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AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
BRECKSVILLE WEST CONDOMINIUM

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF
CONDOMINIUM OWNERSHIP FOR BRECKSVILLE WEST CONDOMINIUM
RECORDED AT VOLUME 90-4739, PAGE 10 ET SEQ. OF THE CUYAHOGA
COUNTY RECORDS.

AMENDMENTS TO THE
DECLARATION OF CONDOMINIUM OWNERSHIP FOR
BRECKSVILLE WEST CONDOMINIUM

WHEREAS, the Declaration of Condominium Ownership for Brecksville West Condominium (the "Declaration") and the Bylaws of The Brecksville West Condominium Unit Owners Association, Inc., Exhibit B of the Declaration, were recorded at Cuyahoga County Records Volume 90-4739, Page 10 et seq., and

WHEREAS, Ohio Revised Code Section 5311.05(E)(1) authorizes the Board of Directors, without a vote of the Unit Owners, to amend the Declaration "to bring the Declaration in compliance with this Chapter," and

WHEREAS, the Board of Directors approved the following matters to be modified (the "Amendments") to bring the Declaration into compliance with Ohio Revised Code Chapter 5311 ("Chapter 5311"), and

WHEREAS, each of the changes set forth in these Amendments are based on, made pursuant to, or in accordance with Chapter 5311, and

WHEREAS, the proceedings necessary to amend the Declaration and Bylaws as permitted by Chapter 5311 and the Declaration of Condominium Ownership for Brecksville West Condominium have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for Brecksville West Condominium is amended by the Board of Directors as follows:

- (1) All references in the Declaration and Bylaws to the term "Common Areas" or "Common Areas and Facilities" are replaced with the term "Common Elements."**
- (2) All references in the Declaration and Bylaws to the term "Limited Common Areas" or "Limited Common Areas and Facilities" are replaced with the term "Limited Common Elements."**
- (3) All references in the Declaration and Bylaws to the term "Board of Managers" are replaced with the term "Board of Directors."**

(4) **DELETE DECLARATION ARTICLE 8, entitled "STATUTORY AGENT,"** in its entirety. Said deletion is to be made on Pages 11-12 of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq.

INSERT a new DECLARATION ARTICLE 8, entitled "STATUTORY AGENT." Said new addition to be added on Pages 11-12 of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq. is as follows:

ARTICLE 8. STATUTORY AGENT.

The Board will designate the Person to receive service of process for the Association. This designation will be accomplished by filing with the Ohio Secretary of State the required statutory agent designation form.

(5) **INSERT a new DECLARATION ARTICLE 17, SECTION E, entitled "ENFORCEMENT ASSESSMENTS."** Said new addition, to be added on Page 27 of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

E. ENFORCEMENT ASSESSMENTS. The Board has the authority to impose interest and administrative late fees for the late payment of Assessments; impose returned check charges; and, in accordance with Chapter 5311, impose reasonable enforcement Assessments for violations of the Declaration, the Bylaws, and the rules of the Association, and reasonable charges for damage to the Common Elements.

(6) **INSERT a new PARAGRAPH to the end of DECLARATION ARTICLE 13, SECTION D, entitled "LIEN OF ASSOCIATION."** Said new addition, to be added on Page 17 of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

The Association has a lien upon each Unit's ownership interest for any unpaid interest, administrative late fees, enforcement Assessments, and collection costs, attorney's fees, and paralegal fees.

(7) **INSERT a new PARAGRAPH to the end of DECLARATION ARTICLE 3, SECTION B(13), entitled "Rental of Units."** Said new addition, to be added on

Page 7 of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

The Association may initiate eviction proceedings to evict any tenant, for any violation of the Declaration, Bylaws, rules and regulations, or applicable laws, by the tenant, any Occupant of the Unit, or the owner of the Unit. The Association, as the Unit Owner's agent, will bring such action in the name of the Unit Owner(s). In addition to any procedures required by State law, the Association will give the Unit Owner(s) at least 10 days written notice of the intended eviction action. The costs of any eviction action, including reasonable attorneys' fees, will be charged to the Unit Owner(s) and the subject of a special Assessment against the offending Unit Owner and made a lien against that Unit.

(8) INSERT a new PARAGRAPH to the end of DECLARATION ARTICLE 13, SECTION A, entitled "GENERAL." Said new addition, to be added on Page 16 of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

The Association will credit payments made by a Unit Owner in the following order of priority:

- (1) First, to interest owed to the Association;
- (2) Second, to administrative late fees owed to the Association;
- (3) Third, to collection costs, attorney's fees, and paralegal fees incurred by the Association; and
- (4) Fourth, to the principal amounts the Unit Owner owes to the Association for the common expenses or enforcement Assessments chargeable against the Unit.

(9) INSERT a new DECLARATION ARTICLE 13, SECTION I, entitled "SUSPENDED RIGHTS." Said new addition, to be added on Page 18 of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

- I. SUSPENDED RIGHTS. When a Unit Owner is delinquent in the payment of Assessments for more than 30 days, the Board

may, by a majority vote, suspend the voting privileges of the owner and the right of the Occupants to use the recreational facilities.

(10) INSERT a new PARAGRAPH to the end of BYLAWS ARTICLE VIII, SECTION 6, entitled "Special Services." Said new addition, to be added on Page 13 of the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

The Board may impose reasonable charges to the Unit Owner for providing copies of the Declaration, Bylaws, or amendments thereto as well as reasonable charges for the handling of re-financing or resale documentation, and statements of unpaid Assessments.

(11) INSERT a new DECLARATION ARTICLE 3, SECTION B(14), entitled "Owner/Resident Information." Said new addition, to be added on Page 7 of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

(14) Owner/Resident Information. Each Unit Owner must, within 30 days of the recording of this Amendment or within 30 days of title transferring to the Unit Owner, provide to the Association the Unit Owner's and all Occupants' names, home and business mailing addresses, home and business telephone numbers, and the name, business address and business telephone number of any Person who manages the Unit as an agent of that Unit Owner. Any change in the information must be provided to the Board, in writing, within 30 days of said change.

(12) MODIFY the 1st SENTENCE of BYLAWS ARTICLE III, SECTION 2, entitled "Number and Qualification," and INSERT TWO NEW SENTENCES thereafter. Said modification, to be made on Pages 4-5 of the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows: (deleted language is crossed out; new language is underlined)

The Board shall consist of five persons, each of whom must be an Owner of a Unit, or the spouse of a Unit Owner, except that in the case of a Unit held by Declarant, a corporation, partnership, fiduciary, or

nominee, the designated representative thereof shall be eligible to serve as a member of the Board. That notwithstanding, no one Unit may be represented by more than one Person on the Board at any one time. If a Unit Owner is not an individual, that Unit Owner may nominate for the Board of Directors any principal, member of a limited liability company, partner, director, officer, or employee of that Unit Owner.

(13) INSERT a new SENTENCE to the end of BYLAWS ARTICLE III, SECTION 9, entitled "Quorum; Adjournment." Said new addition, to be added on Page 6 of the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

Any Board meeting may be held in person or by any method of communication, including electronic or telephonic communication, provided that each Board member can hear, participate and respond to every other Board member.

(14) INSERT a new SENTENCE to the end of BYLAWS ARTICLE X, SECTION 3, entitled "Preparation of Budget, Assessments." Said new addition, to be added on Page 15 of the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

In the alternative, if the Association has collected a Common Surplus at the end of any fiscal year, the Board may determine that such amount will be applied toward reserves.

(15) INSERT a new PARAGRAPH (h) to BYLAWS ARTICLE III, SECTION 13, entitled "Powers and Duties." Said new addition to be added on Page 7 of the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 90-4739, Page 10 et seq., is as follows:

(h) In addition to all other powers enumerated above, the Board may exercise all powers of the Association, including the power to do the following:

i. Hire and fire attorneys, accountants, and other independent contractors and employees that the Board determines are necessary or desirable in the management and operation of the Condominium Property and the Association;

ii. Commence, defend, intervene in, settle, or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board, or the Condominium Property, or that involves two or more Unit Owners and relates to matters affecting the Condominium Property;

iii. Adopt rules that regulate the use or occupancy of Units, the maintenance, repair, replacement, modification, and appearance of Units, Common Elements, and Limited Common Elements when the actions regulated by those rules affect Common Elements or other Units;

iv. Grant easements, leases, licenses, and concessions through or over the Common Elements;

v. Impose and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Unit Owners;

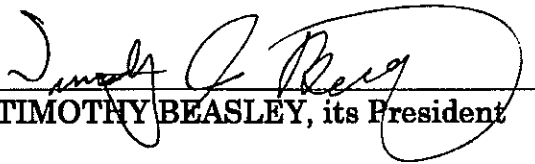
vi. Enter a Unit for bona fide purposes when conditions exist that involve an imminent risk of damage or harm to Common Elements, another Unit, or to the health or safety of the Occupants of that Unit or another Unit; and

vii. Invest excess funds in investments that meet standards for fiduciary investments under Ohio law.

Any conflict between the above provisions and any other provisions of the Declaration and Bylaws will be interpreted in favor of the above amendments. The invalidity of any part of the above provision will not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of these amendments, only Unit Owners of record at the time of such filing have standing to contest the validity of these amendments, whether on procedural, substantive or any other grounds, provided further that any such challenge must be brought in the court of common pleas within one year of the recording of the amendments.

The Brecksville West Condominium Unit Owners' Association, Inc. has caused the execution of this instrument this 2nd day of November, 2015.

**THE BRECKSVILLE WEST CONDOMINIUM UNIT OWNERS' ASSOCIATION,
INC.**

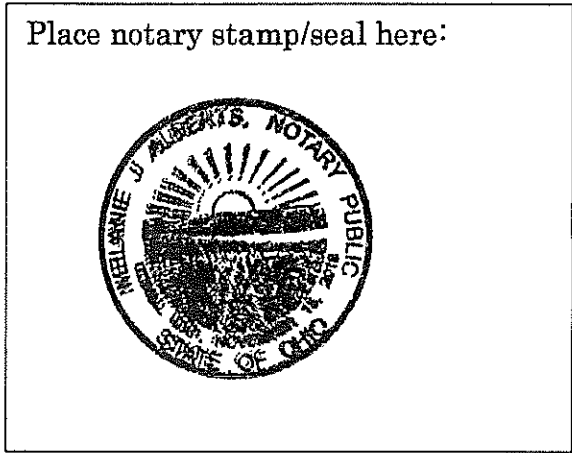
By: 
TIMOTHY BEASLEY, its President

STATE OF OHIO)
)
COUNTY OF CUYAHOGA) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named The Brecksville West Condominium Unit Owners' Association, Inc., by its President, who acknowledged that he did sign the foregoing instrument, on Page 8 of 9, and that the same is the free act and deed of said corporation and the free act and deed of him personally and as such officer.

IN WITNESS WHEREOF, I have set my hand and official seal in Macedonia, Ohio, this 2nd day of November, 2015.

Melanie J Albert
NOTARY PUBLIC



This instrument prepared by:
KAMAN & CUSIMANO, LLC.
Attorneys at Law
2000 Terminal Tower
50 Public Square
Cleveland, Ohio 44113
(216) 696-0650
ohiocondolaw.com

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DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

BRECKSVILLE WEST CONDOMINIUM

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RECORDER NOTE:
FOR MAPS ACCOMPANYING THIS DECLARATION AND
BY LAWS SEE VOL. 2, 2, PAGES 43 TO 60
INCLUSIVE OF CONDOMINIUM MAP RECORDS.

J. THOMAS MCCORMACK COUNTY AUDITOR
APPROVED OWNERSHIP, ONLY, OF

PERM PARCEL NO.

601-23-0341089

BY Sharon Hester
Deputy Auditor

DECLARATION OF CONDOMINIUM OWNERSHIP
FOR

BRECKSVILLE WEST CONDOMINIUM

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DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

BRECKSVILLE WEST CONDOMINIUM VOL. 90-4739 PAGE 23

WHEREAS, Brecksville West, Inc., hereinafter "Declarant," is the owner in fee simple of the real property herein described and the improvements thereon, and

WHEREAS, Declarant desires to submit the following land, together with the improvements thereon to the provisions of Chapter 5311 of the Ohio Revised Code, for Condominium Ownership;

NOW, THEREFORE, Declarant hereby submits the following described property to the provisions of Chapter 5311 of the Ohio Revised Code and states:

ARTICLE I. LEGAL DESCRIPTION AND DEFINITIONS.

A. LEGAL DESCRIPTION. The legal description of the premises is contained on "Exhibit C" affixed hereto and incorporated herein.

B. DEFINITIONS. The terms defined in this Section B (except as herein otherwise expressly provided) for all purposes of this Declaration and of any amendment hereto shall have the respective meanings specified in this section.

- (1) "Assessment" means the share of common expenses and other charges including, but not limited to, the costs, repairs and replacements made by the Association which were the responsibility of the Unit Owner, any charges made by the Association for special services to the Unit Owner or his Ownership Interest and for special or extraordinary uses or consumptions attributable to such Unit Owner or his Ownership Interest, damages resulting from the failure of the Unit Owner or any occupant of the Unit to comply with any of the covenants, conditions, obligations or restrictions of this Declaration or the By-Laws, or with any of the Rules, the costs of any action to obtain injunctive relief against such noncompliance, any other charges or assessments permitted by this Declaration or the By-Laws against the Unit Owner or his Ownership Interest, interest upon each assessment and charged at the highest legal rate, but not more than ten percent per annum from the date the assessment or charge first comes due to the date paid in full, and the reasonable costs of collecting any unpaid assessments and charges, including court costs and reasonable attorneys' fees.
- (2) "Association" means The Brecksville West Condominium Unit Owners' Association, Inc., a non-profit corporation to be formed under Chapter 1702 of the Ohio Revised Code, being

the entity responsible for the operation of the Condominium Property and consisting of all of the Unit Owners from time to time.

- (3) "Board" means those persons who, as a group, serve as the Board of Managers of the Association.
- (4) "By-Laws" means the By-Laws of the Association, affixed hereto as "Exhibit B" and incorporated herein, as may be amended from time to time.
- (5) "Buildings" means that part of the Condominium Property constituting the buildings, structures and improvements described generally in Article 4 hereof.
- (6) "Common Areas and Facilities" means all of the Condominium Property except the Units, and includes the tangible personal property for common use, enjoyment, maintenance or safety of the Unit Owners. No premises for the lodging of janitors or persons in charge of the property are included in the Common Areas and Facilities.
- (7) "Common Expenses" means those expenses designated as Common Expenses in Chapter 6311, in this Declaration, or in the By-Laws, including, but not limited to:
 - a. All sums lawfully assessed by the Association against the Unit Owners
 - b. Expenses and obligations of the Association for the use, administration, maintenance, repair and replacement of the Common Areas and Facilities;
 - c. Costs to the Association of utility services furnished to the Common Areas and Facilities, the Units, or the Unit Owners.
- (8) "Common Surplus" means the amount by which Common Assessments collected during any period exceed Common Expenses.
- (9) "Condominium Property" means the tract of land described in Exhibit A, improvements and structures thereon, all easements, rights and appurtenances belonging to the land, and all articles of personal property existing for the common use of the Unit Owners, and consists of the Units and the Common Areas and Facilities.
- (10) "Declaration" means this instrument and all of the Exhibits and attachments hereto as originally executed, or, as duly amended.
- (11) "Drawings" means the drawings prepared and certified in

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accordance with Section 5311.07 Revised Code relating to the Condominium Property, which Drawings are marked and identified as "Exhibit A," and are incorporated herein by reference.

- (12) "Limited Common Areas and Facilities" means those parts of the Common Areas and Facilities reserved for the use of a certain Unit or Units to the exclusion of the other Units.
- (13) "Mortgagees" means a bank, savings and loan association, insurance company, mortgage company or agency of the United States or any State, authorized and qualified to do business in the State of Ohio, and holding a first mortgage on a Unit.
- (14) "Occupant" means the person or persons in possession of a Unit, regardless of whether that person is a Unit Owner.
- (15) "Ownership Interest" means fee simple title interest in a Unit and the undivided percentage interest in the Common Areas and Facilities appertaining thereto. A ninety-nine year leasehold estate, renewable forever, shall be deemed a fee simple interest.
- (16) "Person" means a human being, a corporation, partnership, and any other legal entity to which the law attributes the capacity of having rights and duties.
- (17) "Rules" means such rules and regulations governing the operation and use of the Condominium Property as may be lawfully adopted by the Association or the Board from time to time.
- (18) "Unit" means a part of the Condominium Property specified as a Unit herein and so shown on the Drawings as "Exhibit A" and so listed on "Exhibit D" incorporated herein by reference.
- (19) "Unit Owner" means a person who owns a Unit and an undivided percentage interest in the Common Areas and Facilities, excluding, however, (i) persons having such interest merely as security for the performance of an obligation, and (ii) persons having a leasehold estate other than a ninety-nine year leasehold, renewable forever. A "Unit Owner" may also sometimes be referred to herein as a "Family Unit Owner" or "Owner."

ARTICLE 2. NAME.

The Condominium Property shall be known as The Brecksville West Condominium.

ARTICLE 3. THE PURPOSE OF AND RESTRICTIONS ON USE OF CONDOMINIUM PROPERTY.

A. PURPOSE. Except as provided in paragraph (9) of Section B of this Article 3, the Condominium Property shall be used exclusively for single family residence purposes and common recreational purposes ancillary thereto.

B. RESTRICTIONS.

- (1) There shall be no obstruction of the Common Areas and Facilities nor shall anything be stored in the Common Areas and Facilities without the prior consent of the Association except as herein expressly provided.
- (2) Hazardous Uses and Waste. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance of the Building or contents thereof, without the prior written consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities which will result in the cancellation or restriction of insurance on the Building or contents thereof, or which would be in violation of any law. No waste will be committed on any part of the Condominium Property.
- (3) Exterior Surfaces and Buildings. Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or outside walls or on the balconies of the Building, and no awning, canopy, shutter, radio or television antenna, or air conditioning unit shall be affixed to or placed upon the exterior walls or roof without the prior written consent of the Board.
- (4) Animals and Pets. No animals of any kind shall be kept in any part of the Condominium Property, except that any tenant of the Brecksville West Apartments who on the date of the recording of this Declaration keeps one or more pets permitted by the lease then in effect may, upon becoming a Unit Owner or the tenant of a Unit Owner, continue to keep that pet or those pets only, and provided that the Association may from time to time adopt rules and regulations pursuant to Article 9 of the By-Laws permitting and/or governing the keeping of animals in Condominium Property. The Association may also repeal any such rules and regulations by the same method required for their adoption. Any pet causing a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Property upon seven (7) days' written notice from the Board.
- (5) Nuisances. No noxious or offensive activity shall be carried on in any part of the Condominium Property, nor shall anything be done thereon which may be or become an annoyance, or hazard, to the other Unit Owners or Occupants.

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- (6) Impairment or Structural Integrity of Building. Nothing shall be done in any Unit or in, on, or to, the Common Areas and Facilities, which will impair the structural integrity of the Building or any improvements which would structurally change the Building, except as herein otherwise provided.
- (7) Laundry or Rubbish in Common Areas and Facilities. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common or Limited Common Areas and Facilities, except in such areas as may be specifically designated by the Association for such purpose. The Common and Limited Common Areas and Facilities shall be kept free of rubbish, debris and other unsightly materials.
- (8) Lounging or Storage in Common Areas and Facilities. There shall be no playing, lounging, parking or storage of baby carriages, bicycles, wagons, toys, vehicles, abandoned automobiles, campers, boats, automobile tires, benches, chairs, or any other tangible personal property on any part of the Common and Limited Common Areas and Facilities except in accordance with rules and regulations adopted by the Association.
- (9) Prohibited Activities. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, whether or not for profit, shall be conducted, maintained or permitted on any part of the Condominium Property if, in the ordinary conduct of any such industry, business, trade, occupation or profession, customers, employees, clients, suppliers or any other persons come, or are invited to come upon any part of the Condominium Property. No signs or advertising displays for any industry, business, trade, occupation or profession shall be placed on any part of the Condominium Property.
- (10) Prohibited Advertising. No "For Sale" or "For Rent" signs, or other window displays or advertising shall be maintained or permitted on any part of the Condominium Property, except in accordance with rules and regulations adopted by the Association; provided, however, that for two years following the date on which this Declaration is filed for record with the Cuyahoga County Recorder, or until Declarant has sold or rented all the Units, whichever occurs first, Declarant reserves the right to use one or more unsold Units for business or promotional purposes, including clerical activities, sales offices, model units and the like, in connection with the original sale or rental of said Units. For said period, Declarant further reserves the right to place "For Sale" or "For Rent" signs on any unsold Units or in other areas of the Condominium Property. The right is hereby given the Association or any mortgagee as owner of unsold or unoccupied Units to place "For Sale" or "For Rent"

signs on such Units or in other areas of the Condominium Property, provided that any such signs shall be, in kind and location, consonant with the character of the Condominium Property.

- (11) **Removal of Designated User.** Whenever any Unit is owned by a corporation, partnership, trust, or other entity (except Declarant), such Unit Owner through his officers or agents, i.e. president or chief executive officer, partner, or trustee, shall designate in writing one family which will be entitled to use of the Unit. Only the designated family, its servants and guests may use the Unit. Should such Unit Owner wish to designate another family to use the Unit instead, the Board shall be advised in writing of the occupancy of the Unit by the new family. Any family designated to use the Unit, as aforesaid, shall execute a written covenant by the adult members of the family, in favor of the Association, agreeing to comply with the terms and provisions of this Declaration, the By-Laws, and any rules and regulations promulgated from time to time by the Association. Such written covenant shall contain an acknowledgement that the use of the Unit by the family shall continue only so long as the aforementioned Unit Owner shall be a member of the Association. Upon demand by the Association in writing, the Unit Owner shall promptly remove any party using the Unit whom the Association has found to have failed to comply with the provisions of the Declaration and By-Laws, or Rules and Regulations of the Association. Should such Unit Owner fail to remove the party using the Unit, the Association, as agent of such Unit Owner, may take such action as it deems appropriate to accomplish the removal of such user. The Unit Owner shall reimburse the Association, upon demand, for costs, and such attorney's fees as the Association may incur in the removal.
- (12) **Application of Restrictions.** Each of the foregoing restrictions shall apply to all Unit Owners and to any natural or artificial person who from time to time occupies or is in possession of any part of the Condominium Property and to any other person lawfully or unlawfully upon any part of the Condominium Property. No Unit Owner shall cause or permit to exist a violation of the foregoing restrictions by himself or any of his employees, agents, guest, licensees or invitees, or any other person.
- (13) **Rental of Units.** The respective Units shall not be rented by the Owners thereof for transient or hotel purposes, which shall be defined as (i) rental for any period less than thirty (30) days, or (ii) any rental if the occupants of the Units are provided such customary hotel services as room service for food and beverage, maid service, furnishing of laundry and linen and bellboy service. Apart from the foregoing limitation, the Unit Owners shall have the

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absolute right to lease the same provided that said lease is made subject to the covenants and restrictions of the Declaration.

ARTICLE 4. GENERAL DESCRIPTION OF BUILDINGS.

The Condominium Property, located at 6550 - 6770 Chaffee Court, Brecksville, Ohio, consists of 96 apartment units in 4 buildings and 14 carports as shown on the drawings.

The property contains: 2 junior one bedroom suites; 2 regular one bedroom suites; 20 large one bedroom suites; and 42 two bedroom suites. All ground floor suites have patios and all upper floor suites have balconies. The carports will be sold as condominium units. In addition to the apartment buildings and carports, the property includes an outdoor heated swimming pool. Public facilities consist of the following: three laundry rooms.

There are approximately 79 outdoor parking spaces.

An individual storage locker is provided for each Unit. The Developer will assign the storage lockers.

EXTERIOR CONSTRUCTION:

The exterior walls are 4 inch firebrick with a 1 inch airspace and a course of concrete block or 4 inch stud wall. Windows are of the floor to ceiling style in all above ground suites and are of aluminum frame design with fixed glass panels above an awning style ventilating unit. Below grade suites have awning style ventilating sashes between existing grade and the ceiling.

All at-grade suites have patios and all above-grade suites have balconies both of which are accessed by sliding glass patio doors with screens.

Entrances to the suites are gained through covered exterior stairways which are protected by wood slat privacy screens.

Roof construction consists of 16 inch on-center wood joists with wood sheathing and an EPDM multi-ply built up type roofing material. New material has been installed on all roofs within the last three to four years. The flat roof design has interior style cast iron drain pipes that flow to contained storm sewers or gravity outlets.

INTERIOR CONSTRUCTION:

Typical floor construction consists of 16 inch on-center wood joists with plywood sheathing covered by fiber sound board.

Floor covering is carpet throughout most of the suite with vinyl floor covering in the kitchen, bath and utility room areas.

All ceilings are constructed of a resilient, sound absorbing style system covered by gypsum wallboard.

Walls are of typical stud construction covered with 1/2 inch drywall

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board. Exterior concrete block walls are faced with wood furring strips and covered with 1/2 inch drywall board. Interior suite separation walls are constructed of either concrete block with wood furring strips and drywall or wood studs with a fiber sound board and drywall.

All suite kitchens come equipped with double sinks and disposal, formica countertops, oven with cooktop and exhaust, and a refrigerator. Baths have sinks and tubs with showers. The floor plans of the two bedroom suites include a closet in each bedroom, a linen closet, a utility room and in the case, a walk-in utility room with enough space for a washer and dryer. All suites have their own furnace, air conditioning unit and water heater.

"Exhibit D" attached hereto contains information about the Units. The first four digits of the Unit indicates the building in which the Unit is located.

"Exhibit D" also indicates the approximate square footage and whether the residential units are a one or two bedroom.

Each Unit has a direct exit to the Common Areas leading to a public street.

ARTICLE 5. DESCRIPTION OF UNITS.

A. The Condominium Property consists of 80 apartment Units, of which 66 Units are for residential purposes and 14 are carports.

The Units designated for residential purposes shall consist of all of the space bounded by the undecorated interior surfaces of the perimeter walls, floors and ceilings of said Unit projected, if necessary, by reason of structural or nonstructural divisions such as interior walls, and other partitions to constitute a complete enclosure of space, provided that, wherever such undecorated surfaces consist of plaster or plasterboard or the concrete floor, all of such plaster or plasterboard or concrete floor contiguous to such surface shall be included within the Unit. The exact layout and dimensions of such Units are shown on "Exhibit A" incorporated herein and include without limitation:

- (1) The decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and any other finishing material applied to floors, ceilings and interior and perimeter walls;
- (2) All windows and doors, including the frames, sashes and jams, and the space occupied thereby, and all nonstructural interior walls;
- (3) All fixtures located within the bounds of a Unit, installed in and for the exclusive use of said Unit commencing at the point of disconnection from the structural body of the building and from utility pipes, lines or systems serving more than one Unit;
- (4) All control knobs, switches, thermostats and base plugs.

floor plugs and connections affixed to or projecting from the walls, floors and ceiling which service either the Unit or the fixtures located therein, together with the space occupied thereby;

(5) All plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts or conduits which exclusively serve either the Unit or the fixtures located therein, and which are located within the bounds of the Unit;

B. The parking space Units shall consist of the space bounded by a wall, either real or imaginary on four sides of a space as shown on the drawings attached as "Exhibit A." If no real wall exists, it shall be considered to exist in the middle of the line outlining the parking spaces as shown on the drawings and by lines drawn perpendicular thereto extending up to the lower surface of the ceiling or ten feet whichever is lesser.

Notwithstanding anything contained in this Declaration or the By-Laws to the contrary, the Association shall be responsible for the repainting of the lines separating the parking space Units, for the illumination of the garages area, for the maintenance and repair of the walls, ceilings and floors within the garages space Units, and for replacement of any lighting fixtures contained within the said garages.

No owner of a Unit used for parking shall erect any walls, barriers or other incia of the boundaries of the Unit.

C. Excepted from the description contained in A and B immediately above shall be all of the following items located within the bounds of the Unit as described above.

- (1) Any part of the structure contained in all interior walls, and the undecorated perimeter walls, floors and ceilings;
- (2) All vent covers, grills, plate covers and other coverings of space which are not part of the Unit, as defined above;
- (3) All plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts and conduits which serve any other Unit.

ARTICLE 6. DESCRIPTION OF COMMON AND LIMITED COMMON AREAS AND FACILITIES.

A. COMMON AREAS AND FACILITIES.

- (1) Definition of Common Areas and Facilities. The Common Areas and Facilities shall consist of all parts of the Condominium Property except the Units, including, but not limited to, the following, whether or not located within the bounds of a Unit;

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- a. the foundations, columns, girders, beams, supports, supporting walls, roofs, halls, corridors, stairs, stairways, entrances and exits of the Building;
 - b. the land on which the Building is located, yards, gardens, exterior parking not designated as Units, roads and walks;
 - c. installations of central utility services such as power, light, telephone, gas and sewerage, serving more than one Unit; and all pipes, ducts, wires, conduits, fan coil units, receptacles, switches, grills, thermostats and control devices which are a part of, connected to, or used in conjunction with any of the foregoing;
 - d. the tanks, pumps, motors, fans, compressors, and, in general, all apparatus and installations existing for common use;
 - e. all personal property relating to the maintenance, repair and operation of the Building;
 - f. the swimming pool, utility rooms, storage locker rooms and laundry rooms;
 - g. all other parts of the Condominium Property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as Common Areas and Facilities in the Drawings.

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- (2) Ownership of Common Areas and Facilities. The Common Areas and Facilities shall be owned by the Unit Owners as tenants in common, and ownership thereof shall remain undivided. No action for partition of any part of the Common Areas and Facilities shall be maintainable, except as specifically provided in Chapter 5311 Revised Code nor may any Unit Owner waive or release any rights in the Common Areas and Facilities; provided, however, that if any Unit is owned by two or more persons, including, but not limited to partners, tenants in common, tenants by the entirety or joint tenants, nothing contained herein shall be deemed to prohibit a voluntary or judicial partition of such Unit ownership between or among such persons.
 - (3) Use of Common Areas and Facilities. Except with respect to Limited Common Areas and Facilities, each Unit Owner may use the Common Areas and Facilities in accordance with the purposes for which they are intended, subject to the Rules. This right shall be appurtenant to and run with legal title to his Unit.
 - (4) Interest in Common Areas and Facilities. The percentage of

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Interest of each Unit in the Common Areas and Facilities has been determined by Declarant in the proportion that the initial fair market value of all Units and is contained on "Exhibit D" attached hereto and made a part hereof.

- (5) **No Diversion of Common Areas and Facilities.** Declarant, their successors, assigns and grantees, including Unit Owners, covenant and agree that the undivided percentage of interest in the Common Areas and Facilities and the fee titles to the respective Units shall not be separated or separately conveyed, encumbered, inherited or divided and each said undivided interest shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument, conveyance or encumbrance may refer only to the fee title to such Unit.
- 8. **LIMITED COMMON AREAS AND FACILITIES.** The following are hereby deemed Limited Common Areas and Facilities: (i) all screens and storm windows serving a single Unit; (ii) storage locker spaces located outside of the Units for residential Units.

The Developer at the time of sale of the residential Units will assign the lockers and provide the Association with a record of such assignment. After the initial assignment of lockers, any changes shall only be made with the consent of the Unit Owner.

Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy such of the Limited Common Areas and Facilities as are reserved exclusively for the use of his Unit.

ARTICLE 7. UNIT OWNERS' ASSOCIATION.

Declarant shall cause to be formed an Ohio Corporation not for profit to be called Brecksville West Condominium Unit Owners' Association, Inc. which shall administer the Condominium Property. Each Unit Owner upon acquiring title to the Unit, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of his Unit ownership, at which time the new owner of such Unit shall automatically become a member of the Association.

The Unit Owners' Association shall be established not later than the date the deed is filed for record following the sale of the first Unit.

The administration of the Condominium Property shall be in accordance with the provisions of this Declaration and the By-Laws of the Association which are attached hereto as "Exhibit B". Each owner, tenant, or occupant of a Unit shall comply with the provisions of the general law, this Declaration, the By-Laws and resolutions of the Association.

ARTICLE 8. STATUTORY AGENT.

The President of the Association or such other person designated by the Board shall serve as the Statutory Agent to receive service of process for the Association. Until such designation is made, John J. Duffy, having a place of

business at 23823 Lorain Road, Suite 210, North Olmsted, Ohio 44070, shall be designated as such Statutory Agent. The name and address of the Statutory Agent (and of such successor) shall be filed with the Ohio Secretary of State on the customary forms prescribed therefor.

ARTICLE 9. AMENDMENT OF DECLARATION AND BY-LAWS.

This Declaration, the Drawings and the By-Laws attached hereto as "Exhibit B" may be amended only by the affirmative written vote given at a meeting held for that purpose or filed with the Association representing Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power of the Association. Upon the adoption of any amendment, the President of the Association shall file with the Recorder of Cuyahoga County an instrument executed with the same formalities as herein, containing the amendment being made, the volume and page of the original being amended, the manner of the adoption and the statement that a copy of the proposed amendment was sent by certified mail to all mortgagees of Units as contained in the records of the Association. Effective with the recording of said instrument, this Declaration shall be amended accordingly. No amendment shall have any effect upon a bona fide first mortgagee of a Unit until the written consent of such mortgagee to such amendment has been secured. Such consents shall be retained by the Secretary of the Association and his certification in the instrument of amendment as to the names of the consenting and nonconsenting mortgagees of the various Units shall be sufficient for reliance by the general public. No provision in this Declaration may be changed, modified or rescinded, so as to cause the Declaration to conflict with Chapter 5311, Ohio Revised Code, or any successor statute, nor may any amendment be made to the percentage interest set forth in attached "Exhibit D" without the prior unanimous approval of all Unit Owners and their respective mortgagees.

ARTICLE 10. DRAWINGS.

Attached hereto and marked "Exhibit A", and made a part hereof is a set of drawings of the Condominium Property as prepared and certified by Bock and Clark, Consulting Engineers and Surveyors.

ARTICLE 11. MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS.

A. THE ASSOCIATION. The Association shall manage the Common Areas and Facilities and shall maintain and keep the same (but not the Limited Common Areas and Facilities) in good working order, condition and repair, in a clean, neat, safe and sanitary condition, and in conformity with all applicable laws, ordinances and regulations and shall make all necessary repairs, replacements, alterations and other improvements in a good and workmanlike manner. The Association shall also be responsible for repairing all damage to a Unit caused by the Association, including damage caused by performance by the Association of its obligations hereunder. The Association may delegate all or any portion of its authority for maintenance and repair to a manager or managing agent, as may be evidenced by one or more management contracts, each of which shall provide for termination for cause and shall provide for the payment of reasonable compensation to said managing agent as a Common Expense; provided, however, that no such management contract shall exceed a three (3) year term. The

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Declarant, on behalf of the Association, may enter into a management agreement for not more than one (1) year beyond the time the control of the Association is assumed by the Unit Owners.

B. UNIT OWNER. The responsibility of each Unit Owner shall be as follows:

- (1) To maintain, repair and replace at his expense all portions of his Unit, and all internal installations of such Unit such as appliances, plumbing, electrical and heating and air conditioning fixtures or installations, and any portion of any other utility service facilities located within the Unit boundaries, other than such utility facilities serving other Units, and to assume the same responsibility with respect to the Limited Common Areas and Facilities belonging to his Unit.
- (2) Not to make any alterations in the portions of the Unit or the Building which are to be maintained by the Association or remove any portion thereof or make any additions thereto or do anything which might jeopardize or impair the safety or soundness of the Building without first obtaining the written consent of the Board, nor shall any Unit Owner impair any easement without first obtaining the written consent of the Association and of any person for whose benefit such easement exists.
- (3) Not to enclose, paint or otherwise decorate or change the appearance of any portion of the Building not within the walls of the Unit, without prior written consent of the Board.
- (4) To report promptly to the Association or its agent any defect or need for repairs which are the responsibility of the Association.
- (5) To perform his responsibilities in such a manner as not to unreasonably disturb other occupants.
- (6) To maintain, repair and replace at his expense all portions of the Condominium Property damaged or destroyed by his own act or neglect, the act or neglect of any Occupant of his Unit, or the act or neglect of any invitee, licensee or guest of such Owner or Occupant, to the extent such damage or destruction is not covered by insurance maintained by the Association. Notwithstanding the foregoing obligation of the Unit Owner, the Association (or other Unit Owner in respect to his own Unit) may, but shall not be obligated to, repair and replace the property damaged or destroyed by reason of the act or neglect of a Unit Owner, an Occupant, or the invitee, licensee or guest of same, and recover from such Unit Owner the cost of any such repair or replacement. Should the repair or replacement be made by the Association, the cost and expense thereof shall be a lien against the

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Unit Owner's Ownership Interest which the Association may assert and collect in the same manner as the Association may assert and collect a lien against a Unit Owner's Ownership Interest for non-payment of his share of assessments for Common Expenses. The right herein of the Association to assert and collect upon a lien shall not be exclusive, but shall be in addition to all other rights and remedies available to the Association, in law and in equity for recovery of the cost and expense so incurred.

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- (7) To pay all costs for utility services, (including but not limited to water, gas, electricity, sewage, rubbish and trash disposal) furnished to his Unit or to the Limited Common Areas and Facilities designated for his use, unless any or all of such services are provided as part of the Common Expenses, in which case, the Unit Owner shall pay for the same as part of his share of the Common Expenses.
- (8) Not to decorate, landscape or adorn any Common or Limited Common Areas and Facilities without the prior written consent of the Association, in any manner contrary to such rules and regulations as may be established by the Association.
- (9) Not to do any work which would jeopardize the soundness or safety of the Condominium Property, reduce its value or impair any easement or hereditament, without in every such case first obtaining the unanimous consent of all the other Unit Owners.
- (10) Not to use the Common Areas and Facilities in such manner as to interfere with, restrict or impede the use thereof by others entitled to their use or in any manner not in accordance with this Declaration, the By-Laws or the Rules.
- (11) Not to execute any deed, mortgage, lease or other instrument affecting title to his Ownership Interest without including therein both his interest in the Unit and his corresponding percentage of ownership in the Common Areas and Facilities, it being the intention hereof to prevent any severance of such combined ownership. In furtherance, and not in limitation, of the foregoing restriction, any deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed to include the interest so omitted even though not expressly mentioned or described therein.

C. RIGHTS AGAINST THIRD PARTIES. The obligation of the Association and of Unit Owners to repair, maintain and replace the portions of the Condominium Property for which they are respectively responsible shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in material or workmanship in the construction, repair, alteration or improvement of the Condominium Property. The

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undertaking of repair, maintenance or replacement by the Association or Unit Owners shall not constitute a waiver of any rights against any warrantor, but such rights shall be specifically reserved.

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

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ARTICLE 12. EASEMENTS.

- A. ENCROACHMENTS. In the event that, by reason of the construction, repair, restoration, settlement or shifting of the Building or by reason of the partial or total destruction and rebuilding of the Building, any part of the Common or Limited Common Areas and Facilities encroaches or shall hereafter encroach upon any part of a Unit, or any part of a Unit encroaches or shall hereafter encroach upon any part of the Common or Limited Common Areas and Facilities, or, if by reason of the design or construction of utility systems, any main pipes, ducts, or conduits serving either any other Unit or more than one Unit encroaches or shall hereafter encroach upon any part of any Unit, valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit or the Common Areas and Facilities, provided, however, that in no event shall a valid easement for any encroachment be created in favor of the Owner of any Unit or in favor of the Common or Limited Common Areas and Facilities if such encroachment occurred due to the willful negligent conduct of such Owner.
- B. MAINTENANCE EASEMENTS. Each Unit Owner shall be subject to easements in favor of the Association in and over the Units and Limited Common Areas for access arising from necessity of maintenance or operation of the Building. Each Unit Owner shall have the permanent right and easement to and through the Common Areas and Facilities and walls to the use of heat, water, sewer, power, television antenna (subject to the limitations contained herein), and other utilities now or hereafter existing within the walls, and further shall have an easement to hang pictures, mirrors and the like upon the walls of his Unit.
- C. EASEMENTS FOR CERTAIN PURPOSES. The Association may hereafter grant easements on behalf of Unit Owners for the benefit of the Condominium Property, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, ducts, public utility lines, electrical conduits and wires and television cables and antenna wires over, along, within or through any portion of the Common Areas and Facilities, or interior or perimeter walls, ceilings and floors, provided, however, that no such easement shall be granted within the boundaries of any Unit or any Limited Common Areas and Facilities except within or through interior

or perimeter walls, ceilings or floors, and further provided that it is a condition to the use and enjoyment of any such easement, and the grantee of such easement does by the acceptance and use thereof covenant and agree, that the grantee of such easement shall restore the Condominium Property and all portions thereof to the condition in which it existed prior to the grantee's use of such easement. Each Unit Owner hereby grants and the transfer of title to a Unit Owner shall be deemed to grant to the Association an irrevocable power of attorney to execute, acknowledge and record, for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing.

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- D. EASEMENTS TO RUN WITH LAND. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof.
- E. REFERENCE TO EASEMENTS IN DEEDS. 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 trust deed or other evidence of obligation shall not defeat or fail to reserve said rights or easements but same shall be deemed conveyed or encumbered along with the Unit.
- F. DAMAGE RESULTING FROM EXERCISE OR EASEMENTS. All damage caused to the Condominium Property or the property of any Unit Owner as a result of any act or work performed pursuant to the authority granted or reserved in this Article 12 or as a result of the use of any easement granted or reserved herein shall be repaired, replaced or corrected promptly by the person performing the act or work by the grantee or holder of the easement being exercised, at the expense of such person, so that any such Condominium Property or other property so damaged will be restored (or replaced) to the condition in which it existed immediately prior to such damage.

ARTICLE 13. ASSESSMENTS AND LIEN OF ASSOCIATION.

- A. GENERAL. Assessments for the Common Expenses shall be made in the manner provided herein and in the By-Laws. The proportionate shares of the Owners of the respective Units in the Common Profits and the Common Expenses of the Condominium Property is the same as their respective proportionate interests in the Common Areas and Facilities, as set forth in Article 6A(f) above. Every Unit Owner shall pay his proportionate share of Common Expenses and other assessments in such manner and at such times as are provided herein and in the By-Laws.
- B. NON-USE OF FACILITIES. No owner of a Unit may exempt himself from liability for assessments by waiver of the use or enjoyment of any of the Common Areas and Facilities or by the abandonment of his Unit.
- C. FAILURE TO PAY ASSESSMENTS WHEN DUE. In the event any Unit Owner fails to pay any assessment made by the Board within ten (10) days

after the same shall have become due and payable, the Board may, in its discretion and in addition to any other right or remedy conferred by law or contained herein or in the By-Laws, discontinue any or all services to the Unit owned by such Unit Owner which may be included as part of the Common Expenses. Any assessment not paid within ten (10) days after the same shall have become due and payable shall bear interest until the same shall have been paid at the rate of eight percent (8%) per annum from and after the date the same became due. Each Unit Owner shall also be liable for all costs incurred by the Association in connection with the collection of delinquent assessments from such Owner, including attorney fees.

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- D. LIEN OF ASSOCIATION. The Association shall have a lien upon each Unit Owner's Ownership Interest for the payment of the portion of the portion of any assessments or Common Expenses chargeable against such Unit which remain unpaid for ten (10) days after the same have become due and payable, together with the other amounts provided for in Section C above, from the time a certificate therefor, subscribed by the President of the Association, is filed with the Recorder of Cuyahoga County, Ohio, pursuant to authorization given by the Board. Upon filing such a lien, notification thereof shall be by regular mail to the Unit Owner and his mortgagee as shown on the books of the Association. Such certificate shall contain a description of the Unit, the name or names of the record Owner or Owners thereof and the amount of such unpaid portion of the Common Expenses, assessments, and other amounts due. Such lien shall also secure all amounts which may become due after the filing of the lien. Such lien shall remain valid for five (5) years from the time of filing, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of the Court in an action brought to discharge such lien as hereinafter provided. In addition, each Unit Owner and any occupant thereof shall be personally liable for such expenses chargeable for the period of his ownership or occupancy.
- E. PRIORITY OF ASSOCIATION'S LIEN. The lien provided for in Section D. of this Article 13 shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments, and may be foreclosed in the same manner as a mortgage on real property in an action by or on behalf of the Association. In any such foreclosure action, the owner or owners of the Unit affected shall be required to pay a reasonable rental for such Unit during the pendency of such action, and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. In any such foreclosure action, the Association, or its agent or nominee, shall be entitled to purchase the Unit at the foreclosure sale.
- F. DISPUTE AS TO COMMON EXPENSES. Any Unit Owner who believes that a portion of common expenses chargeable to his Unit, for which a certificate of lien has been filed by the Association, has been improperly charged against him or his Unit may bring an action in the Court of Common Pleas for Cuyahoga County, Ohio, for the discharge of such lien.

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G. NON-LIABILITY OF FORECLOSURE SALE PURCHASE FOR PAST DUE COMMON EXPENSES. Where a first mortgagee or other purchaser acquires title to a Unit as a result of foreclosure of the first mortgage, or if a first mortgagee should accept a deed in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the share of the Common Expenses or other assessments by the Association chargeable to such Unit which became due before such acquisition of title unless such share is secured by a lien for assessments recorded prior to the recording of the foreclosed mortgage. Any funds received on the judicial sale of the Unit in excess of the first mortgage lien, the court costs and the real estate taxes, shall, however, be paid over to the Association, to the extent of the unpaid assessments due the Association. The Unit Owner of a Unit prior to the judicial sale thereof shall be and remain after the date of the judicial sale personally and primarily liable for the Assessments against the judicially sold Unit up to the date of the judicial sale; but such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Units, including that of such acquirer, its successors and assigns.

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H. LIABILITY FOR ASSESSMENTS UPON VOLUNTARY CONVIYANCE. In a conveyance of a Unit, other than a conveyance described in Section G above, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and his Unit for his share of Common Expenses to the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Board, within ten (10) days after receipt by the Board of his request, setting forth the amount of all unpaid assessments or other charges; and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement. As used in this paragraph "grantor" shall include a decedent and "grantee" shall include a devisee or heir, donee, or any other successor or assign of a grantor.

ARTICLE 14. INSURANCE.

A. AUTHORITY TO PURCHASE. All insurance policies upon the Condominium Property (except as hereinafter provided) shall be purchased by the Association for the benefit of the Unit Owners (without naming them) and their respective mortgagees as their interest may appear. All of said policies shall, to the extent available, provide:

- (1) For the issuance of certificates of insurance with mortgagee endorsements to the holders of first mortgages on the Units, if any;
- (2) That the insurer waives its right of subrogation against Unit Owners, Occupants, the Association, any managing agent, and their respective families, agents, tenants, guests and all persons lawfully in possession of a Unit;

- (3) That improvements to Units made by Unit Owners shall not affect the valuation for the purposes of such insurance of the Buildings and all other improvements upon the Land and that any "other insurance" clause in such policies exclude individual Unit Owners' policies from consideration;
- (4) That coverage under such policies will not be terminated, cancelled or substantially modified without ten (10) days prior written notice to all insureds; and
- (5) That the insurer waives all defenses based upon co-insurance or contribution.

The Association agrees for the benefit of the Unit Owners and each Unit mortgagee that it shall pay the premium for the casualty insurance hereinafter required to be carried by the Association at least ten (10) days prior to the expiration date of such policy and such cost shall be assessed as a Common Expense.

- B. **UNIT OWNER'S INSURANCE.** Each Unit Owner may, at his own expense, obtain insurance coverage of his personal property and his personal liability and may obtain casualty insurance at his own expense upon any improvements to his Unit made by him in which he would have an insurable interest in excess of his interest in the casualty insurance policy purchased by the Association. Each insurance policy, however, shall provide that it shall be without contribution as against the casualty insurance purchased by the Association or shall be written by the carrier of such insurance for the Association and shall contain the same waiver of subrogation as that referred to in Section A above.
- C. **COVERAGE.** The Common Areas and Facilities, including Buildings and all of the insurable improvements upon the Condominium Property and all personal property as may be owned by the Association, shall be insured in an amount not less than 80% of the full replacement cost thereof, exclusive of excavation and foundations. Such coverage shall grant protection against the following:
- (1) Loss or damage by fire and other hazards covered by the standard extended coverage endorsement including coverage for the payment of Common Expenses with respect to damaged Units during the period of reconstruction thereof, with a deductible clause of \$1,000.00 or such other amount as the Board shall deem best;
 - (2) Such other risks, including but not limited to vandalism, wind storm, water damage and malicious mischief, as may from time to time be customarily covered with respect to Buildings similar in construction, location and use. Any such policy shall provide that notwithstanding any provision which gives the carrier an election to restore damage in lieu of making a cash settlement, such option shall not be exercised in case of the termination of the Condominium as provided for in this Declaration or pursuant to the

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provisions of Chapter 5311 of the Ohio Revised Code.

The Association shall further insure itself, any managing agent, the Unit Owners and their respective families, agents, tenants, guests and employees and all persons lawfully in possession or control of any part of the Condominium Property, against liability for personal injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Common Areas and Facilities, including without limitation, water damage, legal liability and hired automobile to afford protection to a limit of not less than One Million Dollars (\$1,000,000.00). Such insurance shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units. All liability insurance shall contain cross-liability endorsements to cover liabilities to a Unit Owner of the Unit Owners as a group.

The Association shall also maintain, to the extent obtainable, fidelity insurance covering all employees who handle Association funds; public liability insurance covering each member of the Board, the managing agent, the manager and each Unit Owner, in such limits as the Board may deem proper, and such other insurance policies as the Association deems desirable. The Board shall review such limits once a year.

Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged as Common Expenses.

- D. **INSURANCE TRUSTEE - DISTRIBUTION OF PROCEEDS.** All casualty insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their respective mortgagees as their respective interests may appear and shall provide that all proceeds in excess of One Hundred Thousand Dollars (\$100,000.00) payable as a result of casualty losses shall be paid to any bank, subject to the approval of any mortgagees having an interest therein, which approval should not be unreasonably withheld, selected as Trustee by the Association, located in Cuyahoga County, Ohio, and with a net worth in excess of \$50,000,000.00. Such Insurance Trustee shall not be liable for payment of premiums, nor for the renewal of the policies, for the sufficiency of coverage, for the form or contents of the policies, nor for the failure to collect any insurance proceeds. The Insurance Trustee has no obligation to inspect the property or determine whether a loss has been sustained or to file any claim against any insurer or any other person. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for distribution in accordance with the terms and conditions hereinafter set forth and for the benefit of the Association, the Unit Owners and their respective mortgagees. The policy shall further provide that any proceeds up to One Hundred Thousand Dollars (\$100,000.00) payable as a result of a casualty loss shall be payable to the respective mortgagees as their interests may appear and to the president of the Condominium Association, as Trustee, for the benefit of the Unit Owners.
- E. **SUFFICIENT INSURANCE.** In the event the improvements forming a part of

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the Condominium Property, or any portion thereof, shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage shall be sufficient to pay the cost of repair, restoration or reconstruction, then such repair, restoration or reconstruction, shall be undertaken by the Association, only if any first mortgagee of a Unit shall have given its written consent, which consents shall be retained by the Secretary of the Association, and any other mortgagees having an interest therein shall have given their approval, which approval shall not be unreasonably withheld, and the insurance proceeds shall be applied by the Association or the Insurance Trustee in payment therefor; provided, however, that in the event, within sixty (60) days after such damage or destruction, the Unit Owners, if they are entitled to do so pursuant to Article 15, shall elect to sell the Condominium Property, or to withdraw the same from the provisions of this Declaration, then such repair, restoration or reconstruction shall not be undertaken.

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F. INSUFFICIENT INSURANCE. Should the improvements (other than the portion of the Units which each Unit Owner has the responsibility of insuring) forming a part of the Condominium Property, suffer damage or destruction from any cause or peril not insured against, or in the event the insurance proceeds (plus any deductible amount) shall not be sufficient to pay the cost of repair, restoration or reconstruction (based on estimates obtained by the Association), then, unless the Unit Owners shall within sixty (60) days after such damage or destruction, if entitled to do so pursuant to Article 15, elect to withdraw the property from the provisions of this Declaration, such uninsured cost or repair, restoration or reconstruction of the Units and of Limited Common Areas and Facilities shall be undertaken by the Association, only if any first mortgagee of a Unit shall have given its written consent, which consents shall be retained by the Secretary of the Association, and any other mortgagees of such Units shall have given their approval, which approval shall not be unreasonably withheld, each Owner of the Units so damaged or destroyed shall pay that proportion of the cost of repair, restoration or reconstruction reasonably attributable to each such Unit and/or Limited Common Areas the uninsured cost of repair, restoration or reconstruction of all or any part of the remainder of the Common Areas and Facilities shall be undertaken by the Association at the expense of the Owners of Units in the same proportions in which they own the Common Areas and Facilities. The full uninsured cost of repair and reconstruction is to be paid on behalf of the Unit Owners by the Association, without a vote of the members. One or more such assessments may be made, as necessary. Should any Unit Owner refuse or fail after reasonable notice to pay his share of such cost in excess of available insurance proceeds, the amount thereof may be advanced by the Association and assessed to such Owner with the same force and effect, and if not paid, enforceable in the same manner as hereinbefore provided for the nonpayment of assessments.

The term "uninsured damage or destruction" shall mean loss occurring by reason of a hazard not covered by the insurance policies of the Association. The term "underinsured damage or destruction" shall mean

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that loss occurring by reason of a hazard covered by the insurance policies of the Association, but for which the proceeds are insufficient to cover the cost of repair, restoration or reconstruction.

G. DISBURSEMENT OF INSURANCE PROCEEDS AND ASSESSMENTS. The proceeds of insurance collected on account of a casualty, and any sums deposited with the Insurance Trustee by the Association from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

- (1) The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a Unit Owner shall be paid to such contractors, suppliers and personnel as do the work or supply the materials or services required for such reconstruction or repair, in such amounts and at such times as the Unit Owner may direct, or if there is a mortgagee endorsement, then to such payees as the Unit Owner and the first mortgagee jointly direct; provided, however, that nothing contained herein shall be construed to limit or modify the responsibility of the Unit Owner to make such reconstruction or repair;
- (2) The portion of insurance proceeds representing damage for which the Association has the responsibility of reconstruction and repair shall be disbursed as follows:
 - a. If the estimated cost of reconstruction and repair is less than One Hundred Thousand Dollars (\$100,000.00) then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such proceeds shall be disbursed only if any first mortgagee of a Unit shall have given its written consent, which consents shall be retained by the Secretary of the Association, and any other mortgagees of such Units shall have given their approval, which approval shall not be unreasonably withheld; or
 - b. If the estimated cost of reconstruction and repair is more than One Hundred Thousand Dollars (\$100,000.00) then the construction fund shall be applied by the Insurance Trustee, only if any first mortgagee of a Unit shall have given its written consent, which consents shall be retained by the Secretary of the Association, and any other mortgagees having an interest therein shall have given their approval, which approval shall not be unreasonably withheld, to the payment of such cost

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and shall be paid to or for the account of the Association from time to time as the work progresses, but not more frequently than once in any calendar month. The Insurance Trustee shall make such payments upon the written request of the Association, accompanied by a certificate, dated not more than fifteen (15) days prior to such request. Such certificate shall be signed by a responsible officer of the Association and by an architect in charge of the work, who shall be selected by the Association and shall (i) state that the sum requested has either been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work; (ii) give a brief description of the services and materials and the several amounts so paid for by the Association pending withdrawal of insurance proceeds; (iii) state that the sum requested does not exceed the value of the services and materials described in the certificate; (iv) state that except for the amount stated in such certificate to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry, which might become the basis of a vendor's, mechanic's, materialmen's or similar lien upon such work, the Common Areas and Facilities or any Unit; and (v) state that the cost of the work remaining to be done after the date of such certificate, as estimated by the person signing such certificate, does not exceed the amount of the construction fund remaining in the hands of the Insurance Trustee after the payment of the sum so requested.

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- (3) If the damage or destruction is to be repaired, all expenses of the Insurance Trustee shall be first paid, and the remaining proceeds shall be disbursed in payment for repairs and reconstruction as hereinbefore provided. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed jointly to the Unit Owners and their mortgagees who are the beneficial owners of the funds.
- (4) The Insurance Trustee may rely upon a certificate of the Association certifying whether the damaged property is to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

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H. ADJUSTMENT OF LOSS. Immediately after any damage or destruction by fire or other casualty to all or any part of the Condominium Property covered by insurance maintained by the Association, the Board, or its duly authorized agent, shall commence the filing and adjustment of all claims for repairing or restoring the Condominium Property to substantially the same condition as prior to the fire or other casualty. Such costs shall include the total cost of reconstruction and equipment, including, but not limited to, demolition and removal of damaged property or improvements, architectural and engineering and other professional fees and direct construction costs for labor and materials. Upon acquisition of his Unit, each Unit Owner shall be deemed to have delegated to the Board or its agent his right to adjust with the insurer any and all claims under the casualty insurance policies referred to above only if any first mortgagee of a Unit shall have given its written consent to such adjustment, which consents shall be retained by the Secretary of the Association.

I. WAIVER OF SUBROGATION. Each Unit Owner and Occupant and the Association agree, provided such agreement does not invalidate or prejudice any policy of insurance of the Owner thereof, that, in the event the Condominium Property (including the Units therein), or any part thereof or any fixtures or personal property located therein are damaged or destroyed by fire or other casualty that is covered by insurance of any Unit Owner, Occupant or the Association, or the lessees or sublessees of any of them, the rights or claims, if any, of any such party against any other such party, or with respect to such damage or destruction and with respect to any loss resulting therefrom are hereby waived to the extent of the coverage of said insurance.

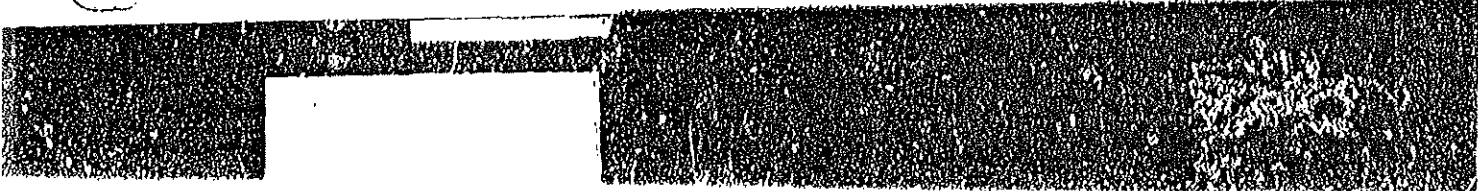
ARTICLE 15. NON-RESTORATION OF DAMAGE OR DESTRUCTION.

In the event of substantial damage or destruction of 27 or more of the residential Units, the Unit Owners by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power of the Association at a meeting held not more than sixty (60) days after the occurrence of a casualty or damage or destruction, may elect not to repair or restore the Condominium Property. Upon such election, all of the Condominium Property shall be subject to an action for sale as upon partition at the suit of any Unit Owner. In the event of any such sale of the Condominium Property after such election, by agreement of all Unit Owners, the net proceeds of the sale together with the net proceeds of insurance, and any other indemnity arising because of such damage or destruction, shall be considered one fund and shall be distributed to all Unit Owners in proportion to their respective percentages of interest in the Common Areas and Facilities. No Unit Owner, however, shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged. Upon receipt by the Unit Owner of his share, his interest in the Condominium Property shall terminate, and the Unit Owner shall execute and deliver any and all such documents as may be reasonably requested by the Association to evidence such termination.

ARTICLE 16. REHABILITATION AND RENEWAL OF OBSOLETE PROPERTY.

The Association may, by the affirmative vote of Unit Owners entitled to

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exercise not less than seventy-five percent (75%) of the voting power, determine that the Condominium Property is obsolete in whole or in part, and elect to have the same renewed and rehabilitated. The Board shall thereupon proceed with such renewal and rehabilitation and the cost shall be a Common Expense. In consideration of the conveyance to the Association of his Unit, subject to such liens and encumbrances hereinafter referred to, any Unit Owner who does not vote for such renewal and rehabilitation may elect, in a writing served by him on the President of the Association within five (5) days after receiving notice of such vote, to receive the fair market value of his Unit, plus such owner's pro rata share of any undistributed Common Profits accrued to the date of such vote, less the sum of the following: (i) The amount of any liens and encumbrances thereon as of the date such vote is taken; (ii) The amount of any liens and encumbrances arising out of actions of said Unit Owner during the period from the date of such vote to the date of conveyance; and (iii) The amount of any Common Expenses accruing with respect to said Unit prior to the date of such vote, whether or not assessed.

In the event of such election, all such liens and encumbrances shall be paid by the Association at the time of the conveyance. The conveyance and payment of the consideration shall be a Common Expense to the Unit Owners who have not so elected and shall be made within ten (10) days thereafter. Should such Owner and a majority of the Board disagree on the fair market value of such Unit, such determination shall be made by the majority vote of three appraisers, one of which shall be appointed by such Unit Owner, one of which shall be appointed by the Board, and the third of which shall be appointed by the first two appraisers, and the conveyance and payment shall occur within ten (10) days after such determination.

ARTICLE 17. REMEDIES FOR VIOLATIONS.

- A. ABATEMENT AND ENJOINMENT. The violation of any restriction, conditions or regulation adopted by the Board or the breach of any covenant or provision contained in this Declaration or in the By-Laws of the Association attached hereto as "Exhibit B," shall give the Association, in addition to the rights hereinafter set forth in this Article, the right:
 - (1) To enter upon the land or any Unit or Limited Common Areas and Facilities upon which, or as to which, such violation or breach exists and to summarily abate and remove at the expense of the Unit Owner any structure, thing or condition that may exist thereon contrary to the intent and meaning of this Declaration and the By-Laws of the Association, and the Board, or its agents, shall not be thereby deemed guilty of any trespass; or
 - (2) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.
- B. INVOLUNTARY SALE. If any Owner or any Occupant of his Unit shall violate any of the covenants, restrictions or provisions of the general law, this Declaration or of the By-Laws of the Association attached hereto as "Exhibit B," or the Rules, and such violation shall continue for thirty (30) days after notice in writing from the Board,

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or shall occur repeatedly during any 30-day period after written notice or request from the Board to cure such violation, then the Board shall have the power, upon ten (10) days prior written notice, to terminate the rights of the said defaulting Owner or Occupant to continue as an Owner or Occupant and to continue to occupy, use or control his Unit. The Board shall also notify the first mortgagee of the defaulting Owner as shown in its records. At any time within ninety (90) days after such notice, an action may be filed by the Board against the defaulting Owner for a decree of mandatory injunction against the Owner or Occupant, subject to the prior consent in writing of any mortgagee having an interest in the Unit Ownership of the defaulting Owner. In the alternative, the action may pray for a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owned by him and ordering that his right, title and interest in the Unit be sold at a judicial sale upon such notice and terms as the Court shall establish, and restraining the defaulting Owner from directly or indirectly reacquiring his interest at such judicial sale. The proceeds from any such judicial sale will be distributed first to pay the costs of said sale, mortgages and liens of record according to their priority, reasonable attorneys' fees of the Association, real estate taxes and assessments and all other expenses of the proceedings, and all such items shall be taxes against the defaulting Owner in said decree. Any balance of proceeds after satisfaction of such charges and any unpaid assessments or liens hereunder shall be paid to the Owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to such instrument of conveyance as may be provided by order of the Court, and to immediate possession of the Unit sold and may apply to the Court for a writ for the purpose of acquiring such possession. It shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration.

- C. CURE BY ASSOCIATION. If any Unit Owner should fail to perform any act required by this Declaration, the By-Laws or the Rules, the Association may, but shall not be obligated to, undertake such performance or cure such violation, and shall recover from said Unit Owner the entire cost, including reasonable attorneys' fees, of such performing or cure incurred by the Association. Any such amount shall be deemed to be an additional assessment upon such Unit Owner and shall be due and payable when the payment of the assessment next following notification of such charge becomes due and payable, and the Association may obtain a lien for said amount in the same manner and to the same extent as if it were a lien for Common Expenses.
- D. CURE BY MORTGAGEE. If any Unit Owner shall violate or fail to perform any act under or required by covenants, restrictions or provisions of this Declaration, the By-Laws or the Rules, after notice thereof from the Association and opportunity to perform or cure the violation as provided thereunder, any mortgagee may, but shall not be obligated to, undertake such performance or cure such violation, and such mortgagee shall have thirty (30) days, or such reasonable additional time as may be necessary under the circumstances to perform or cure such



violation, after written notice from the Association of the failure or refusal of the Unit Owner, to perform or cure such violation, and the Association shall refrain from taking action against the Unit Owner during the period of cure by such mortgage.

ARTICLE 18. EMINENT DOMAIN.

In the event of taking of all or any portion of the Condominium Property by eminent domain procedures or conveyance under threat thereof, each Unit Owner hereby designates and appoints the Association and its duly authorized agents as his exclusive agent to negotiate and settle any and all matters, proceedings and litigation relating thereto. If the award for any such taking is less than Twenty-Five Thousand Dollars (\$25,000.00), it shall be paid to the Association, and, if in excess of Twenty-Five Thousand Dollars (\$25,000.00), it shall be paid to the Insurance Trustee, and shall be applied by the Board or the Insurance Trustee, as the case may be, for the repair and restoration of the Condominium Property in the same manner as if such funds were insurance proceeds under Article 14 above and subject to the right of the Unit Owners, entitled to exercise seventy-five percent (75%) or more of the voting power of the Association to elect not to repair or restore the Condominium Property as provided in Article 15 above.

ARTICLE 19. MISCELLANEOUS PROVISIONS.

- A. Each Grantee of a Unit, by the acceptance of a deed, lease or other instrument of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such Owner in like manner as though the provisions of this Declaration were recited and stipulated in every deed of conveyance.
- B. Upon the removal of the Condominium Property from the provisions of Chapter 5311, all easements, covenants and other rights, benefits, privileges, impositions and obligations declared herein to run with the Land or any Unit shall terminate and be of no further force or effect.
- C. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.
- D. The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.
- E. If any of the privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (i) the rule

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against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of George Bush and/or Daniel Quayle.

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- F. For such time as said Declarant, its successors and assigns, owns one or more of the Units established and described herein, said Declaration, their successors and assigns shall be subject to the provisions of this Declaration and the Exhibits attached hereto; and said Declarant covenants to take no action which would adversely affect the rights of the Association or any Unit Owner with respect to assurances against latent defects in the property or other rights assigned to the Association by reason of the establishment of the Condominium.
- G. Neither Declarant nor its representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authority granted or delegated to it by or pursuant to this Declaration or the By-Laws attached hereto or in Declarant's (or their representative's) capacity as owner, manager or seller of the Condominium Property or any part thereof, whether or not such claim (i) shall be asserted by a Unit Owner, occupant, the Association, or by any person or entity claiming through any of them; or (ii) shall be on account of injury to person or damage to or loss of property wherever located and however caused; or (iii) shall arise ex contractu or (except in the case of intentional torts or gross negligence) ex delicto. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Condominium Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any neighboring property or personal property located on or about the Condominium Property, or by reason of the failure to function or disrepair of any utility services (heat, air conditioning, electricity, gas, water, sewage, etc.). None of the foregoing provisions of this Section G shall, however, relieve or release Declarant from any obligations undertaken by it for the benefit of purchasers of Units to make and pay for repairs, renewals, alterations, replacements and improvements of the Condominium Property.
- H. Wherever the masculine singular form of the pronoun is used in this Declaration, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so required.
- I. The captions used in this Declaration are inserted solely for convenience and shall not be relied upon and/or used in construing the effect or meaning of any of the text hereof.
- J. Declarant reserves unto itself the right to make corrections or changes in this Declaration, or any of the Exhibits attached thereto that arise due to typographical mistakes or scrivener errors. Said changes may be made by Declarant despite the fact it does not own 75%

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of the interest of the voting power of the Association but shall only be done if said changes do not materially affect the ownership interest of anyone else. Said changes shall otherwise be in accordance with Article 9 of this Declaration.

- K. The Association books, records, financial statements, Declaration, By-Laws and Rules shall be available to any mortgagees and their authorized agents upon request during normal business hours at the office of the Association, and copies thereof may be made at such mortgagee's cost.

ARTICLE 20. STATUTORY PROVISIONS.

The following provisions are included herein pursuant to the requisites of Section 5311.25 of the Ohio Revised Code.

The Brecksville Condominium Law also applies to this Condominium. A copy of Chapter 1343 of the Codified Ordinance of Brecksville is included in the Public Offering Statement.

- A. Declarant states that any deposit or downpayment made in connection with the sale of any Unit will be held in trust or escrow until delivered at settlement or returned to or otherwise credited to the purchaser, or forfeited to the Declarant and that if a deposit or downpayment of Two Thousand Dollars (\$2,000.00) or more is held for more than ninety days, interest at the rate of at least five percent (5%) per annum for any period exceeding ninety days shall be credited to the purchaser at settlement or upon return or other credit made to the purchaser, or added to any forfeiture to the Developer.

Deposits and downpayments held in trust pursuant to this section shall not be subject to attachment by creditors of the Declarant or a purchaser.

- B. Except in its capacity as a Unit Owner of unsold Condominium Units, the Declarant will not retain a property interest in any of the Common Areas and Facilities after control of the condominium development is assumed by the Unit Owners.
- C. The Owners of the Units will assume control of the Common Areas and Facilities and the Condominium Association as stated in Article II, Section 4 of the By-Laws.
- D. Neither the Association nor the Unit Owners will be subject to any management agreement executed prior to the assumption of control of the Association, as stated in Article II, Section 4 of the By-Laws, for more than one year subsequent to that assumption of control, unless such a contract or agreement is renewed by a vote of the Unit Owners pursuant to the By-Laws.
- E. The Declarant warrants for a two-year period the full cost of labor and materials for any repair or replacement of roof and structural components, and mechanical, electrical, plumbing and common service elements serving the condominium property as a whole, occasioned or

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necessitated by a defect in material or workmanship.

The Declarant further warrants for a one-year period the full cost of labor and materials for any repair or replacement of structural, mechanical and other elements pertaining to each Unit, occasioned or necessitated by a defect in material or workmanship.

The two-year warranty referred to herein, shall commence on the date the deed is filed for record following the sale of the first condominium ownership interest to a purchaser in good faith for value.

The one-year warranty, referred to herein, shall commence on the date the deed is filed for record following the first sale of a condominium ownership interest to a purchaser in good faith for value.

In the case of ranges, refrigerators, dishwashers, washing machines, clothes dryers, hot water heaters and other similar appliances installed and furnished as part of the Unit, the Declarant has assigned to the owner of said appliances express and implied warranty of the manufacturer and this assignment satisfies the Declarant's obligation with respect to such appliances. The Declarant's warranty as to appliances is limited to the installation of the appliances.

The Developer will place in a warranty escrow account at The Strongsville Savings Bank, Brecksville, Ohio, one percent (1%) of the gross sales price of each unit sold. This account shall be maintained for the period of the warranties.

The Developer understands the two year warranty not to apply to conditions caused by normal wear and tear or aging.

- F. The Declarant will assume the rights and obligations of a Unit Owner in its capacity as Owner of Units not yet sold, including without limitation, the obligation to pay common expenses attaching to such interests from the date the Declaration is filed for record.
- G. Since the Condominium Property is a conversion condominium, all tenants were or are being offered an option exercisable within not less than ninety (90) days after notice, to purchase a Unit in the Condominium, and such tenants were or are being given written notice not less than one hundred twenty (120) days prior to being required to vacate their rented premises to facilitate the conversion, or in the case of a tenant who is over sixty years of age, or who is deaf or blind, or who is unable to walk without assistance, or who has been a tenant for five years or longer, not less than 240 days before requiring such tenant to vacate their rental premises to facilitate the conversion.

ARTICLE 21. PRIOR ENCUMBRANCES OF RECORD.

At the time Declarant obtained title to the premises, there were of record the following encumbrances, which still remain: existing leases, conditions, restrictions and easements of record.

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No representation is made herein that the same are the only encumbrances provided that this provision shall not limit or restrict any warranty of title contained in any conveyance of any Unit. The reader is referred to the actual documents which are recorded in the Cuyahoga County Records.

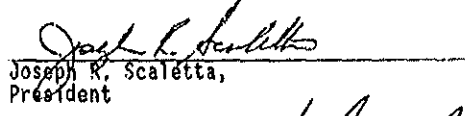
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IN WITNESS WHEREOF, the said Brecksville West, Inc. have caused the execution of this instrument this 12 day of June, 1990.

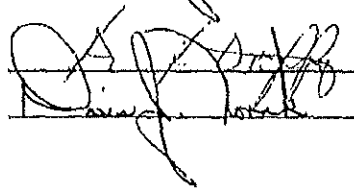
BRECKSVILLE WEST, INC.



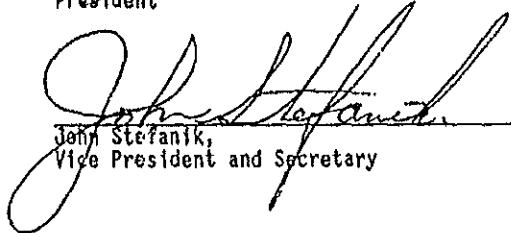
Joseph R. Scaletta,
President



Joseph R. Scaletta,
President



John Stefanik,
Vice President and Secretary

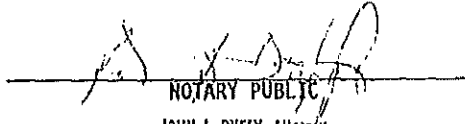


John Stefanik,
Vice President and Secretary

STATE OF OHIO)
CUYAHOGA COUNTY) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Joseph R. Scaletta and John Stefanik, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at North Olmsted, Ohio, this 12 day of JUNE, 1990.



NOTARY PUBLIC
JOHN J. DUFFY, Attorney
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date,
Section 147.03 R.C.

This Instrument Prepared by:
JOHN J. DUFFY, Attorney at Law
23823 Lorain Road, Suite 210
North Olmsted, Ohio 44070
(216) 779-6636

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BY-LAWS
OF
THE BRECKSVILLE WEST CONDOMINIUM UNIT OWNERS ASSOCIATION, INC.

A Nonprofit Ohio Corporation

"EXHIBIT B"

BY-LAWS

OF

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THE BRECKSVILLE WEST CONDOMINIUM UNIT OWNERS ASSOCIATION, INC.

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BY-LAWS

OF

THE BRECKSVILLE WEST CONDOMINIUM UNIT OWNERS ASSOCIATION, INC.

A Nonprofit Ohio Corporation

ARTICLE I

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GENERAL

Section 1. Preliminary Statement of Scope and Effect. These By-Laws are attached to the Declaration of Condominium Ownership for the Brecksville West (hereinafter the "Declaration") pursuant to Chapter 5311 of the Ohio Revised Code. The purpose hereof is to provide for the establishment of a Unit Owners Association for the government of the Condominium Property in the manner provided by the Declaration and by these By-Laws. All present or future owners or tenants or their employees, or any other person occupying or using the facilities of the Condominium Property in any manner shall be subject to the covenants, provisions or regulations contained in the Declaration and these By-Laws and shall be subject to any restriction, condition or regulation hereafter adopted by the Board of Trustees of the Association (the "Board"). The mere acquisition or rental of any of the Units located within the Condominium Property described in the Declaration, or the mere act of occupancy of any of the Units will constitute acceptance and ratification of the Declaration and the within By-Laws.

Section 2. Name. The name of the Association shall be The Brecksville West Condominium Unit Owners Association, Inc., a nonprofit Ohio Corporation herein called the "Association."

Section 3. Principal Office. The principal office of the Association shall be at 6640 Chaffee Court N-1, Brecksville, Ohio 44141, or at such other place as may be subsequently designated by the Board. All books and records of the Association shall be kept at the principal office.

Section 4. Definitions. Terms defined in the Declaration shall mean the same herein. The term "Trustee" shall mean "Manager" and the terms "Board of Trustees" or "Board" shall mean "Board of Managers" within the meaning of Chapter 5311.

ARTICLE II

THE ASSOCIATION

Section 1. Membership. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a member of the Association. Membership may be held in the name of more than one owner. Such membership shall terminate upon the sale or other disposition by such member of his Unit, at which time the new Owner of such Unit shall automatically become a member of the Association.

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Section 2. Voting Rights. There shall be one voting member for each of the Units comprising the Condominium Property. The total number of votes of all voting members shall be one hundred and each Owner shall be entitled to a number of votes equal to the total percentage of ownership of the Common Areas and Facilities applicable to his Unit Ownership as set forth in the Declaration. If more than one person shall own a Unit, they shall be entitled collectively to cast only one vote since such voting power may not be divided among plural owners. In the case of plural ownership of a Unit, or in the case of the Unit owned in the name of a corporation, partnership, fiduciary or nominee, a Certificate signed by the Unit Owners shall be filed with the Secretary of the Association naming the person authorized to cast votes for such Unit, which Certificate shall be conclusive until a subsequent substitute Certificate is filed with the Secretary of the Association. If such Certificate should not be on file, the vote of such joint Owners, corporation, partnership, fiduciary or nominee shall not be considered nor shall the presence of such Owner at a meeting be considered in determining whether the quorum requirements for such meeting has been met. If a Unit should be owned by a husband and wife as tenants in common, joint tenants or tenants by the entirety, no Certificate need be filed with the Secretary of the Association naming the person authorized to cast votes for such Unit, and either spouse, but not both, may vote in person or by proxy and be counted toward the quorum requirement at any meeting of the members, unless prior to such meeting either spouse has notified the Secretary of the Association, in writing, that there is disagreement as to who shall represent their Unit at the meeting, in which case the Certificate requirement set forth above shall apply. If a husband and wife should not agree on which of them shall represent their Unit at a particular meeting, they shall have no right to vote at that meeting.

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Section 3. Proxies. Members may vote to act in person or by proxy. The person appointed as proxy need not be a member of the Association. Designation by a member or members of a proxy to vote or to act on his or their behalf shall be made in writing to the Board, shall be filed with the Secretary, and shall be revocable at any time by actual notice to the Board by the member or members making such designation. Notice to the Board in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken.

Section 4. Meetings of Members.

(a) Regular Meeting. The meeting of members of the Association for the election of members of the Board, the consideration of reports to be laid before such meeting, and the transaction of such other business as may properly be brought before such meeting shall be held at such time and at such place on the Condominium Property or at such other place as may be designated by the Board and specified in the notice of such meeting.

(1) Not later than when condominium ownership interests to which twenty-five percent (25%) of the undivided interests in the Common Areas and Facilities appertain have been sold and conveyed by the Declarant, the Association shall meet and the Unit Owners, other than the Declarant, shall elect two of the Trustees. The term of these Trustees shall

expire at the meeting for election of Trustees provided for in Subsection (a) (2), below.

(2) Not later than thirty (30) days after ownership interests to which seventy-five percent (75%) of the undivided interests in the Common Areas and Facilities appertain have been sold and conveyed by Declarant, the Association shall meet and elect all five Trustees. Thereafter, the annual meeting of the Association shall be held on the first Wednesday of the month in which the first annual meeting for election of five Trustees was held, if not a legal holiday, and if a legal holiday, then on the next business day.

(h) Special Meeting. After the first annual meeting, special meetings of the members of the Association may be held on any business day when called by the president of the Association, or by the Board of the Association by action at a meeting, or by a majority of the Trustees acting without a meeting or by members entitled to exercise at least twenty-five percent (25%) of the voting power of the Association. Any person entitled to call a meeting of members may do so by written notice delivered either in person or by certified mail to the President or the Secretary of the Association. Such officer shall forthwith cause notice to be given to the members entitled thereto that a meeting shall be held not less than seven (7), nor more than sixty (60) days after the receipt of such request. Should notice of a meeting not be given within ten (10) days after the delivery or mailing of such request, the persons requesting the meeting may fix the time of the meeting and give notice thereof. Each special meeting shall be called to convene at such time and such place on the Condominium Property or at such other place as shall be specified in the notice of meeting. Requests for such meetings shall specify the purposes for which such meeting is requested. No business other than that specified in the request and set forth in the notice shall be considered at any special meeting.

(c) Notice of Meetings. Not less than seven (7), nor more than sixty (60) days before the day fixed for a meeting of the members of the Association, written notice stating the time, place and purpose of such meeting shall be given by the Secretary of the Association or any other person required or permitted by these By-Laws to give such notice. Such notice shall be given by personal delivery or by mail to each member who is a Unit Owner of record on the day preceding the day on which notice is given. If mailed, such notice shall be addressed to the members of the Association and others entitled to such notice at their respective addresses as they appear on the records of the Association. Notice of the time, place and purpose of any meeting of members of the Association may be waived in writing by any member of the Association, either before or after the holding of such meeting, which writing shall be filed with or entered upon the records of the meeting. Any member of the Association who shall attend any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice, shall be deemed to have waived notice of such meeting.

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- (d) Quorum; Adjournment. Except as otherwise provided by law or by the Declaration, at any meeting of the members of the Association, the members of the Association entitled to exercise a majority of the voting power of the Association present in person or by proxy shall constitute a quorum. No action may be authorized or taken by a lesser percentage than required by law, by the Declaration or by these By-Laws. The member of the Association entitled to exercise a majority of the voting power represented at a meeting of members, whether or not a quorum is present, may adjourn such meeting from time to time until a quorum shall be present. If any meeting is 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.
 - (e) Order of Business at Regular Meetings. The order of business at all regular meetings of members of the Association shall be as follows:
 - (1) Calling of meeting to order;
 - (2) Proof of notice of meeting or waiver of notice;
 - (3) Reading of minutes of preceding meeting;
 - (4) Reports of officers;
 - (5) Reports of Committees;
 - (6) Election of Inspectors of Election;
 - (7) Election of Trustees;
 - (8) Unfinished and/or old business;
 - (9) New business;
 - (10) Adjournment.
 - (f) Order of Business at Special Meetings. The business at each special meeting shall be that business specified in the notice thereof.
 - (g) Actions Without a Meeting. All actions, except removal of a Trustee, which may be taken at a meeting of the Association may be taken without a meeting, with the approval of, and in a writing or writings signed by, members having the percentage of voting power required to take such action if it had been taken at a meeting. Such writings shall be filed with the Secretary of the Association. A copy of such action when so approved shall be mailed promptly to all members of the Association.

ARTICLE III

BOARD OF TRUSTEES

Section 1. Board of Trustees. The Board shall constitute for all purposes the Board of Managers provided for in Chapter 5311 of the Ohio Revised Code.

Section 2. Number and Qualification. The Board shall consist of five persons, each of whom must be an Owner of a Unit, except that in the case of a Unit held by Declarant, a corporation, partnership, fiduciary, or nominee, the designated representative thereof shall be eligible to serve as a member of the

Board. If at any time, any one bank, savings and loan association, insurance company or other mortgagee shall hold first mortgages upon more than fifty percent (50%) of the Units, such mortgagee may designate its representative, who shall be a sixth member of the Board as long as such situation exists. Such representative of a mortgagee need not be an owner or occupier of a Unit.

Section 3. Election of Trustee; Vacancies. Except as stated in Article II, Section 4(a) above, the required Trustees shall be elected at each annual meeting of members of the Association, but when the annual meeting is not held or Trustees are not elected thereat, they may be elected at a special meeting called for that purpose. Such election shall be by written secret ballot whenever requested by any member; but unless such request is made, the election may be conducted in any manner approved at such meeting. Only persons nominated as candidates shall be eligible for election as Trustees and the candidates receiving the greatest number of votes shall be elected. Each member may vote for as many candidates as there are vacancies in the Board. Persons receiving the votes of members entitled to exercise the greatest percentage of voting power shall be elected Trustees. The office of a Trustee who ceases to be qualified to serve as such shall immediately and automatically become vacant. The remaining Trustees, though less than a majority of the authorized number of Trustees, shall, by a vote of a majority of their number, fill any vacancy for the unexpired term; provided, however, that any vacancy in the position of a representative of a mortgagee as provided in Section 2 of this Article III, shall be filled by such mortgagee.

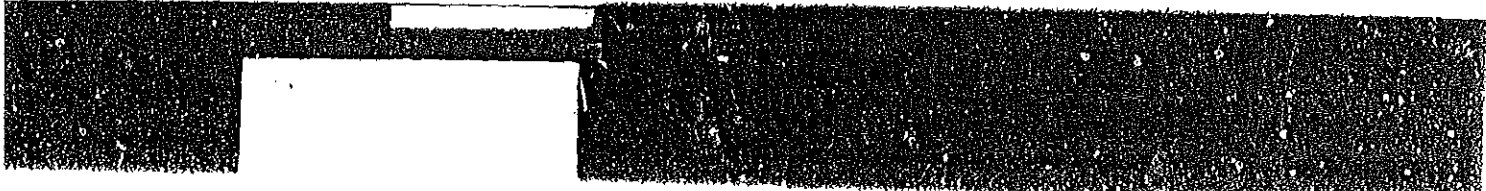
Section 4. Term of Office; Resignations. Except as herein provided, each Trustee shall hold office until the second annual meeting of the members of the Association following that at which he was elected, or until his successor is elected, or until his earlier resignation, removal from office or death. Any Trustee may resign at any time by oral statement to that effect made at a meeting of the Board or by a writing to that effect delivered to the Secretary of the Association; such resignation shall take effect immediately or at such other time as the Trustee may specify. At the first annual meeting of the members of the Association, the term of office of three Trustees shall be fixed so that such term will expire on the date of the next annual meeting of the members of the Association. The term of office of the remaining two Trustees shall be fixed so that such terms will expire on the date of the second annual meeting following the first annual meeting. The candidates receiving votes representing the greatest percentages of the voting power of the Association shall be elected for the longer term. Tie votes shall be decided by a drawing of lots. At the expiration of such initial term of office of each of the Trustees elected at the first annual meeting, their respective successor Trustees shall be elected to serve for a term of two (2) years as aforesaid.

Section 5. Organization Meeting. Immediately after each annual meeting of members of the Association or special meeting held in lieu thereof, the newly elected Trustees and those Trustees whose terms hold over shall hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of such meeting of Trustees need not be given.

Section 6. Regular Meetings. Regular meetings of the Board may be held at such times and places within Cuyahoga County, Ohio, as shall be determined from time to time by majority of the Trustees by resolution or regulations, but

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at least four such meetings shall be held during each fiscal year.

Section 7. Special Meetings. Special meetings of the Board may be held at any time upon call by the President or any two Trustees. Notice of the time, place and purposes of each special meeting shall be given to each Trustee by the Secretary or by the person or persons calling such meeting. Such notice shall state the purpose of the meeting and may be given in any manner and at such time that shall give the Trustee receiving it reasonable opportunity to attend the meeting. Such notice shall be deemed to have been properly and duly given if delivered or mailed at least forty-eight (48) hours prior to the meeting and directed to the residence of the Trustees as shown upon the Secretary's records. The giving of notice shall be deemed to have been waived by any Trustee who shall attend and participate in such meeting and may be waived, in writing or by telegram, by any Trustee either before or after such meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organizational, regular or special meeting of the Board of Trustees.

Section 8. Open Meetings. All meetings of the Board shall be open to all Unit Owners. Adequate notice of all meetings shall be posted conspicuously on the Condominium Property at least forty-eight (48) hours before meetings of the Board except in case of emergency.

Section 9. Quorum; Adjournment. A majority of the Board shall constitute a quorum for the transaction of business, except that a majority of the Trustees in office shall constitute a quorum for filling a vacancy on the Board. Whenever less than a quorum is present at the time and place appointed for any meeting of the Board, a majority of those present may adjourn the meeting from time to time until a quorum shall be present. If any meeting is 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. At each meeting of the Board at which a quorum is present, all questions shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these By-Laws.

Section 10. Removal of Trustees. Except as otherwise provided herein, the Board may remove any Trustee and thereby create a vacancy in the Board if by order of court he has been found to be of unsound mind, or if he is physically incapacitated, adjudicated a bankrupt, or fails to attend three consecutive meetings of the Board. At any regular or special meeting of members of the Association duly called at which a quorum shall be present, any one or more of the Trustees except any Trustee acting as a representative of a mortgagee, may be removed with or without cause by the vote of members entitled to exercise a majority of the voting power of the Association, and a successor to any such Trustee so removed may be elected at the same meeting for the unexpired term for each such removed Trustee. Any Trustee whose removal has been proposed by the members of the Association shall be given an opportunity to be heard at such meeting prior to the vote on his removal.

Section 11. Compensation. The Trustees shall not receive any salary or compensation for their services but any Trustee may have dealings with the Association in any other capacity and receive compensation therefor.

Section 12. Regulations. for the government of its actions, the Board

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may adopt such Regulations as they deem appropriate consistent with the Declaration and these By-laws.

Section 13. Powers and Duties. Except as otherwise provided by law, the Declaration or these By-Laws, all power and authority of the Association shall be exercised by the Board. The Board shall be responsible for the maintenance, repair and replacement of the Common Areas and Facilities. In carrying out the purposes of the Association and subject to the limitations prescribed by law, the Declaration or these By-Laws, the Board, for and on behalf of the Association, may:

- (a) Purchase or otherwise acquire, lease as lessee, hold, use, lease as lessor, sell, exchange, transfer, and dispose of property of any description or of any interest therein;
- (b) make contracts;
- (c) effect insurance;
- (d) borrow money, and issue, sell, and pledge notes, bonds, and other evidences of indebtedness of the Association provided that for any such borrowing in excess of \$10,000.00 the prior approval of the members of the Association entitled to exercise a majority of the voting power of the Association shall be obtained at a special meeting duly held for such purpose;
- (e) levy assessments against Unit Owners;
- (f) employ a managing agent to perform such duties and services as the Board may authorize; and
- (g) do all things permitted by law and exercise all power and authority within the purposes stated in the Declaration or incidental thereto.

Section 14. Committees. The Board may by resolution provide for such standing or special committees as it deems desirable, and discontinue the same at its discretion. Each such committee consisting of not less than three (3) members shall have such powers and perform such duties, not inconsistent with law, as may be delegated to it by the Board. Each such committee shall keep full records and accounts of its proceedings and transactions. All action by any such committee shall be reported to the Board at its meeting next succeeding such action and shall be subject to control, revision and alteration by the Board; provided that no rights of third persons shall be prejudicially affected thereby. Each such committee shall fix its own rules of procedure and shall meet as provided by such rules or by resolutions of the Board, and it shall also meet at the call of the President of the Association or of any two members of the committee. Unless otherwise provided by such rules or by such resolutions, the provisions of Section 7 of this Article III relating to the notice required to be given of special meetings of the Board shall also apply to meetings of each such committee. A majority of the members of a committee shall constitute a quorum. Each such committee may act in writing or by telegram or by telephone with written confirmation, without a meeting, but no such action shall be effective unless concurred in by all members of the committee. Vacancies in such committee shall be filled by the

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sign all contracts, notes, and other instruments executed by the Association requiring his signature; to give notice of meeting of members and Trustees; to keep such books as may be required by the Board; and perform such other duties as may from time to time be assigned to him by the Board.

Section 4. Treasurer. The Treasurer shall have general supervision of all finances; he shall receive and have in charge all money, bills, notes, documents and similar property belonging to the Association, and shall do with the same as may from time to time be required by the Board. He shall cause to be kept adequate and correct accounts of the business transactions of the Association, including accounts of its assets, liabilities, receipts, expenditures, profits and losses, and such other accounts as may be required. Upon the expiration of his term of office, he shall turn over to his successor, or to the Board, all property, books, documents and money of the Association in his hands; and he shall perform such other duties as from time to time may be assigned him by the Board.

Section 5. Assistant and Subordinate Officers. The Board may appoint such assistant and subordinate officers as it may deem desirable. Each such officer shall hold office during the pleasure of the Board, and perform such duties as the Board may prescribe. The Board may, from time to time, authorize any officer to appoint and remove subordinate officers and to prescribe their authority and duties.

Section 6. Delegation of Authority and Duties; Control of Officers. In the absence of any officer of the Association (or for any other reason the Board may deem sufficient), the Board may delegate any powers or duties, of such officers to any other officer or to any Trustee or to the managing agent. In addition, the Board is authorized to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

Section 7. Fidelity Bonds. The Board shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association and shall be a common expense.

ARTICLE VI INDEMNIFICATION

Section 1. Indemnification of Trustees and Officers. The Association shall indemnify any Trustee or officer or any former Trustee or officer against reasonable expenses, including attorneys' fees, judgments, decrees, fines, penalties or amounts paid in settlement actually and necessarily incurred by him in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, to which he is or may be made a party by reason of being or having been such Trustee or officer, if it shall be determined in the manner hereinafter set forth, (a) that such Trustee or officer was not adjudicated to have been, negligent or guilty of misconduct in the performance of his duty to the Association, (b) that he acted in good faith in what he reasonably believed in the best interest of the Association, (c) that, in any matter the subject of a criminal action, suit or proceeding, he had no reasonable cause to believe that his conduct was unlawful, and (d) in

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case of settlement, that the amount paid in the settlement was reasonable. Such determination shall be made either (i) by the Trustees of the Association acting at a meeting at which a quorum consisting of Trustees who are not parties to or threatened with any such action, suit or proceeding is present, or (ii) in the event of settlement, by a written opinion of independent legal counsel selected by the Trustees.

Section 2. Advance of Expenses. Funds to cover expenses, including attorneys' fees, with respect to any pending or threatened action, suit, or proceeding, may be advanced by the Association prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amounts unless it shall ultimately be determined that he is entitled to indemnification hereunder.

Section 3. Indemnification Not Exclusive; Insurance. The indemnification hereinabove provided for in this Article VI shall be in addition to (a) any other rights to which any person may be entitled under Articles, Regulations, any agreement, any insurance provided by the Association, the provisions of Section 1702.12 (E) of the Ohio Revised Code, or otherwise; and (b) the power of the Association to indemnify any current or past employee of this Association as hereinbefore provided for Trustees and officers. The Association may maintain insurance on behalf of any current or past Trustee, officer, or employee against any liability asserted against or incurred by him in any such capacity whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

Section 4. Indemnification by Unit Owners. No Trustee shall be liable to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each Trustee against all contractual liability to third parties arising out of contracts made on behalf of the Association except with respect to any contract made in bad faith or contrary to the provisions of the Declaration or By-Laws. It is intended that the Trustees shall have no personal liability with respect to contracts entered into on behalf of the Association. The liability of Unit Owners under the foregoing indemnity shall be proportionate to the respective percentage interest of each Unit Owner in the Common Areas and Facilities. Each contract entered into by the Association shall provide that the officers or Trustees executing the same are acting only as agents for the Association and have no personal liability thereunder.

ARTICLE VII

FISCAL YEAR

The Fiscal Year of the Association shall end on the 31st of December of each year or on such other day as may be fixed from time to time by the Board.

ARTICLE VIII

GENERAL POWERS OF THE ASSOCIATION

Section 1. Payments as Common Expenses. The Association, for the benefit

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of all the Owners, shall pay for the following out of Association funds as common expenses:

- (a) **Utilities and Related Facilities.** The cost of water, waste removal, electricity, telephone, heat, power or any other necessary utility service for the Common Areas and Facilities, and the cost of water, waste removal and any utilities which are not separately metered or otherwise directly charged to individual owners. In the event any utility service for a Unit of a kind not furnished to all Unit Owners is paid by the Association, the Association shall charge monthly to the Owner of such Unit an estimated cost for such usage. However, the Association may discontinue payments of such utility service at any time, in which case each owner shall be responsible for direct payment of his share of such expense as shall be determined by the Board. The Association reserves the right to levy additional assessments against any Owner to reimburse it for excessive use of any utility service by such Owner in such amounts as shall be determined by the Board.
- (b) **Casualty Insurance.** Premiums upon any policies of fire insurance, with extended coverage, vandalism and malicious mischief endorsements as provided in the Declaration, the amount of which insurance shall be reviewed annually.
- (c) **Liability Insurance.** Premiums upon any policies insuring the Association, the members of the Board, and the Owners against any liability to the public or to the Owners, their tenants, invitees and licensees, incident to the ownership and/or use of the Common Areas and Facilities, as provided in the Declaration, the limits of which insurance shall be reviewed annually.
- (d) **Other Insurance.** Premiums for other insurance maintained in accordance with the provisions of the Declaration or these By-Laws.
- (e) **Workers' Compensation.** The costs of workers' compensation insurance to the extent necessary to comply with the applicable laws.
- (f) **Wages and Fees for Services.** The fees for services of any person or firm employed by the Association, including, without limitation, a manager or managing agent for the Condominium Property, persons required for the maintenance or operation of the Condominium Property, attorneys and accountants necessary or proper in the operation of the Condominium Property or implementation of the Declaration and these By-Laws.
- (g) **Care of Common Areas and Facilities.** The cost of landscaping, gardening, snow removal, painting, clearing, tuckpointing, maintenance, decorating, repair and replacements of the Common Areas and Facilities (but not including the interior surfaces of the Units or any Limited Common Areas and Facilities, which the Unit Owner shall paint, clean, decorate, maintain and repair), the painting, cleaning and decorating of the exterior surfaces of the buildings and recreational facilities, situated on the Common Areas and Facilities, and such furnishings and equipment for the Common Areas

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and Facilities as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Areas and Facilities.

- (h) **Certain Maintenance of Units.** The cost of the maintenance and repair of any Unit or Limited Common Areas and Facilities, if necessary, in the discretion of the Board, for public safety, or to protect the Common Areas and Facilities, or any other portion of any building, and the Owner of such Unit has failed to perform such maintenance or repair within a reasonable time after the Association has notified him in writing to do so; provided that the Association shall levy a special assessment against such Unit Owner for the cost of such maintenance or repair.
- (i) **Discharge of Mechanic's Liens.** Any amount necessary to discharge any mechanic's lien or other encumbrance against the entire Condominium Property (or any part thereof, if such encumbrance in the opinion of the Association may constitute a lien against the entire Condominium Property, rather than solely against the interests of any particular Unit Owner). The foregoing authority shall not limit any statutory provisions relating to the same subject matter. Any costs incurred by the Association by reason of such lien shall be specifically assessed against such Unit Owner. If more than one Unit Owner are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it.
- (j) **Additional Expenses.** The cost of any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, "common expenses" or assessments which the Association is required or permitted to secure or pay for pursuant to the terms of the Declaration and these By-Laws, or by law, or which in its opinion shall be necessary or proper for the maintenance and operation of the Condominium Property as a first class condominium project or for the enforcement or interpretation of the Declaration and these By-Laws.

Section 2. Capital Additions, Alterations and Improvements. Notwithstanding anything in these By-Laws or in the Declaration which authorizes expenditures, no single expenditure exceeding \$2,000.00 nor aggregate annual expenditure exceeding \$5,000.00 shall be made by the Association for any additions, alterations, or improvements (as distinguished from maintenance, repair or replacement) of the Common Areas and Facilities, without, in each case, the prior approval of the members of the Association entitled to exercise a majority of the voting power of all members of the Association present in person or by proxy at any annual or special meeting duly held for such purposes. If such approval should be obtained, the Board shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a common expense. The limitations on expenditures by the Association contained in this Subsection shall not apply to repair of the Condominium Property due to casualty loss, emergency repairs immediately necessary for the preservation and safety of the Condominium Property, for the safety of persons or to avoid suspension of any necessary services. The foregoing provisions of this Subsection shall not apply to the rehabilitation and renewal of obsolete property, which shall be governed by the

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Declaration.

Section 3. Association's Rights to Enter Units. The Association or its agents may enter any Unit when necessary for any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Unit Owners as practicable, and any damage caused thereby shall be repaired by the Association, and the cost thereof charged as a common expense. The Board may retain a pass key to each Unit and no locks or other devices shall be placed on doors to any Unit to obstruct access through the use of such pass key unless the Board is furnished with duplicate keys to such locks or other devices. Such pass keys and duplicate keys shall be kept in a secure manner. In the event of any emergency originating in or threatening any Unit, the management agent or representative or any other person designated by the Board may enter the Unit immediately whether the Owner is present or not.

Section 4. No Active Business to be Conducted for Profit. Nothing herein shall be construed to give the Association authority to conduct an active business for profit on behalf of all the Unit Owners or any of them, provided however that the Association may lease portions of the Common Areas to businesses conducted for profit.

Section 5. Miscellaneous Income. The Association may own or enter into agreements for the lease of washing machines, dryers, vending machines and other facilities solely for the convenience of the Unit Owners. Should such items create a profit, these funds shall be added to the maintenance fund. All monies received for the rental of parking spaces, if any, or for the use of any Common Areas and Facilities, shall be added to the maintenance fund. The aforesaid income and any other monies received other than through assessments shall be used to defray the items of common expense.

Section 6. Special Services. The Association may arrange for any special services and facilities for the benefit of such Unit Owners and/or occupants as may desire to pay for the same, including, without limitation, cleaning, repair and maintenance of Units and provision of special recreational, educational or medical facilities. Fees for such special services and facilities shall be determined by the Board and may be charged directly to participating Unit Owners, or paid from the maintenance fund and levied as special assessment against such participating Unit Owners.

Section 7. Delegation of Duties. Nothing herein contained shall be construed so as to preclude the Association, through the Board or officers of the Association, from delegating to persons, firms, or corporations of its choice, including any manager or managing agent, such duties and responsibilities of the Association as the Board shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

Section 8. Acquisition, Lease, Sale or Exchange of Real Property. Notwithstanding anything to the contrary herein, the Board shall have the authority to lease portions of the Common Area to businesses conducted for profit as provided in Section 4, without submitting any such lease to a vote of the Unit Owners. However, that the Unit Owners by a vote of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting

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power of the Association present in person or by proxy at an annual meeting or special meeting duly held for such purpose, may direct the Board to enter or renew, or not to enter or renew, any particular lease for a portion of the Common Area. Nothing contained herein shall affect the validity of any lease that shall have been duly entered by the Association.

Section 9. Applicable Laws. The Association shall be subject to any statute applicable to property submitted to the Condominium form of ownership, including, without limitation, Chapter 5311. In the event of any conflict or inconsistency between the provisions of the Declaration and the Articles or By-Laws of the Association, the terms and provisions of the Declaration shall prevail, and the Owners and all persons claiming under them covenant to vote in favor of such amendments in the Articles or By-Laws as will remove such conflicts or inconsistencies.

ARTICLE IX

RULES AND REGULATIONS

The Association, by the affirmative vote of the members entitled to exercise a majority of the voting power of all members present in person or by proxy at an annual or special meeting of the members duly held for such purpose, or the Board of Trustees, by the vote of a majority of the authorized number of Trustees, may adopt and amend Rules and Regulations supplementing the rules and regulations set forth in the Declaration or these By-Laws as it or they may deem advisable governing the operation and use of the Condominium Property or any portion thereof. Written notice setting forth any such Rules and Regulations shall be given to all Unit Owners and occupants prior to the effective date of such Rules and Regulations and the Condominium Property shall at all times be subject thereto. In the event such supplemental Rules and Regulations shall conflict with any provisions of the Declaration and of these By-Laws, the provisions of the Declaration and of these By-Laws shall govern.

ARTICLE X

ASSESSMENTS

Section 1. Determination of Assessments. The Board shall fix and determine from time to time the sum or sums necessary and adequate for the common expenses of the Condominium Property. Common expenses shall include expenses for the operation, maintenance, repair or replacement of the Common Areas and Facilities, the carrying out of the powers and duties of the Association, the items enumerated in Section 1 of Article VIII above, and any other expenses designated from time to time by the Board as common expenses. The Board is specifically empowered on behalf of the Association to fix the annual operating budgets and collect assessments; and to maintain, repair and replace the Common Areas and Facilities. Funds for the payment of common expenses shall be assessed against the Unit Owners in the manner and proportions provided in the Declaration and these By-Laws and such assessments shall be payable as provided therein. Special assessments, if any should be required by the Board, shall be levied and paid in the same manner as provided for regular assessments.

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Section 2. Notice and Payment of Assessments. When the Board has determined the amount of any assessment, the Secretary or Treasurer of the Association shall mail or present a statement of the assessment to each Unit Owner. All assessments shall be payable to the Association. Upon request, the Secretary or Treasurer shall give a receipt for each payment made. Regular assessments shall be made against Unit Owners as herein provided in an amount no less than required to provide funds in advance for payment of all the anticipated current common expenses and for all of the unpaid common expenses previously incurred. It shall be the duty of each Unit Owner to pay the share of the common expenses so assessed in the same ratio as his percentage of ownership of the Common Areas and Facilities, as set forth in the Declaration.

Section 3. Preparation of Budget, Assessments. On or before the first day of December of each year subsequent to the first annual meeting of members of the Association, the Board shall prepare a budget based on its estimate of the total amount ("the estimated cash requirement") that will be required during the ensuing calendar year to pay the common expenses and to provide a reserve for contingencies and replacements. On or before December 15th of each year, the Board shall submit such budget in writing to each Unit Owner including the said "estimated cash requirement" reasonably itemized. Promptly thereafter an assessment shall be made by the Board against the Unit Owners in the aggregate amount of the "estimated cash requirement," each Unit Owner to be assessed his proportionate share thereof in accordance with his percentage of ownership in the Common Areas and Facilities as set forth in the Declaration. Such assessment shall be due and payable by each Unit Owner commencing on January 1st and on the first day of each succeeding month of such ensuing year in monthly installments (not necessarily equal) as determined by the Board. If the amount of such assessment proves to be inadequate for any reason, including non-payment of any Unit Owner's assessment, the deficiency shall be assessed against the respective Unit Owners according to each Unit Owner's percentage of ownership in the Common Areas and Facilities, and in such case the Board shall give written notice of such additional assessment to all Unit Owners indicating the reasons therefore, the amounts payable by each and the adjusted monthly amounts reflecting such additional assessment thereafter payable by each Unit Owner. If at any time the Board determines that the Association has collected more than required for actual common expenses and reserves in any year, such amount shall be credited promptly to the monthly installments next due according to each Unit Owner's percentage of ownership in the Common Areas and Facilities from Unit Owners under the current year's assessment until exhausted.

Section 4. Reserve for Contingencies and Replacements. The Board shall establish and maintain for the Association a reasonable reserve for contingencies and replacements. Upon the sale of a Unit by any Unit Owner, such Unit Owner shall have no right to any portion of the funds in the reserve account, nor any claim against the Association with respect thereto. Extraordinary expenditures incurred in any year which were not originally included in the estimated cash requirement for such year shall be charged first against such reserve.

Section 5. Budget for First Year. When the Board is elected at the first annual meeting and takes office, it shall, within fifteen (15) days after such election, prepare a budget, and make assessments against the Unit Owners notifying them of the monthly installments due from each, all in the manner

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provided in Section 3 of this Article X.

Section 6. Failure to Prepare Annual Budget or Make Current Assessments. The failure or delay of the Board in preparing any budget or in giving notice thereof to Unit Owners or any delay in making assessments against Unit Owners or any of them shall not constitute a waiver or release of the obligation herein imposed upon each Unit Owner to pay his proportionate share of the common expenses and reserves, whenever the same shall be determined and assessed. In the absence of any annual estimate of common expenses and required reserves, or of any budget or assessments based thereon, Unit Owners shall continue to pay the monthly assessments at the existing monthly rate established for each Unit Owner until the first monthly maintenance payment becomes due pursuant to a new assessment covering the current period duly made by the Board in the manner above provided in Section 3 of this Article X.

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Section 7. Interim Assessments Prior to Election of a New Board. Until the first annual meeting of the Association is held and a new Board, replacing the first Board selected by Declarant, determines the assessments to be levied against and paid by Unit Owners, monthly assessments shall be paid by Unit Owners, including Declarant in its capacity as owner of any unsold units, in an amount as determined by Declarant. Such monthly payments shall be made to the Association on the first day of each calendar month and shall be deposited when received in a separate maintenance account established in the name of the Association at an insured bank or savings and loan association. Unit Owners (including Declarant as to unsold units) shall continue to make such monthly payments as aforesaid until revised assessments are made by the new Board of Trustees in the manner herein provided.

Section 8. Status of Funds Collected by Association. All funds collected hereunder shall be held and expended solely for the purposes designated herein, and, except for such special assessments as may be levied against fewer than all of the Unit Owners and, except for such adjustments as may be required to reflect delinquent or prepaid assessments, all funds shall be deemed to be held for the use, benefit and account of all of the Unit Owners in proportion to each Unit Owner's percentage of ownership in the Common Areas and Facilities as provided in the Declaration. All sums collected by the Association from assessments may be commingled in a single fund or divided into more than one fund, as determined by the Board. All assessment payments by a Unit Owner shall be applied as provided herein and in the Declaration.

Section 9. Books and Records of Association. The Association shall keep full and correct books of account and the same shall be open for inspection by any Unit Owner or his mortgagee, or by any representative of a Unit Owner duly authorized in writing, at reasonable times, upon request by a Unit Owner. Upon ten (10) days notice to the Board and upon payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account, setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

Section 10. Annual Statements. At or before each annual meeting of members of the Association, the Board shall furnish each Unit Owner a financial statement consisting of (a) a balance sheet containing a summary of the assets and liabilities of the Association as of a date not more than four (4) months before such meeting and (b) a statement of the income and disbursements

(including an itemized accounting of common expenses actually incurred) for the period commencing with the date marking the end of the period for which the last preceding statement of income and disbursements was made and ending with the date of said balance sheet, or in the case of the first such statement, from the formation of the Association to the date of said balance sheet. The financial statement shall have appended a certificate signed by the President or a Vice President and the Treasurer or an Assistant Treasurer of the Association or by a public accountant or firm of public accountants to the effect that the financial statement presents fairly the financial position of the Association and the results of its operations in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding period except as specified therein.

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Section 11. Annual Audit. The books of the Association shall be reviewed once a year by the Board, prior to each annual meeting. If requested by three members of the Board, such review shall be made by a Certified Public Accountant. In addition, at any time, upon the request of Unit Owners holding fifty percent (50%) or more of the voting power of the Association, or upon request of three members of the Board, the Board shall cause a review of the books of the Association to be made by a Certified Public Accountant, any such additional review to be at the expense of the Association.

Section 12. Security Deposits from Certain Unit Owners. If the equity (fair market value less encumbrances) of any Unit Owner in his Unit shall at any time be less than fifteen percent (15%) and such equity shall be in the judgment of the Board be insufficient to assure satisfaction (by foreclosure of any lien for unpaid assessments or otherwise) of all past due and future assessments against such Unit Owner, (whether or not such Unit Owner shall be delinquent in the payment of assessments), the Board may require such Unit Owner to post a security deposit in an amount which the Board deems reasonably necessary for such purpose. Should any Unit Owner thereafter fail to pay any assessments, charges or other sums which may be due the Association hereunder or shall otherwise violate any provisions of Chapter 5311 of any covenant, term or condition of the Declaration or these By-Laws, the Association shall have the right, but not the obligation, to apply such security deposit in reduction of its alleged damages resulting from such failure or violation, which right shall be in addition to all and other remedies provided for by law, the Declaration or these By-Laws. Upon any sale by such Unit Owner of his Unit, or at such time as the Board shall deem that such Unit Owner's equity in his Unit is sufficient to dispense with the necessity of maintaining such security deposit, the security deposit remaining to the credit of such Unit Owner shall be refunded, if such Unit Owner shall not then be in default of any obligation under the Declaration or these By-Laws. The Association shall have the right to maintain all security deposits in a single savings account and shall not be required to credit interest to Unit Owners thereon until such time as security deposits are refunded. Such security deposits shall be subject and subordinate to any lien of the Association for unpaid assessments under the Declaration or By-Laws and all rights thereto shall inure to the benefit of the Association.

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ARTICLE XI

AMENDMENT

Section 1. Requirements for Adoption. These By-Laws may be enlarged, altered, amended only in accordance with the procedure outlined in Article 9 of the Declaration. No amendment of these By-Laws shall be passed which would impair or prejudice the rights and/or liabilities of any mortgagee.

Section 2. Form of Amendment Proposals. No By-Laws shall be revised or amended by reference to its title or number only. Proposals to amend existing By-Laws shall contain the full text of the By-Laws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through. If the proposed change is so extensive that the above procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and interlining as indicators of words added or deleted, but a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-Law _____ for present text."

Section 3. Nonmaterial Errors or Omissions. Nonmaterial errors or omissions in the By-Law amendment process shall not invalidate an otherwise properly promulgated amendment.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 1. Copies of Notice to Mortgagees. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given a copy of notices permitted or required by the Declaration or these By-Laws to be given to said Unit Owner.

Section 2. Service of Notices on the Board. Notices required to be given to the Board or to the Association may be delivered to any member of the Board or the President, Vice President or Secretary of the Association either personally or by mail, addressed to such Trustee or officer at his Unit.

Section 3. Service of Notices on devisees and Personal Representatives. Notices required to be given any devisee or personal representative of a deceased Unit Owner may be delivered either personally or by mail to such party at his, her or its address appearing on the records of the Court wherein the estate of such deceased Unit Owner is being administered.

Section 4. Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 5. Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with procedure established in

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the Declaration and these By-Laws shall bind all Unit Owners, their successors, heirs and assigns.

Section 6. Notices of Mortgages. Any Unit Owner who mortgages his Unit shall notify the Association, in such manner as the Association may direct, of the name and address of his Mortgagee and thereafter shall notify the Association of the full payment, cancellation or other alteration in the status of such mortgage. The Association shall maintain such information in a book entitled "Mortgages of Units."

Section 7. Rights of Mortgagee. A Mortgagee of a Unit shall be entitled to written notice from the Association of any default in payments due the Association by the mortgagor which is not cured in thirty (30) days. Any Mortgagee may from time to time request in writing a written statement from the Board setting forth all unpaid assessments due and owing from its mortgagor Unit Owner with respect to the Unit subject to the mortgage lien and such request shall be complied with within twenty (20) days from receipt thereof. Any Mortgagee may pay any unpaid common expenses assessed with respect to such Unit, and upon such payment, such Mortgagee shall have a lien on such Unit for the amounts so paid at the same rank as the lien of its mortgage.

Section 8. Owner's Agreement. Each Unit Owner, for himself, his heirs, successors and assigns, agrees to the provisions contained in the Declaration relating to default regardless of the harshness of the remedy available to the Association and regardless of the availability of other equally adequate legal procedures. It is the intent of all Unit Owners to give to the Association rights and procedures which will enable it at all times to operate on a businesslike basis, to collect those monies due and owing from the Unit Owners, and to preserve each Unit Owner's right to enjoy his Unit, free from unreasonable restraint and nuisance.

Section 9. Severability. The invalidity of any covenant, restriction, condition, limitation, or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 10. Perpetuities and Restraints on Alienation. If any option, privilege, covenant or right created by these By-Laws shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rules restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of George Bush and/or Daniel Quayle.

Section 11. Construction. Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

Section 12. Captions. The captions used in these By-Laws are inserted solely for convenience and shall not be relied upon in construing the effect or meaning of any of the text hereof.

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"EXHIBIT B"

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SITE PLAN
TYPICAL FLOOR PLANS

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"EXHIBIT C"

LEGAL DESCRIPTION

Situated in the City of Brecksville, County of Cuyahoga and State of Ohio and known as being part of Original Brecksville Township Lot No. 31, and more fully described as follows:

Beginning on the centerline of Highland Drive (60 feet wide) at the Northwestern corner of and conveyed to Della R. Bremmer by deed dated March 6, 1952 and recorded in Volume 7455, Page 670 of Cuyahoga County Records; thence South 25 deg. 30' 00" East, along the Westerly line of said land conveyed to Della R. Bremmer, 315.97 feet to an angle point; thence South 51 deg. 49' 30" East, along the Southwesterly line of said land conveyed to Della R. Bremmer, 15.65 feet to a point and the principal place of beginning of the parcel of land herein described; thence continuing South 51 deg. 49' 30" East, along the Southwesterly line of said land conveyed to Della R. Bremmer, 85.61 feet to the Southwesterly corner thereof; thence North 38 deg. 10' 30" East, along the Southeasterly line of land so conveyed to Della R. Bremmer and along the Southeasterly line of land conveyed to George E. and Carol E. McCreary by deed dated March 5, 1952 and recorded in Volume 7455, Page 668 of Cuyahoga County Records, 104.49 feet to a point at the Northwestern corner of land conveyed to William J. Snider, Tr., by deed recorded in Volume 86-8575, Page 4 (Parcel No. 6) of Cuyahoga County Records; thence Southerly along the Westerly line of land so conveyed to said William J. Snider, Tr., South 01 deg. 00' 35" West, 95 feet to a point; thence North 81 deg. 15' 29" East, 257.61 feet to a point on the Westerly line of an existing Access Easement and a Water Line Easement as recorded in Volume 10638, Page 625 of Cuyahoga County Records; thence Southerly along the arc of a curve bearing to the right, having a radius of 525 feet, an included angle of 01 deg. 30' 18" and a chord which bears South 14 deg. 25' 18" East, and measures 13.79 feet, a distance of 13.79 feet to a point on the Southerly line of land so conveyed to said William J. Snider, Tr.; thence Easterly along said Southerly line of land so conveyed to said William J. Snider, Tr., North 77 deg. 00' 00" East, 45.62 feet to a point in the Westerly line of land conveyed to George L. and H. J. Bratton by deed dated December 5, 1931 and recorded in Volume 4213, Page 103 of Cuyahoga County Records; thence South 00 deg. 03' 41" West, along the Westerly line of land so conveyed to George L. and H. J. Bratton and along the Westerly line of land so conveyed to Ruth Zeller Rice by deed dated January 25, 1950 and recorded in Volume 6874, Page 605 of Cuyahoga County Records, 668 feet to a point on the Northerly line of land conveyed to Bertha W. Morgan by deed dated October 19, 1949 and recorded in Volume 6854, Page 634 of Cuyahoga County Records; thence North 88 deg. 40' 51" West along the Northerly line of land so conveyed to Bertha W. Morgan, 302.88 feet to a point on the Easterly line of land conveyed to Edward J. and Ethel R. Hemink by deed dated September 2, 1950 and recorded in Volume 7097, Page 166 of Cuyahoga

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County Records; thence Northerly along said Easterly line of land conveyed to Edward J. and Ethel R. Hemink and along the Easterly line of land conveyed to Margaret Eleanor Fuston by deed dated September 16, 1950 and recorded in Volume 7087, Page 323 of Cuyahoga County Records, North 01 deg. 00' 35" East, 248.92 feet to a point; thence Northwesterly along the Northeasterly line of land so conveyed to said Margaret Eleanor Fuston, North 45 deg. 33' 20" West, 485.77 feet to the most Westerly corner of land conveyed to Ann McCabe, Trustee, by deed recorded in Volume 10659, Page 455 of Cuyahoga County Records; thence Northeasterly along the Northwesterly line of land so conveyed to said Ann McCabe, Trustee, North 64 deg. 30' 00" East, 236.23 feet to the principal place of beginning, and containing 6.3236 acres of land.

TOGETHER WITH a non-exclusive easement, in, on, over and under the following described premises for vehicular and pedestrian traffic and utility services:

Situated in the City of Brecksville, County of Cuyahoga and State of Ohio and known as being part of Original Brecksville Township Lot No. 31, and being further bounded and described as follows:

Beginning at the intersection of the centerline of Chaffee Court, 40 feet wide, with the Easterly line of land conveyed to Snider Building Corporation by deed recorded in Volume 15403, Page 597 of Cuyahoga County Records; thence Southerly along the Easterly line of land so conveyed to said Snider Building Corporation, South 00 deg. 03' 41" West, 20.32 feet to a point; thence North 89 deg. 52' 40" West, 76 feet to a point; thence South 55 deg. 07' 20" West, 41 feet to a point on a curved line; thence Southeasterly along the arc of a curve bearing to the right, having a radius of 555 feet, an included angle of 23 deg. 02' 00" and a chord which bears South 25 deg. 08' 59" East, and measures 221.62 feet, a distance of 223.11 feet to the Southerly line of land so conveyed to said Snider Building Corporation; thence Westerly along said Southerly line South 77 deg. 00' 00" West, 30.02 feet to a point on a curved line; thence Northwesterly along the arc of a curve bearing to the left, having a radius of 525 feet, an included angle of 26 deg. 22' 48" and a chord which bears North 26 deg. 51' 33" West and measured 239.59 feet, a distance of 241.72 feet to a point; thence North 55 deg. 07' 20" East, 99.76 feet to a point; thence South 89 deg. 52' 40" East, 71.14 feet to the Easterly line of land conveyed to Snider Building Corporation, as aforesaid; thence Southerly along said Easterly line, South 00 deg. 03' 41" West, 19.68 feet to the principal place of beginning.

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"EXHIBIT D"
BRECKSVILLE WEST CONDOMINIUM

<u>UNIT NO.</u>	<u>BEDROOMS</u>	<u>APPROXIMATE SQUARE FOOTAGE</u>	<u>PERCENTAGE OF INTEREST IN COMMON AREAS AND FACILITIES</u>
6610-E1	2	875	1.5837%
6610-E2	2	875	1.5837
6610-E3	2	875	1.5837
6610-E4	2	875	1.5837
6610-E5	2	875	1.5837
6610-E6	2	875	1.5837
6550-F1	2	875	1.5837
6550-F2	1	630	1.2808
6550-F3	2	875	1.5837
6550-F4	2	875	1.5837
6550-F5	2	875	1.5837
6550-F6	2	875	1.5837
6560-G1	2	875	1.5837
6560-G2	2	875	1.5837
6560-G3	2	875	1.5837
6560-G4	2	875	1.5837
6560-G5	2	875	1.5837
6560-G6	2	875	1.5837
6570-H1	2	875	1.5837
6570-H2	2	875	1.5837
6570-H3	2	875	1.5837
6570-H4	2	875	1.5837
6570-H5	2	875	1.5837
6570-H6	2	875	1.5837
6620-J1	2	875	1.5371
6620-J2	2	875	1.5371
6620-J3	2	875	1.5371
6620-J4	2	875	1.5371
6630-K1	2	875	1.5371
6630-K2	2	875	1.5371
6630-K3	2	875	1.5371
6630-K4	2	875	1.5371
6630-K5	2	875	1.5371
6630-K6	2	875	1.5371

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UNIT NO.	BEDROOMS	APPROXIMATE SQUARE FOOTAGE	PERCENTAGE OF INTEREST IN COMMON AREAS AND FACILITIES
6580-L1	1	630	1.2805%
6580-L2	2	875	1.5837
6580-L3	2	875	1.5837
6580-L4	2	875	1.5837
6580-L5	2	875	1.5837
6580-L6	2	875	1.5837
6590-M1	2	875	1.5837
6590-M2	2	875	1.5837
6590-M3	2	875	1.5837
6590-M4	2	875	1.5837
6640-N1	1	775	1.3971
6640-N2	1	775	1.3971
6640-N3	1	775	1.3971
6640-N4	1	775	1.3971
6680-O1	1	775	1.3971
6680-O2	1	775	1.3971
6680-O3	1	775	1.3971
6680-O4	1	775	1.3971
6680-O5	1	775	1.3971
6680-O6	1	775	1.3971
6710-P1	1	535	1.2338
6710-P2	1	535	1.2338
6710-P3	1	775	1.3971
6710-P4	1	775	1.3971
6770-Q1	1	775	1.3971
6770-Q2	1	775	1.3971
6770-Q3	1	775	1.3971
6770-Q4	1	775	1.3971
6720-R1	1	775	1.3971
6720-R2	1	775	1.3971
6720-R3	1	775	1.3971
6720-R4	1	775	1.3971
CP 1			.0700
CP 2			.0700
CP 3			.0700
CP 4			.0700
CP 5			.0700
CP 6			.0700
CP 7			.0700
CP 8			.0700
CP 9			.0700
CP 10			.0700

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UNIT
NO.

BEDROOMS

APPROXIMATE
SQUARE
FOOTAGE

PERCENTAGE OF
INTEREST IN
COMMON AREAS
AND FACILITIES

CP 11
CP 12
CP 13
CP 14

.0760%
.0700
.0700
.0700

TOTAL

100.0000%

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900470000001