with or without cause, by the holders of not less than seventy-five percent (75%) of the voting power of Unit Owners. In the event of the death, resignation or removal of a Director other than one named in the Articles of Incorporation or a substitute selected by Declarant, that Director's successor shall be selected by the remaining members of the Board and shall serve until the next annual meeting of Unit Owners, when a Director shall be elected to complete the term of such deceased, resigned or removed Director. In the event of removal of all Directors, the Unit Owners shall, at the meeting at which all Directors are removed, elect Directors to complete the terms of the removed Directors. Declarant shall have the sole right to remove, with or without cause, any Director designated in the Articles of Incorporation, or a substitute selected by Declarant, and select the successor of any Director so selected who dies, resigns, is removed or leaves office for any reason before the election of Directors by all of the Unit Owners as provided herein.

Section 4. Qualification. To qualify for nomination, election or appointment as a Director (other than by Declarant), the prospect must be an individual who is a Unit Owner or Co-Owner of a Unit, the spouse of a Unit Owner or Co-Owner of a Unit, or a designated principal, member of a limited liability company, partner, director, officer, or employee of an entity or other organization that is a Unit Owner, and such Unit Owner or Co-Owner of a Unit or the Unit Owner of such spouse must not then be delinquent in the payment of any obligation to the Condominium Association, or then be an adverse party to the Condominium Association, or its Board or any member thereof (in that member's capacity as a Board member) in any litigation involving one or more of those parties.

Section 5. Nomination. Nominations for the election of Directors to be elected by the Unit Owners may be made by a nominating committee appointed by the Board, or, if the Board fails to appoint a nominating committee, by the Board itself. Nominations may also be made from the floor at the meetings.

Section 6. Election. Unless there are no more nominees than vacancies, election to the Board by the Unit Owners shall be by secret written ballot. At such elections, the Unit Owners or their proxies may cast, in respect to each vacancy, such number of votes as they are entitled to under the provisions of the Declaration. The Persons receiving the largest number of votes shall be elected, and, likewise, those receiving the largest number of votes shall be elected to the longest terms. In cases of ties, the winner shall be determined by lot. Cumulative voting is not permitted.

Section 7. Compensation. Unless otherwise determined by the Unit Owners at a meeting duly called and noticed for such purpose, no Director shall receive compensation for any service rendered to the Condominium Association as a Director. However, any Director may be reimbursed actual expenses incurred in the performance of duties as a Director.

Section 8. Regular Meetings. Regular meetings of the Board shall be held on such dates and at such places and times as may be fixed from time to time by resolution of the Board, but not less than quarterly.

Section 9. Special Meetings. Special meetings of the Board shall be held when called by the president of the Board, or by a majority of the Directors, after not less than three days' notice to each Director.

Section 10. Executive Session. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon matters as determined by the Board in its Sole discretion

Section 11. Quorum. The presence at any duly called and noticed meeting of Directors entitled to cast a majority of the voting power of Directors, in person and/or by participation by means of

communications equipment if all persons participating can hear each other, participate, and respond to every other participating member of the Board, shall constitute a quorum for such meeting.

Section 12. Voting Power. Each Director shall be entitled to a single vote, and, except as otherwise provided in the Condominium Organizational Documents, or by law, vote of a majority of the Directors voting on any matter that may be determined by the Board at a duly called and noticed meeting at which a quorum is present, in person or by participation as provided in Section 11, above, shall be sufficient to determine that matter.

Section 13. Action In Writing Without Meeting. Any action that could be taken by the Board at a meeting may be taken without a meeting with the written consent, in a writing or writings, of all of the Directors.

Section 14. Parliamentary Rules. Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of Board proceedings when not in conflict with Ohio law, the Articles of Incorporation, the Declaration, or these Bylaws.

Section 15. Powers and Authority. The Board shall exercise all powers and have all authority, under law, and under the provisions of the Condominium Organizational Documents, that are not specifically and exclusively reserved to the Unit Owners by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

(a) take all actions deemed necessary or desirable to comply with or to cause compliance with all requirements of law, and the Condominium Organizational Documents;

(b) obtain insurance coverage and bonds the Directors consider appropriate or necessary; provided that insurance coverage and bonds required pursuant to the provisions of the Declaration and in amounts no less than that required pursuant to the provisions of the Declaration shall be obtained and maintained;

(c) enforce the covenants, conditions and restrictions set forth in the Declaration;

(d) repair, maintain and improve the Common Elements;

(e) establish, enforce, levy and collect Assessments, late fees, delinquent interest and such other charges as are provided for in the Declaration and adopt, publish, and enforce rules and regulations concerning the same;

(f) adopt and publish rules and regulations governing the use of the Common Elements and the personal conduct of Unit Owners, Occupants and their guests thereon, provided that no such rules or regulations shall be intended to, or interpreted as, or create distinctions or different criteria or standards between Unit Owners who are Occupants and their interests, and Occupants who are not Unit Owners, and their interests;

(g) suspend the voting rights of a Unit Owner during any period in which such Unit Owner shall be in default in the payment of any charge levied by the Condominium Association (such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for each infraction of published rules and regulations or of any provisions of the Condominium Organizational Documents);

(h) declare the office of a member of the Board to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board;

(i) subject to such approvals, if any, as may be required pursuant to the provisions of Condominium Organizational Documents, authorize the officers to enter into one or more agreements necessary or desirable to fulfill the purposes and objectives of the Condominium Association, including, without limitation, management agreements, purchase agreements and loan documents, all on such terms and conditions as the Board in its sole and absolute discretion may determine;

(j) cause excess funds of the Condominium Association to be invested in such reasonable investments that meet standards for fiduciary investments under Ohio law as the Board may from time to time determine;

(k) borrow funds, as needed, and pledge and assign such security and rights of the Condominium Association, including rights to levy and collect Condominium Association Assessments of every type or nature, or other future income, and to file liens therefore and enforce collection thereof, as might be necessary or desirable in the judgment of the Board, to obtain any such loan;

(l) take such actions and expend the Condominium Association funds and Assessments as the Board deems appropriate, in its sole discretion, to satisfy the requirements of institutional mortgagees, and guarantors and insurers of first mortgage loans for the financing or refinancing of Units a part of the Condominium;

(m) purchase, cause the Condominium Association to hold title to, and sell real property not declared to be part of the Condominium Property, provided that (i) if any such transaction takes place prior to the time Unit Owners other than the Declarant assume control of the Condominium Association, approval of the transaction must be obtained from Declarant and Unit Owners other than Declarant exercising not less than seventy-five percent (75%) of the voting power of the members of the Condominium Association, as well as the Board, and (ii) if after Unit Owners other than Declarant assume control of the Condominium Association, the approval of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of members of the Condominium Association, as well as the Board; and

(n) do all things and take all actions permitted to be taken by the Condominium Association by law or the Condominium Organizational Documents not specifically reserved thereby to others.

Section 16. Duties. It shall be the duty of the Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs, including correct and complete books and records of account that specify receipts and expenditures relating to Common Elements and other common receipts and expenses, records showing the allocation, distribution, and collection of common profits, losses, and expenses among and from Unit Owners, minutes of meetings of the members and meetings of the Board, and records of the names and addresses of Unit Owners and their respective undivided interests in the Common Elements;

(b) present the latest available financial statement of the Condominium Association to the Unit Owners at each annual meeting of Unit Owners, or at any special meeting when requested in writing by Unit Owners representing not less than a majority of the voting power of Unit Owners;

(c) cause to be enforced the legal requirement that each Person who obtains a fee simple interest in a Unit provide to the Condominium Association, in writing, within thirty (30) days after acquiring such interest:

(i) the home address, home and business mailing addresses, and the home and business telephone numbers of the Unit Owner and all Occupants of the Unit; and

(ii) the name, business address, and business telephone number of any Person who manages the Unit Owner's Unit as an agent of that Unit Owner;

and the requirement that each Unit Owner notify the Condominium Association in writing of any change in the foregoing information within thirty (30) days of the change.

(d) supervise all officers, agents and employees of the Condominium Association and see that their duties are properly performed;

(e) cause an annual budget to be prepared, and amendments thereto as needed; provided that the failure or delay of the Board to adopt a budget as provided in the Condominium Organizational Documents shall not constitute a waiver or release of the obligation of a Unit Owner to pay the Assessments and in such event, the budget last adopted shall continue until such time as the Board adopts a new budget;

(f) as more fully provided in the Declaration, establish, levy, enforce and collect Assessments;

(g) issue, or to cause an appropriate representative to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid;

(h) procure and maintain insurance and bonds as provided in the Declaration, and as the Board deems advisable;

(i) cause the property subject to the Condominium Association's jurisdiction to be maintained within the scope of authority provided in the Declaration; and

(j) take all other actions required to comply with all requirements of the Condominium Organizational Documents.

Except in the case of Special Individual Unit Assessments for utility charges, interest, late charges, returned check charges, court costs, arbitration costs, and/or attorney fees, prior to levying a Special Individual Unit Assessment, as provided in the Declaration, the Board shall give the Unit Owner or Unit Owners written notice of the proposed Assessment that includes:

(i) a statement of the facts giving rise to the proposed Special Individual Unit Assessment, including, if applicable, a description of the property, damaged, or the violation, of the restriction, rule or regulation allegedly violated;

(ii) the amount of the proposed Special Individual Unit Assessment;

(iii) a statement that the Unit Owner has a right to a hearing before the Board to contest the proposed Special Individual Unit Assessment by delivering to the Board a written notice requesting a hearing within ten days after the Unit Owner receives written notice of the proposed Special Individual Unit Assessment; and

(iv) in the case of a charge for violation of a restriction, rule or regulation, a reasonable date by which the Unit Owner must cure the alleged violation to avoid the proposed Special Individual Unit Assessment.

The notice by the Board given pursuant to the foregoing may be delivered personally to the Unit Owner to whom a Special Individual Unit Assessment is proposed to be charged, personally to an Occupant of that Unit Owner's Unit, by certified mail, return receipt requested, or by regular mail. In the event after such hearing the Board determines to levy the Special Individual Unit Assessment proposed, the Board shall deliver to the Unit Owner written notice thereof within thirty (30) days of the date of that hearing.

Section 17. Delegation of Authority; Management; Contracts. The Board may delegate all or any portion of its authority to discharge its 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 Condominium Association for cause on thirty (30) days' written notice; shall be terminable by either party without cause and without penalty, on written notice of ninety (90) days or less; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing, provided that, in the case of any professional management contract entered into before control of the Condominium Association is vested in Unit Owners other than Declarant, the contract must give the Condominium Association the right to terminate it without cause and without penalty at any time after control of the Condominium Association has been transferred to or assumed by Unit Owners other than Declarant. 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 or an affiliate of Declarant, as defined by an institutional first mortgagee or an agency or organization which purchases, insures, or guarantees first mortgages, for goods, services, or for any other thing, including, without limiting the generality of the foregoing, contracts for the providing of 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. In any case, no management contract or agreement by the Condominium Association executed prior to the assumption of control of the Condominium Association by Unit Owners other than Declarant shall extend more than ninety (90) days, and no other contract, except for necessary utility services, shall extend more than one year, subsequent to that assumption of control unless renewed by vote of Unit Owners pursuant to the provisions of these Bylaws.

ARTICLE V

OFFICERS

Section 1. Enumeration of Officers. The officers of this Condominium Association shall be a president, a secretary, a treasurer and such other officers as the Board may from time to time determine. No officer need be a Unit Owner or Director of the Condominium Association. The same person may hold more than one office.

Section 2. Election and Term. Except as otherwise specifically provided in the Declaration or by law, the officers of the Condominium Association shall be elected by the Board, from time to time, to serve until the Board elects their successors.

Section 3. Special Appointments. The Board may elect such other officers as the affairs of the Condominium Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 4. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Duties. The duties of the officers shall be as the Board may from time to time determine. Unless the Board otherwise determines, the duties of the officers shall be as follows:

(a) President. The president shall preside at all meetings of the Board and of Unit Owners, shall have the authority to see that orders and resolutions of the Board are carried out, and shall sign all legal instruments on behalf of the Condominium Association.

(b) Secretary. The secretary shall record the votes and keep the minutes and proceedings of meetings of the Board and of the Unit Owners, serve notice of meetings of the Board and of the Unit Owners, keep appropriate current records showing the names of Unit Owners of the Condominium Association together with their addresses, and shall act in the place and stead of the president in the event of the president's absence or refusal to act.

(c) Treasurer. The treasurer shall assume responsibility for the receipt and deposit in such bank accounts, and investment of funds in such vehicles, as the Board directs, the disbursement of such funds as directed by the Board, the keeping of proper books of account, the preparation of a proposed annual budget and a statement of income and expenditures to be presented to the Unit Owners at annual meetings, and the delivery or mailing of a copy of each to each of the Unit Owners.

ARTICLE VI

COMMITTEES

The Board may appoint a nominating committee and may appoint such other committees as it deems appropriate in carrying out its purposes.

ARTICLE VII

BOOKS AND RECORDS

The books, records and financial statements of the Condominium Association, including current copies of the Declaration, Bylaws, Articles of Incorporation and effective rules and regulations, shall be available during normal business hours or under other reasonable circumstances, upon request to the Condominium Association, for inspection by Unit Owners, lenders, and the holders, insurers and guarantors of first mortgages on Units, pursuant to reasonable standards established from time to time by the Board by rule, including, but not limited to standards governing the type of documents that are subject to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents; provided, further, the Board shall not be required to permit the examination and copying of materials and information permitted to be excluded from examination and copying under the Condominium Act or the disclosure of which is prohibited by the laws of the State of Ohio or of the United States of America. During normal business

hours or under other reasonable circumstances, the Condominium Association shall make available to prospective purchasers current copies of the Declaration, Bylaws, Articles, effective rules and regulations, and the most recent annual audited financial statement, if such is prepared.

ARTICLE VIII

AUDITS

The Board shall cause the preparation and furnishing of an audited financial statement of the Condominium Association for the immediately preceding fiscal year, in the following circumstances:

(a) to each requesting Unit Owner within a reasonable time after request, at the expense of the Condominium Association, upon the affirmative vote of Unit Owners exercising not less than a majority of the voting power of Unit Owners; and

(b) to each holder, insurer, or guarantor of a first mortgage upon a Unit which requests the same, in writing, within a reasonable time thereafter, provided the audit, if an audited statement is not already available, shall be prepared at the expense of such requesting party.

ARTICLE IX

FISCAL YEAR

Unless otherwise changed by the Board, each fiscal year of the Condominium Association shall begin on the first day of January and terminate at the end of the 31st day of December of that year, except that the first fiscal year shall begin on the date of incorporation of this Condominium Association and terminate at the end of the next following 31st day of December.

ARTICLE X

INDEMNIFICATION

Section 1. Third Party Actions. The Condominium Association shall indemnify any individual who is or was a party or is threatened to be made a party to any threatened, pending, or completed civil, criminal, administrative or investigative action, suit, or proceeding, including all appeals, other than an action, suit or proceeding by or in the right of the Condominium Association, by reason of the fact that the individual is or was a Director, officer, employee, or volunteer of the Condominium Association, against expenses (including attorney's fees), judgments, fines, penalties, and amounts paid in settlement actually and reasonably incurred by that individual in connection with such action, suit or proceeding, if that individual acted in good faith and in a manner that individual reasonably believed to be in or not opposed to the best interests of the Condominium Association and, with respect to any criminal action or proceeding, if that individual had no reasonable cause to believe that individual's conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not create, of itself, a presumption that the individual did not act in good faith and in a manner which that individual reasonably believed to be in or not opposed to the best interest of the Condominium Association and, with respect to any criminal action or proceeding, a presumption that the individual had reasonable cause to believe that the individual's conduct was unlawful.

Section 2. Derivative Actions. The Condominium Association shall indemnify any individual who is or was a party, or threatened to be made a party, to any threatened, pending, or completed action or suit, including all appeals, by or in the right of the Condominium Association to procure a judgment in its favor, by reason of the fact that the individual is or was a Director, officer, employee, or volunteer of the Condominium Association, against expenses (including attorney's fees) actually and reasonably incurred by that individual in connection with the defense or settlement of such action or suit, if the individual acted in good faith, and in a manner that individual reasonably believed to be in or not opposed to the best interests of the Condominium Association, except that no indemnification shall be made in respect of (a) any claim, issue, or matter as to which such individual is finally adjudged to be liable for negligence or misconduct in the performance of that individual's duty to the Condominium Association unless, and only to the extent that, the court of common pleas or the court in which such action or suit was brought determines, upon application, that, despite the adjudication of liability but in view of all the circumstances of the case, such individual is fairly and reasonably entitled to indemnity for such expenses as the court of common pleas or such other court considers proper, or (b) any action or suit in which a Director is found liable only pursuant to the provisions of Section 1702.55 of the Ohio Revised Code.

Section 3. Other Determinations of Rights. Unless ordered by a court, any indemnification under Sections 1 and 2 of this Article shall be made by the Condominium Association only as authorized in the specific case, upon a determination that indemnification of the Director, officer, employee or volunteer is proper under the circumstances because that individual has met the applicable standard of conduct set forth in Sections 1 and 2 of this Article. Such determination shall be made in any one of the following manners: (a) by a majority vote of a quorum consisting of Directors who were not and are not parties to or threatened with the action, suit or proceeding referred to in Sections 1 and 2 of this Article, or (b) by the members by majority vote.

Section 4. Indemnification of Agents and Others. The Condominium Association may, from time to time, and in its sole discretion, indemnify any individual who is or was an agent, or other authorized representative of the Condominium Association, other than those described under Sections 1 and 2 of this Article who may be indemnified, or is or was serving at the request of the Condominium Association as a director, officer, or employee of another corporation, limited liability company, partnership, joint venture, trust, or other enterprise, against any liability asserted against that individual or incurred by that individual in any such capacity or arising out of that individual's status as such, in the same manner and to the same extent as provided herein for Directors, officers, employees and volunteers of the Condominium Association.

Section 5. Advances of Expenses. Expenses of each individual indemnified herein incurred in defending a civil, criminal, administrative, or investigative action, suit, or proceeding (including all appeals), or threat thereof, may be paid by the Condominium Association in advance of the final disposition of such action, suit, or proceeding as authorized by the Directors, whether a disinterested quorum exists or not, upon receipt of an undertaking by or on behalf of such individual, to repay such amount, if it is ultimately determined that that individual is not entitled to be indemnified by the Condominium Association.

Section 6. Nonexclusiveness; Heirs. The foregoing rights of indemnification are not exclusive, shall be in addition to any other rights granted to those seeking indemnification as a matter of law, or under the provisions hereof, any lawful rules or regulations, any agreement, vote of members or disinterested Directors, or otherwise, both as to actions in their official capacities and as to actions in another capacity while holding their offices or positions, shall continue as to an individual who has ceased to be a Director, officer, employee, member, agent, or volunteer, and shall inure to the benefit of the heirs, executors, and administrators of such an individual.

Section 7. Purchase of Insurance. The Condominium Association may purchase and maintain insurance, or furnish similar protection, including but not limited to trust funds, letters of credit, or self-insurance, for or on behalf of any individual who is or was a Director, officer, agent, employee, or volunteer of the Condominium Association, or is or was serving at the request of the Condominium Association as a director, officer, employee, member, manager, agent or volunteer of another corporation, limited liability company, partnership, joint venture, trust, or other enterprise, against any liability asserted against that individual or incurred by that individual in any such capacity, or arising out of that individual's status as such, whether or not the Condominium Association would have the power to indemnify that individual against such liability under the provisions of this Article or of the Ohio nonprofit corporation law.

ARTICLE XI

AMENDMENTS

Any modification or amendment of these Bylaws shall be made only by means of an amendment to the Declaration, in the manner and subject to the approvals, terms and conditions set forth therein, and shall be effective from the time a certificate setting forth such modification or amendment is delivered for recording to the Franklin County Recorder's office.

IN TESTIMONY WHEREOF, the undersigned, the sole member of the Association, has caused these Bylaws to be duly adopted on or as of the 18 day of March 2016.

40 West, LLC, an Ohio limited liability company

By SND Partners, LLC, a Delaware limited liability company, Member of 40 West, LLC

By: LoriBeth M. Steiner

LoriBeth M. Steiner, Manager of SND Partners, LLC

CONDO\DEC\40 WEST 3/17/16\