

THE COURTS OF CHAFFEE CONDOMINIUM ASSOCIATIONTABLE OF CONTENTSThe Declaration

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DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
THE COURTS OF CHAFFEE CONDOMINIUM

THE COURTS OF CHAFFEE, INC., an Ohio corporation, ("DECLARANT"), being the owner of the Condominium Property hereinafter described, makes the following declaration:

1. DEFINITIONS

Whenever used herein, in the Bylaws, and in any amendments or supplements hereto, unless the context otherwise requires,

- (a) "ASSESSMENTS" means the determination of the share of common expenses and other charges which from time to time shall be payable by each Unit Owner. "Other charges" shall mean and include, without limitation,
 - (i) the costs, expenses and charges for repairs and replacements made by the Association which were the duty of the Unit Owner to make,
 - (ii) any special charges made by the Association to the Unit Owner for special services rendered to the Unit Owner or his Ownership Interest and for special or extraordinary use or consumptions attributable to such Unit Owner or his Ownership Interest,
 - (iii) damages resulting from the failure of the Unit Owner to perform any of the duties imposed herein upon him,
 - (iv) damages resulting from the failure of the Unit Owner, or any Occupant of the Unit to comply with any of the Rules or with any of the covenants, conditions, and restrictions contained in this Declaration or the Bylaws,

- (v) the costs of any action to obtain injunctive relief against such noncompliance,
 - (vi) payments for utility charges made by the Association which were the duty of the Unit Owner to make; and payments of a similar or dissimilar kind made by the Association but which were justly and equitably the obligations of a Unit Owner or his Ownership Interest,
 - (vii) any other charges or assessments permitted by this Declaration or the Bylaws to be made against the Unit Owner or his Ownership Interest,
 - (viii) a late charge of \$25.00 a month payable on each assessment not paid by the eighth (8th) day of each month and interest on each unpaid assessment at the rate of one and one-half percent (1 1/2%) per month from the date the assessment first comes due to the date it is paid in full, and
 - (ix) the reasonable costs of collection of any unpaid assessments and charges (including court costs and reasonable attorneys' fees).
- (b) "ASSOCIATION" means THE COURTS OF CHAFFEE CONDOMINIUM ASSOCIATION, a nonprofit corporation formed and existing (or to be formed promptly after this Declaration is filed for record with the Cuyahoga County Recorder) under Chapter 1702 of the Ohio Revised Code, for the purpose of administering and operating the Condominium and consisting of all the Unit Owners existing from time to time.
- (c) "BOARD" means the Board of Managers of the Association as the same may be constituted from time to time.
- (d) "BYLAWS" means the Bylaws of the Association, a true copy of which is annexed hereto as EXHIBIT B and made a part hereof.
- (e) "BUILDINGS" means that part of the Condominium Property constituting the buildings which now exist and which may hereafter be added to the Condominium Property. The Buildings are described generally in subparagraph 4(a) below.

- (f) "CHAPTER 5311" means Chapter 5311 of the Ohio Revised Code, as the same may be amended or supplemented from time to time.
- (g) "COMMON AREAS AND FACILITIES" means all of the Condominium Property except the Units. The Common Areas and Facilities shall include tangible personal property existing for the common use, enjoyment, or safety of the Unit Owners and for the maintenance of other parts of the Common Areas and Facilities, such as decorations, furnishings, furniture, equipment, tools, and supplies. "COMMON AREA," "COMMON AREAS," "COMMON FACILITY," and "COMMON FACILITIES" mean Common Areas and Facilities, except that their use in a particular sentence may be an obvious reference to a particular part, or kind of the Common Areas and Facilities. For example, the words "Common Areas" may be used to refer to lands outside the Buildings; and "Common Facilities" may be used to refer to common water mains.
- (h) "COMMON EXPENSES" means those expenses designated as Common Expenses in Chapter 5311, in this Declaration, and in the Bylaws, or in any one or more of such documents, including, without limiting the following:
- (i) all sums lawfully assessed against the Unit Owners by the Association;
 - (ii) expenses, rentals, charges, payments and obligations of the Association incurred in the use, administration, maintenance, repair and replacement of the Common Areas and Facilities, and reserves established for such purposes;
 - (iii) expenses, charges and costs of utility services, furnished to the Common Areas and Facilities, the Units, and the Unit Owners, or to any one or more of them, which are charged to or initially paid for by the Association; and
 - (iv) all other expenses determined from time to time to be Common Expenses by the Association.
- (i) "COMMON PROFITS" means the amount by which the total income, rents, profits, receipts, and revenues from the Common Areas and Facilities for a calen-

dar year exceed the Common Expenses for the same calendar year.

- (j) "CONDOMINIUM" means the Condominium Property, the relationships therein, the form of ownership thereof, and the Association.
- (k) "CONDOMINIUM INSTRUMENTS" means the Declaration, Drawings, Bylaws, Rules, any contracts pertaining to the management of the Condominium, and all other documents, contracts, or instruments establishing ownership of or exerting control over the Condominium (including Units therein).
- (l) "CONDOMINIUM PROPERTY" means the Land, together with the Buildings and all improvements thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property existing thereon for the common use of the Unit Owners; PROVIDED HOWEVER, that when, as, and if additional land, buildings and other improvements are added to the Condominium Property pursuant to the provisions of Paragraph 19 hereof. The words, "Condominium Property" shall also mean and include all such additional land, buildings and other improvements, all easements, rights and appurtenances belonging thereto, and all articles of personal property existing thereon from time to time for the common use of the Unit Owners.
- (m) "DECLARATION" means this instrument and all of the exhibits and attachments hereto, as originally executed, or, if amended, as so amended, unless from the context it is clear that the word means this instrument alone, and not the Bylaws or Drawings.
- (n) "DRAWINGS" means the drawings prepared and certified by John E. Dailey, Registered Surveyor No. 5151, and Patrick J. Farrell, Registered Architect No. 7289, in accordance with Section 5311.07 of the Ohio Revised Code, relating to the Condominium Property, which Drawings are marked EXHIBIT A, are identified as THE COURTS OF CHAFFEE CONDOMINIUM, (and sometimes CHAFFEE COURT CONDOMINIUMS), pages 1 of 15 through 15 of 15, being fifteen (15) pages of drawings, and are incorporated herein by reference. The word "Drawings" shall include,

also, all amendments, supplements and additions thereto, if they should be amended, supplemented or added to.

- (o) "EXPANSION AREA" and "THE COURTS OF CHAFFEE EXPANSION AREA" both mean the lands described on ATTACHMENT 2, annexed hereto. The Expansion Area contains approximately 4.5 +/- acres of land. None of the Expansion Area was owned by Declarant at the time the original Declaration was filed for record.
- (p) "LAND" means the land described on ATTACHMENT 1, attached hereto; PROVIDED, HOWEVER, that when and if additional land or lands are added to the Condominium Property pursuant to the provisions of Paragraph 19 hereof, the term "LAND" shall mean and include, in addition to the Land described in ATTACHMENT 1, all land so added.
- (q) "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 all other Units and more specifically described in subparagraph (d) of Paragraph 7 hereof. See, also, Paragraph 4.
- (r) "OCCUPANT" means the person or persons in possession of a Unit.
- (s) "OWNERSHIP INTEREST" means
- (i) the exclusive ownership and possessory interest and the entire title in a Unit,
 - (ii) together with the undivided interest in the Common Areas and Facilities appertaining thereto.
- (t) "PERSON" means a human being, corporation, partnership, trust and any other legal entity to which the law attributes the capacity of having rights and duties.
- (u) "RULES" means such rules and regulations governing the operation and use of the Condominium Property or any portion thereof as may be adopted by the Association or the Board from time to time.
- (v) "UNIT" means that part of the Condominium Property described in Paragraph 6 hereof.

(w) "UNIT OWNER" means the Person or Persons owning an Ownership Interest, excluding, however, those Persons having such interest merely as security for the performance of an obligation.

2. SUBMISSION OF CONDOMINIUM PROPERTY TO CHAPTER 5311

Declarant hereby submits the Condominium Property to the provisions of Chapter 5311.

3. NAME

The Condominium Property shall be known as THE COURTS OF CHAFFEE CONDOMINIUM.

4. DESCRIPTION OF CONDOMINIUM PROPERTY

The general description of the Condominium Property is set forth in the Definitions at subparagraph 1(1), and is described with more particularity in the following subparagraphs of this Paragraph 4 and in the Drawings, both of which may be amended and supplemented from time to time by Declarant pursuant to Paragraphs 19 and 20.

(a) Buildings

The Units in The Courts of Chaffee Condominium are and will be constructed in attached housing units. Each Building will contain adjoining, but separate one to three-story Units, some with basements and garages. Each Unit is separated from the other Unit in a Building by a fire separation per applicable Code. The number of Units in each Building is stated in subparagraph (b) below.

The Buildings shall be constructed with a wood frame, vinyl siding, asphalt shingle roofs, and some stone or brick veneer.

There is appurtenant to each Unit a driveway between the street and the garage. There are air-conditioners on pads in some of the Units. These appurtenances are Limited Common Areas and Facilities. Some Units may have patios appurtenant to them as Limited Common Areas.

(b) At Filing of Original Declaration

(i) On the date the original Declaration is filed for record with the Cuyahoga County Recorder, there are three (3) Buildings. Two of the Buildings contain

four (4) Units each, and one Building contains three (3) Units.

(ii) Other improvements located on the Land include driveways, landscaping, and underground and aboveground conduits, and appurtenances for utilities.

(iii) The designation of each Unit, its square footage, its type and rooms, and a statement of its share of interest in the Common Areas and Facilities, in the Association for voting purposes, in the Common Profits for distribution, and in the Common Expenses for assessments is set forth on ATTACHMENT 3, attached hereto.

(iv) The location, layout and dimensions of the Buildings, the location and dimensions of the Units, the rooms in each Unit, the approximate area of each Unit in square feet, the immediate Common Area and Limited Common Area to which each Unit has access, the location of the Common Areas and Facilities, the location and dimensions of the Limited Common Areas and Facilities, and other matters are shown graphically on the Drawings.

(v) Declarant may at any time relocate, add or remove, in whole or in part, partitions within any Unit owned by Declarant, PROVIDED that structural and bearing walls and walls containing utility lines serving other Units may not be relocated or removed. Subject to the provisions of subparagraph 9(f) of this Declaration, each Unit Owner may partition the interior of his Unit in any way he elects. Accordingly, the number of rooms in each Unit and the interior layout of the Units are shown by the Drawings as such rooms and layouts exist and are created by virtue of the non-movable structural and bearing walls and walls containing utility lines serving other Units at the time the Declaration is filed for record with the Cuyahoga County Recorder.

5. DIVISION OF CONDOMINIUM PROPERTY

The Condominium Property is hereby divided into eleven (11) separately designated and legally described freehold estates, herein described and referred to as "Units," and one (1) freehold estate, herein described and referred to as the "Common Areas and Facilities."

6. UNITS

Each Unit consists of all of the space bounded (i) by the vertical planes formed by the respective undecorated interior surfaces of the perimeter walls, and (ii) by the horizontal (or slanting) planes formed by the undecorated ground floors and by the gypsum board or other covering (or imaginary line) beneath the roof rafters of such Unit, all such lines being projected, where necessary, by reason of openings for doors, windows, ducts, plumbing, and conduits and by reason of structural divisions, supports and interior partitions, to form complete enclosures of spaces with respect to each Unit, and including, without limitation, the following:

(a) the attic, the decorated surfaces, including paint, lacquer, varnish, wallpaper, tile, paneling, surface coat plaster, and any other finishing materials applied to said perimeter walls, and the finishings materials and coverings applied, layed on, or affixed to the interior walls, floors and ceilings;

(b) all space between interior walls, including the space occupied by structural and component parts of the Buildings and by utility pipes, wires and conduits within the bounds of a Unit; and

(c) without limiting the foregoing, all space occupied within the bounds of a Unit;

BUT EXCEPTING therefrom all of the following items (which, to the extent they are Limited Common Areas and Facilities as defined in subparagraph 7(d), are to be used and enjoyed by the Occupant of the Unit in or to which they are appurtenant) located within the bounds of the Unit as defined above:

(A) all walls, floors, and ceilings;

(B) all doors, door frames, hinges, locks, latches, hardware, windows (and the glass and frames constituting windows), screens, and window sashes in the perimeter walls, floors, or ceiling of a Unit;

(C) utility lines (pipes, sewer lines, water lines, electric and telephone cables and conduits, gas lines, vents, and ducts) serving more than one Unit;

(D) plumbing, fans, blowers, grills, filters, electrical and other fixtures, equipment and appurtenances, including heating and cooling equipment

and systems, even if located within a Unit and serving only one Unit;

(E) the air-conditioning facilities even though serving only one Unit;

(F) the receptacles, switch plates, covers, switches, grills, vent covers, registers, and other coverings of spaces, light fixtures, thermostats, control knobs, toilets, faucets, sinks, bathtubs, valves, plumbing taps, exhausts, traps, controls, and the like within the Unit and serving only one Unit;

(G) all structural portions of the Buildings lying within the bounds of a Unit; and

(H) without limiting the foregoing, all Common Areas and Facilities and Limited Common Areas and Facilities located within the bounds of a Unit and/or appurtenant to a Unit.

The dimensions, the floor area in each Unit, the Common Area and Limited Common Area to which each Unit has access, the location and layout of each Unit, and the descriptions of all Units are shown graphically on the Drawings. See subparagraph 4(b) for a statement in respect to the number of rooms in and the layout of the Units.

7. COMMON AREAS AND FACILITIES

(a) Description

The Common Areas and Facilities are all of the Condominium Property except the Units. Without limiting the generality of the foregoing, the Common Areas and Facilities include the following, whether or not located within the bounds of a Unit:

- (i) the foundations, ground floors, structural walls, roofs, floors and ceilings if they support or contain Common Areas and Facilities, stairways, fire escapes, entrances and exits of the Buildings;
- (ii) the yard, patios, porches, front entrance-ways, gardens, trees, lawns, driveways, parking areas, walks, and pavements;
- (iii) all apparatus and installations existing for common use;

- (iv) the air-conditioning pad and air-conditioning compressors on the pads appurtenant to the Units;
- (v) the patios or decks, if any, appurtenant to some of the Units which extend beyond the boundary walls of Units;
- (vi) utility lines (pipes, sewer lines, water lines, electric and telephone cables and conduits, gas lines, vents and ducts) and television cable and conduits for cable (or space) television service to the place within a Unit where they connect to the Unit's take-off wall boxes or to the Unit's shut-off valves;
- (vii) 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;
- (viii) those items described as an exception to Units in the second part of Paragraph 6, and listed as parts (A), (B), (C), (D), (E), (F), (G), and (H) of Paragraph 6; and
- (ix) all repairs and replacements of any of the foregoing.

(b) Ownership of Common Areas and Facilities; Share of Interest

The Common Areas and Facilities comprise, in the aggregate, a single freehold estate, shall be owned by the Unit Owners as tenants in common, and shall remain undivided. No action for partition of any part of the Common Areas and Facilities shall be maintainable, except as provided in Paragraphs 15 and 16 hereof and in Chapter 5311, nor may any Unit Owner otherwise waive or release any rights in the Common Areas and Facilities; PROVIDED, HOWEVER, that if any Ownership Interest is owned by two or more co-owners as tenants in common or as joint tenants, nothing herein contained shall be deemed to prohibit a voluntary or judicial partition of such Ownership Interest as between such co-owners.

The share of undivided interest in the Common Areas and Facilities appertaining to each Unit and its owner, and the share of interest of each Unit in the Association for voting purposes, for the distribution of Common Profits, for the

assessment and payment of Common Expenses, and for all other purposes is based upon a par value of one (1). This par value of one is used to create the Unit's fractional, undivided interest in and for the foregoing. The numerator of the fraction is one and the denomination of the fraction is the number of Units in the Condominium.

The fractional interest of each Unit in the Common Areas and Facilities, and share of interest of each Unit in the Association for voting purposes, distribution of Common Profits, assessment and payments of Common Expenses, and all other purposes is set forth on ATTACHMENT 3, attached hereto, which ATTACHMENT may be amended from time to time by Declarant as provided in Paragraphs 19 and 20.

Each Unit Owner agrees by the acquisition or occupancy of his Unit that the share or fraction set forth in ATTACHMENT 3 opposite the designation of his Unit may be charged from time to time by Declarant in accordance with the provisions of Paragraphs 19 and 20 of this Declaration.

The undivided share of interest of each Unit Owner in the Common Areas and Facilities, as said share of interest shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered with its respective Unit even though the description in any instrument of conveyance or encumbrance refers only to the Unit.

(c) Use of Common Areas and Facilities

- (i) Except as otherwise limited and restricted herein, each Unit Owner shall have the right to use the Common Areas and Facilities in accordance with the purposes for which they are intended, and for all purposes incident to the use and occupancy of his Unit as a place of residence, including without limitation the non-exclusive easement, together with other Unit Owners, to use and enjoy the appropriate Common Areas and Facilities for ingress and egress to and from the respective Units, and for such other uses as are permitted by this Declaration and the Bylaws, which rights shall be appurtenant to and run with his Unit; PROVIDED, HOWEVER, that, except for the Limited Common Areas and Facilities, no person shall use the Common Areas and Facilities or any part thereof in such manner as to interfere with, restrict or impede the use thereof by others

entitled to the use thereof or in any manner contrary to or not in accordance with this Declaration, the Bylaws, and the Rules.

- (ii) The Association and the Board shall, subject to the provisions of this Declaration and the Bylaws, have the right but not the obligation, to promulgate Rules limiting the use of the Common Areas and Facilities.

(d) Limited Common Areas and Facilities and the Use Thereof

Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy to the exclusion of all others the Limited Common Areas and Facilities, defined in Paragraph 1(q) hereof, which are located within the bounds of his Unit or which are designated or obviously intended to serve only his Unit. The Limited Common Areas and Facilities with respect to each Unit (or group of Units) shall consist of such of the following as may be construed to be Common Areas and Facilities:

- (i) all interior walls and one-half of any wall separating one Unit from the other, floors, and ceilings located within the bounds of such Unit, excluding the structural and component parts thereof;
- (ii) the patio, if any, the air-conditioning pad, the air-conditioning compressor on the pad, and the driveway and walk adjacent to and serving one Unit;
- (iii) the porch if any, constructed at the ground level of a Unit;
- (iv) the deck, balcony, or greenhouse, if any, constructed at the ground level or from any floor, at the rear of a Unit;
- (v) the area extending sixteen (16) feet from the exterior of the lower outside rear wall of each Building, which area is Limited Common Area for the Unit adjoining the area and may be used by the Owner of the Unit in accordance with and subject to the provisions of this Declaration; SUBJECT, HOWEVER, to the right of others to go upon and cross over such area where reasonably necessary to move from one part of the Condominium Property to another and to maintain the Condominium Property,

causing as little interference as reasonably possible to the Unit Owners to whom this Limited Common Area belongs, so long as there is no structure in the area;

- (vi) all doors, door frames, hinges, locks, latches, hardware, windows (and the glass and frames constituting windows), screens, and window sashes in the perimeter walls, floors, and ceilings of a Unit;
- (vii) plumbing, fans, blowers, grills, filters, electrical and other fixtures, equipment and appurtenances, including the entire heating, ventilating, and cooling equipment, compressor, and systems serving only one Unit;
- (viii) the receptacles, switch plates, covers, switches, grills, vent covers, registers, and other coverings of spaces, light fixtures, thermostats, control knobs, toilets, faucets, sinks, bathtubs, valves, plumbing taps, exhausts, traps, controls, and the like serving only one Unit;
- (ix) all utility lines (pipes, sewer lines, water lines, electric and telephone cables and conduits, gas lines, vents, and ducts), serving only one Unit; and
- (x) all other Common Areas and Facilities located within the bounds of such Unit and which serve only such Unit.

There may be constructed at the rear of a Unit, within its adjoining sixteen-foot Limited Common Area described in part (v), above, of this subparagraph (d), a patio, balcony, porch, greenhouse, or decorative structure, provided the Unit Owner has received the prior written approval of the Board or the Declarant. The Board or the Declarant may grant its approval upon such conditions as it deems appropriate in its sole discretion, and may withhold its approval arbitrarily and without cause. Such area, and the structure so constructed within it, is and shall be Limited Common Area and a Limited Common Facility, appurtenant to the Unit to or for which it is constructed. Declarant may do such construction without approval of the Board.

Between each Unit and the street or main entrance road for the Condominium project is a Limited Common Area, shown on the Drawings, for use by the owners of the Unit to which the area is appurtenant as a driveway and/or sidewalk. These areas may be

used only for driveways and walks; PROVIDED, HOWEVER, that if they are not paved for such use, the Board, or Declarant, may grass and landscape such unpaved areas. Those parts of such areas which are not paved may be used by others as general Common Areas. Either Declarant or the Board may pave, repair, or replace the paving in such areas without anyone's approval. The Owner of the Unit to which the area is appurtenant may not pave such unpaved areas without the prior written approval of the Board or Declarant. The Board shall not unreasonably withhold its approval if the area requested to be paved was originally paved by Declarant; but Declarant and the Board may arbitrarily and without just cause refuse its approval if the area requested to be paved was not originally paved by Declarant.

Subject to the rights of the Association to maintain for and on behalf of the Unit Owners all of the Limited Common Areas and Facilities, each Unit Owner has the responsibility of maintaining the Limited Common Areas and Facilities appurtenant to his Unit, except for the walks, drives, and concrete outside the Unit, as hereinafter provided.

8. EASEMENTS

The Condominium Property is hereby made subject to the following easements and reservations of easements, all and each of which shall, unless otherwise expressly provided, be in perpetuity, run with the land, and inure to the benefit of and be binding upon the Declarant, each Unit Owner, each mortgagee in whose favor a mortgage shall be granted with respect to any Unit, and any other person having an interest in the Condominium Property, or any part thereof, and the respective heirs, devisees, administrators, executors, personal representatives, successors and assigns of any of the foregoing persons:

(a) Encroachments

If, by reason of the construction, repair, restoration, settlement or shifting, or partial or total destruction and rebuilding of any of the Townhouse Buildings, or improvements constituting a part of the Condominium Property, any part of the Common Areas and Facilities encroaches upon any part of a Unit, or any part of a Unit encroaches upon any part of the Common Areas and Facilities or another Unit or Units, or if by reason of the design or construction of any Unit it shall be necessary and advantageous to a Unit Owner to use or occupy for formal uses and purposes any portion of the Common Areas and Facilities consisting of unoccupied space within the Buildings and adjoining his Unit, or, if by reason of the design, construction or rebuilding of utility systems, any pipes, duct or conduits serving any part of the Condominium Property encroaches upon any

part of any Unit or upon any part of the Common Areas and Facilities, easements are granted and reserved for the existence and maintenance of such encroachment and for the use of such space are hereby established and shall exist for the benefit of such Unit Owner and the owners of the Common Areas and Facilities, as the case may be; PROVIDED, HOWEVER, that in no event shall an easement for any encroachment be created in favor of the owner of any Unit or in favor of the owners of the Common Areas and Facilities if such encroachment occurred due to the willful conduct of said owner or owners.

(b) Easements for Maintenance in Favor of Association

Easements are granted to the Association in and over the Units and Limited Common Areas and Facilities for access as may be necessary for the purpose of maintaining the Common Areas and Facilities, and any portion of a Unit itself by persons authorized by the Board. No maintenance, repair, or service of any portion of a Unit shall be authorized by the Board, however, unless it is necessary in the opinion of the Board for public safety or in order to prevent damage to or destruction of any other part of the Condominium Property. Easements are granted to each Unit Owner over the Common Areas and Facilities for access to his Unit, and to and through the Common Areas and Facilities as may be necessary for the use of water, gas, sewer, power and other utilities now or hereafter existing within the walls and for the use of any community antenna television cables and equipment installed by the Association or by an independent company (after being given authorization by the Board) to serve the Units for a fee or free of charge.

(c) Easements in Favor of Unit Owners

Easements are granted to each Unit Owner to apply, attach, affix, maintain, repair or replace paneling, plaster, dry wall, paint and other finishing and decorating materials to or upon the perimeter ceilings, floors and walls of such Unit Owner's Unit and to install, construct, maintain, repair or replace non-structural interior walls and partitions (other than walls and partitions separating Units) within the perimeter ceilings, floors and walls of such Unit Owner's Unit.

(d) Easements Through Walls Within Units

Easements are hereby declared and granted to the Association, which in turn may grant the same easements to others by authorization from the Board, to install, lay, maintain, repair and replace any pipes, wire, ducts, conduits, television

cables and equipment, public utility lines or structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the Unit boundaries.

(e) Easements to Others

- (i) This Declaration is subject to easements of record affecting the Condominium Property at the time this Declaration is filed for record with the Cuyahoga County Recorder, or in respect to the Expansion Area at the time any Amendment(s) to this Declaration is filed for record adding any part or parts of the Expansion Area which contain easements, none of which adversely affects the purpose of the Condominium Property as established by this Declaration.
- (ii) Declarant, or any officer of the Association authorized by act of the Board, may grant on behalf of the Association and all Unit Owners easements in and over the Condominium Property in favor of any person or company to install community antenna television cables and equipment (or other television service) in the Buildings or Units and to maintain such cable, equipment and service.
- (iii) The Association, acting through the Board, may grant other easements to others, from time to time, including easements for ingress and egress, pedestrian and vehicular traffic, utility purposes, and recreational purposes, and including, further, the right to install, lay, maintain repair and replace paths, roads, and walks, water mains and pipes, sewer lines, gas mains, telephone wires and equipment and television and electrical conduits and wires, in, over, and under any portion of the Common Areas and Facilities. The Association, acting through the Board, may impose such conditions, requirements, and limitations upon the duration and use of the easements as it deems appropriate. Each Unit Owner and his respective mortgagees by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, hereby irrevocably appoints the Association his Attorney-in-Fact, coupled with an interest, and authorizes, directs and empowers such Attorney, at the option of the Attorney, to execute, acknowledge and record for

and in the name of such Unit Owner and his mortgagees such easements or other instruments as may be necessary to effect the foregoing.

(f) Declarant's Reservation Easement for Benefit of Expansion Area.

An easement is reserved unto Declarant, its successors and assigns, and to all persons to whom Declarant grants a similar easement, for the benefit of the owners, occupants, and invitees of and upon the Expansion Area to use the roads, paths, and utility lines within the Common Areas of the Condominium Property for ingress and egress and for utility purposes, and to use the Common Areas on which no Buildings are constructed for construction purposes on the Expansion Area. The owners of the Expansion Area who use any easement granted them under this subparagraph (f) shall share in the cost and expense of maintaining, repairing, and replacing the roads, walks, and utility lines used by them in proportion to the number of their dwelling units to the number of all dwelling units using the same.

(g) Deeds and Mortgages Subject to Easements

Each conveyance of a Unit and each mortgage with respect to any Unit shall be subject to and have the benefit of (as the case may be) each of the easements herein provided in the same manner and to the same extent as though such easements were expressly provided for and fully set forth in the deed of conveyance or mortgage (as the case may be), notwithstanding the omission from such deed of conveyance or mortgage (as the case may be) of reference to such easements.

(h) Damage Resulting from Exercise of 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 subparagraphs (a), (b), (c), (d), (e), and (f) of this Paragraph or as a result of the use of any easement granted or reserved in said subparagraphs (a), (b), (c), (d), (e), and (f) shall be repaired, replaced or corrected, as necessary, promptly by the person performing the act or work and by the grantee or holder of the easement being exercised, at the cost and 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 its damage.

9. PURPOSES OF CONDOMINIUM PROPERTY; COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

The following covenants, restrictions, conditions and limitations as to use and occupancy, which shall run with the Land, shall be binding upon each Unit Owner, his heirs, tenants, licensees and assigns:

(a) Purposes of Condominium Property

The purposes of the Condominium Property and of the Units and facilities situated therein are for housing and for the common maintenance, service, storage, and incidental purposes auxiliary thereto for which the Property was designed. Each Unit shall be used as a residence for a single family and for no other purpose, EXCEPT that Declarant may use any Units owned by Declarant as "model suites" for the sale or leasing of such Units and other Units owned by Declarant and for sales and construction offices. A Unit Owner or Occupant may use a portion of his Unit for his office or studio; provided that -

- (i) the activities therein do not interfere with the quiet enjoyment or comfort of any other Unit Owner or Occupant;
- (ii) it does not involve the regular or the full time personal services of any Unit Owner or Occupant;
- (iii) in no event shall any part of the Unit be used as a school or music studio;
- (iv) such use does not result in walk-in traffic to the Unit from the general public or from regular business invitees; and
- (v) such use does not result in the Unit becoming principally an office as distinct from a residence or developing a reputation as an office.

No part of the Condominium Property shall be used except for the foregoing purposes and except for such other uses or purposes as are expressly permitted or contemplated herein.

(b) Obstruction of Common Areas and Facilities

Except as provided in Paragraph 8(f), there shall be no obstruction of the Common Areas and Facilities nor shall anything be stored on any part of the Common Areas outside the Buildings, excluding the Limited Common Areas, without the prior written consent of the Association or unless it is done in accordance

with Rules. Nothing shall be stored in the Limited Common Areas which creates, in the sole judgment of the Board, an unsightly appearance in or to the Buildings or the grounds adjoining the Buildings. Regardless of any consents given for the storage of things on the Limited Common Areas, nothing may be stored in such Areas which creates a hazardous, dangerous, or unsafe condition or violates any applicable codes, rules, or regulations.

(c) Vehicles

No vehicle or object, such as but not limited to trucks, motorcycles, camping, travel or utility trailers, vans, buses, motor homes, boats or boats trailers, may be parked, left or stored in or on any Common Area or Limited Common Area past the hour of sunset and not during the daytime hours on more than two consecutive days without the prior written consent of the Association. Notwithstanding the foregoing passenger automobiles which are in good operative condition, licensed, and regularly used by a Unit Owner may be parked in the Limited Common Area driveway of the Unit Owner.

(d) Changes in Appearance and Alterations in the Common Areas Outside Buildings

Except as provided in Paragraph 7(d), above, no changes shall be made in the appearance of any part of the Common Areas and Facilities (including without limitation the material constituting the exterior and interior fascia of the Buildings and the color of the paint thereon) without the prior written consent of the Board. This restriction shall not apply to the making of repairs and replacements, painting and similarly maintaining and restoring the improvements on the Land in and to the condition which they were in and the appearance they had at the time this Declaration was filed for record.

* (e) Signs, etc.

No sign, awning, canopy, shutter, screen, radio or television antenna, or anything else shall be displayed from, affixed to, or placed upon the exterior walls, windows (both interior and exterior), doors, porches, or roofs of the Buildings or from, to or upon any other part of the Common Areas outside the Buildings; PROVIDED, HOWEVER, that Declarant may affix and display "For Sale" and "For Rent" signs on any part or parts of the Condominium Property (excepting sold Units) which he elects; and PROVIDED, FURTHER, that if Rules have been enacted governing (or the Board has otherwise permitted or consented to) the installation of awnings, canopies, shutters, screens, and antennas and the display of "For Sale" or "For Rent" signs on the Condominium Property (except on Units which are not for sale) for

* the purpose of facilitating the disposal of Units by any Unit Owner(s) and mortgagees, then a Unit Owner may install such awnings, canopies, shutters, screens and antennas and display such signs so long as it is done strictly in accordance with such Rules.

(f) Limited Common Areas and Facilities

Except as provided in Paragraph 7(d), above, the Limited Common Areas and Facilities shall not be altered, decorated, landscaped or adorned in any manner contrary to such Rules as may be established therefor, nor shall they be used in any manner other than their obviously intended purposes, without the prior written consent of the Board.

(g) Changes of Partitions in a Unit

After Declarant has conveyed record title to a Unit, no partitions in the Unit, whether they be structural or non-structural, shall be relocated, added or removed, in whole or in part, without the prior written consent of the Board or of an agent or committee designated by the Board, but the Board shall not unreasonably withhold its written consent to requests for changes to interior partitions which are non-structural and which do not carry utility lines serving other Units. The Board shall, further, act promptly on all such requests. Notwithstanding the foregoing partitions within a Unit which are non-structural, which are not bearing walls, and which do not contain utilities serving other Units, may be relocated, added, or moved without the prior written consent of the Board by Declarant within one year following the first transfer of record title to the Unit from Declarant to a Unit Owner other than Declarant.

(h) Alterations to the Common Areas and Facilities

No alterations, removal, additions, or improvements shall be made to any part of the Common Areas and Facilities except as provided in Paragraphs 7(d), 8, 9(d), 9(e), 11(b), 11(c), 17, 19, and 20.

(i) Impairment of Structural Integrity of Buildings

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 Buildings or which would structurally change the Buildings.

(j) Hazardous Uses and Waste

Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which constitutes hazardous waste or a hazardous substance as those words are interpreted at any time an issue in respect to hazardous waste is presented or which will increase the rate of insurance for the Buildings or contents thereof applicable for residential use without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities which will result in the cancellation of insurance on the Buildings or contents thereof, or which would be in violation of any law. No waste of any of the Condominium Property will be committed.

(k) Impairment of Easements

The use and enjoyment of the easements herein created, provided for, or referred to shall not be impaired without first obtaining the written consent of the Board and of any other person, firm or corporation for whose benefit such easements exist.

(l) Interference with Use of Common Areas and Facilities

The Common Areas and Facilities and every part thereof shall be used in such manner as not to interfere with, restrict, or impede the use thereof by others entitled to the use thereof and in accordance with this Declaration, the Bylaws and the Rules.

(m) Animals and Pets

No animals, reptiles, birds or fish of any kind shall be raised, bred or kept in any Unit or on the Common Areas or Facilities, EXCEPT that one dog or one cat may be kept in a Unit, subject to Rules adopted by the Association, and provided:

- (i) that they [the cat or dog] are not kept, bred or maintained for commercial purposes;
- (ii) that the cat or dog must be kept on a leash held by a person whenever it goes upon the Common Areas and Facilities;
- (iii) that the owner immediately pick up, remove, and place in a sealed rubbish container the animal's defecation;

- (iv) that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Property upon three (3) days' written notice from the Board. Prior to filing this Declaration for record, Declarant permitted some Occupants to have two dogs or both a dog and cat. These Occupants may continue to keep their pets; HOWEVER, after they lose their pets through death or other cause they shall thereafter comply with this subparagraph (m);
- (v) frequent barking by a dog or meowing by a cat, if complained of by any Occupant, may be deemed an unreasonable disturbance sufficient to required permanent removal; and
- (vi) rules adopted by the Association [or Board] governing cats and dogs may include the requirement of a security deposit from the pet owner which will be forfeited if the Owner fails to comply with this subparagraph (m) or Rules governing pets.

(n) Nuisances

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

(o) Laundry or Rubbish in Common Areas and Facilities

No clothes, sheets, blankets, or laundry of any kind shall be hung out in, or exposed to any part of the Common Areas except that partially enclosed porches may be used for such purpose if Rules have been promulgated permitting such use in such place. Except as provided in Paragraph 8(f) the Common Areas and Facilities shall be kept free and clear of garbage, rubbish, debris and other unsightly materials.

(p) Lounging or Storage in Common Areas and Facilities

There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Areas and Facilities except in accordance with such Rules as may have been adopted to govern such matters.

(q) Prohibited Activities

Except as expressly permitted in subparagraph (a) of this Paragraph 9, no industry, business, trade, or full-time occupation or profession of any kind, commercial, religious, education, or otherwise, designated for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted on any part of the Condominium Property; and except as expressly permitted in subparagraph (e) of this Paragraph 9, 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.

(r) Rentals

No Unit shall be rented for transient, temporary housing, or hotel purposes, which shall be defined as (i) periodic rentals for periods of less than six (6) full calendar months, or (ii) any rental where the Occupants of the Unit are provided customary hotel service such as room service for food and beverage, mail service, furnishing of laundry and linen, and bellboy service. Other than the foregoing obligations, the Unit Owners of the respective Units shall have the right to lease the same, PROVIDED the lease is made subject to the covenants and restrictions in this Declaration and the Bylaws; and PROVIDED, FURTHER, the lease has set forth in it, or attached to it, a copy of this entire Paragraph 9, a copy of all current Rules, and such other covenants and restrictions in this Declaration as the Board deems appropriate. The Board may provide a form of addendum to be attached to each Unit lease, containing all information the Board requires to be incorporated in leases of Units. Each Unit Owner must give a true copy of each lease of the Owner's Unit to the Board. (This subparagraph (r) shall not apply to Units which have never been sold and are owned by Declarant. Such Units may be leased by Declarant periodically for periods greater or lesser than six (6) full calendar months and without the approval of the Board. Notwithstanding the foregoing, Declarant shall not lease or rent any Units for hotel purposes.

10. THE ASSOCIATION**(a) Creation and Membership**

Declarant shall cause THE COURTS OF CHAFFEE CONDOMINIUM ASSOCIATION, INC. (the "ASSOCIATION"), to be formed as an Ohio nonprofit corporation for the administration and operation of the

Condominium, not later than the date the deed or other evidence of ownership is filed for record following the first sale of a Condominium Ownership Interest. Each Unit Owner, upon acquisition of title to a 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. Until the Association is established, Declarant shall act in all instances where action of the Association or its officers is authorized or required by law or this Declaration.

(b) Board of Managers and Officers of Association

The Board and Officers of the Association elected as provided in the Bylaws shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, the Bylaws and the Declaration upon the Association, except as otherwise specifically provided.

(c) Control of Association

(i) The Owners of the Ownership Interests that have been sold by Declarant or his agent will assume control of the Common Areas and Facilities and the Association as prescribed in this Declaration and the Bylaws; provided that if Section 5311.08(C) of Chapter 5311 requires the performance of any act or the occurrence of any event before the time required in the Declaration or Bylaws, then such act and event shall be performed and shall occur no later than the time required by Section 5311.08(C) of Chapter 5311.

(ii) Not later than the time that 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 Declarant, the Association shall meet and the Unit Owners, other than the Declarant, shall elect not less than twenty-five (25%) of the members of the Board of Managers. Not later than the time that Condominium Ownership Interests to which fifty percent (50%) of the undivided interests in the Common Areas and Facilities appertain have been sold and conveyed by the Declarant, such Unit Owners shall meet and elect not less than thirty-three and one-third percent (33 1/3%) of the members of the Board of Managers. Declarant shall provide the Unit Owners with a

notice of meetings of the Unit Owners for the purpose of electing Board Members when the above mentioned ownership interests have been sold and conveyed.

When computing percentages of interest for purposes of this Declaration, the percentage of interest in Common Areas and Facilities shall be computed by comparing the number of Units sold and conveyed to the maximum number of Units which may be created, namely forty (40) Units.

(iii) Except as stated in part (ii) of this subparagraph 10(c), Declarant or persons designated by it may appoint and remove members of the Board and other officers of the Association and may exercise the powers and responsibilities otherwise assigned by law or the Declaration to the Association, the Board, or officers of the Association from the date the Association is established until whichever of the following is first to occur:

- (A) Five (5) years have elapsed after the establishment of the Association, or
- (B) Thirty (30) days have elapsed after the sale and conveyance of Condominium Ownership Interests to which appertain seventy-five percent (75%) of the undivided interests in the Common Areas and Facilities to purchasers in good faith for value.

If there is a Unit Owner other than Declarant, this Declaration shall not be amended to increase the scope or the period of control by Declarant. Within thirty (30) days of the expiration of the period during which Declarant may exercise powers under this part (iii), the Association shall meet and elect all members of the Board and all other officers of the Association. The persons so elected shall take office upon election.

(d) Service of Process

Service of summons or other process upon the Association may be made in accordance with the provisions of Ohio Revised Code, Section 5311.20, or, if the same shall not be applicable, in accordance with the provisions of Ohio Revised Code, Section 1702.06. The President, a Vice President, the

Secretary or the Treasurer of the Association shall be designated by the Board as its Statutory Agent. The Statutory Agent so designated shall be a resident of the Condominium and an owner of one of its Units. Until such time as a Statutory Agent is designated, service may be made upon Declarant, THE COURTS OF CHAFFEE, INC., 7596 Chippewa Road, Brécksville, Ohio 44141. When and after the Association is lawfully constituted, the Statutory Agent thereof shall be the person designated by the Board to receive service of process, and his name and address (and that of each successor) shall be filed with the Ohio Secretary of State on such forms as are prescribed for the subsequent appointment of a Statutory Agent for an Ohio Corporation not for profit.

11. DUTIES OF THE ASSOCIATION

(a) Management

The Association shall manage the Condominium Property and the affairs of the Condominium with the right, however, to delegate its obligations as hereinafter provided.

(b) Changes by Necessity

Notwithstanding the restrictions, express or which might be implied by parts of Paragraph 9 or elsewhere herein, if changes, modifications, or alterations should be found to be necessary to eliminate or correct construction defects, to provide alternate energy or utility services, to improve insulation or reduce sound transmission, to comply with new codes and regulations, or for other similar or dissimilar reasons within the logical intent of this subparagraph, the Association may cause or authorize such changes, modifications, and alterations to be made to the Common Areas and Facilities as are reasonably necessary by the affirmative vote of a majority of the Board.

(c) Approval of Partition Changes

The Board shall establish by Rules a reasonable procedure for the review of requests by Unit Owners to change partitions within Units so that all such requests can be handled fairly, uniformly, and expeditiously, with due regard for the rights of requesting Unit Owners, the necessity of safeguarding the structural soundness of the Buildings and protecting the utility lines within a Unit which may be servicing another Unit or Common Area.

(d) Common Areas and Facilities

Except as otherwise expressly provided herein, the Association shall maintain and keep the Common Areas and Facilities in a state of good working order, condition and repair, in a clean, neat, safe, and sanitary condition, and in conformity with all laws, ordinances and regulations applicable to the Common Areas and Facilities, by promptly, properly, and in a good and workmanlike manner, making all repairs, replacements, alterations, and other improvements necessary to comply with the foregoing. The obligations herein described shall include without limitation,

- (i) maintaining, planting, seeding, reseeding, fertilizing, cutting and trimming all of the lawns comprised within the Common Areas and Facilities;
- (ii) performing all of the obligations imposed upon a landlord under Chapter 5321 of the Ohio Revised Code (and under other applicable laws, ordinances and regulations) to the extent such obligations relate to Common Areas and Facilities.
- (iii) maintaining the driveways and walks, appurtenant to each Unit even though they are Limited Common Areas and Facilities;
- (iv) rebuilding, repairing, replacing and restoring all damage to all Common Areas and Facilities necessitated by reason of insured casualties and condemnations, as provided in Paragraphs 15 and 16, below, even if such areas and facilities are Limited Common Areas and Facilities and are in all other cases the responsibility of Unit Owners to repair and replace.

(e) Units (and Common Areas and Facilities in Units)

Except as may otherwise be expressly provided herein, the Association shall keep and maintain in a state of good condition and repair those parts of each Unit which contribute to the support of the Buildings, excluding, however, the surfaces of interior walls, ceilings and floors, by making all repairs, replacements, alterations and other improvements necessary to comply with the foregoing, promptly, properly and in a good and workmanlike manner. In addition, the Association shall, except as provided in Paragraph 12, below, maintain, repair, replace, alter and improve (in the same manner) all conduits, ducts, plumbing, wiring, equipment, and other facilities for the furnishing of utility services which are used by or for or are

common to two or more Units even though such facilities are located within the boundaries of a Unit. If a Unit becomes impaired, in a neglected state or otherwise in need of repair or restoration, and if the Unit Owner thereof fails after notice from the Association to repair, restore or otherwise correct the condition, the Association may, but shall not be obligated to, repair, restore, or otherwise correct the condition. The Association shall charge and assess the cost and expense thereof to the Unit Owner who should have performed the work. Notwithstanding the Unit Owners' obligations to maintain, repair, and replace Limited Common Areas and Facilities appurtenant to their Units, in case of damage or destruction by fire or other casualties insured by the Association (or for which condemnation awards or other sums are received), the Association (and not the Unit Owner) shall restore all Limited Common Areas and Facilities so damaged or destroyed, pursuant and subject to Paragraphs 15, 16 and 17, below.

(f) General Duties

The Association shall do any and all other things necessary and appropriate to carry out the duties and obligations reasonably intended to be required of it under this Declaration and Chapter 5311.

(g) Delegation of Authority to a Managing Agent

The Association may, but shall not be required to, delegate all or any portion of its authority and responsibilities to a manager, managing agent, or management company. Such delegation may be evidenced by a management contract which shall provide for the duties to be performed by the managing agent and for the payment to the managing agent of a reasonable compensation as a Common Expense. Upon the expiration of each management agreement, the Association may renew said management agreement or enter into a different agreement with the same or a different managing agent, provided that no management agreement or agency or renewal thereof shall be for a period of longer than three years.

(h) Board or Association

Wherever this Declaration or the Bylaws provides that a thing or act is to be done, approved, authorized, or consented to by the Association, the provision shall be deemed to mean that the thing or act shall be done, approved, authorized, or consented to by the Board, unless the context otherwise requires (for example, a clause saying the Association shall pay for a

particular thing) or a thing or act which must, by law or express language herein, be done or performed by a vote of the Association's membership.

12. DUTIES OF UNIT OWNERS

Each Unit Owner shall at all times do as follows:

(a) Maintenance and Repair

(i) Except as otherwise may be expressly provided herein [see, for example, Paragraphs 11(d)(iii), 11(d)(iv), the last sentence in Paragraph 11(e), and Paragraphs 15, 16 and 17], keep and maintain, repair and replace at his expense, all portions of his Unit and the Limited Common Areas and Facilities appurtenant to his Unit (but not the driveway or walk, or the lawn areas existing in a Limited Common Area and Facility) in a state of good working order, condition, and repair, in clean, neat, safe and sanitary conditions, and in conformity with all laws, ordinances, and regulations applicable to his Unit. Except in the case of insured casualties and condemnation (see Paragraphs 15 and 16) or a rehabilitation under Paragraph 17, the Unit Owner will be responsible for the maintenance, repair and replacement of such Limited Common Areas and Facilities as the Unit's heating, ventilating and cooling equipment and facilities, front entrance ways and porches, decks or balconies, greenhouses (if any) in a Limited Common Area, garage doors and openers, all windows and window frames, all doors and door frames, hinges, locks, latches, hardware, screens, storm doors and windows, all plumbing, valves and fixtures within the Unit, all electrical boxes, controls, switches, fuses, circuits, wiring, and fixtures within the Unit, and ceiling, wall and floor tiles.

(ii) Except where covered by insurance procured by the Association, maintain, repair, and replace at his expense all portions of the Condominium Property which may be damaged or destroyed by reason of 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. 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 their invitee, licensee or guest, and charge and collect from such Unit Owner the cost and expense paid or incurred in making any such repair or replacement. Except where the cost or expense of a repair or replacement is covered by insurance procured by the Association, if the repair or replacement is made by the Association, the cost and expense thereof shall be a lien against the 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 nonpayment 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 herein, in law and in equity, for recovery of the cost and expense so incurred.

- (iii) All of the work required of the Unit Owner in this subparagraph (a) shall be performed by him promptly, properly, and in a good and workmanlike manner, using first-class materials of equivalent or better quality than those originally installed or incorporated into the Condominium Property, and using competent and qualified labor.
- (iv) Subject to the duty of the Association to repair and restore all damage to all Common Areas and Facilities and all Limited Common Areas and Facilities caused by fire or other insured casualties, resulting from condemnation, or in the case of a rehabilitation under Paragraph 17, below, a Unit Owner may make alterations to the interior of his Unit, including Limited Common Areas and Facilities within his Unit, such as non-structural partition walls, ceilings, floors, sinks, plumbing, mechanical elements, electric elements, lighting fixtures, switches, switch plates, toilets, faucets, and the like, as any normal home-owner could do, even though such elements, facilities, and parts are Common Areas and Facilities; PROVIDED, HOWEVER, that a Unit Owner may not remove or alter structural parts of a Building or elements and facilities that are used by or in common with other Unit Owners;

PROVIDED, FURTHER, that a Unit Owner may not do any such work if it interferes with the use and enjoyment of any part of the Condominium Property by any other Unit Owner; and PROVIDED, FURTHER, that every Unit Owner must at all times keep his Unit heated above freezing, must keep his entire heating, cooling, and ventilating system in good working order, must keep his plumbing systems in good order and free from leaks, and must keep his entire electrical system in a safe condition and in compliance with all applicable codes, regulations, ordinances, and Rules.

(b) Report Defects

Report promptly to the Board or managing agent employed by the Association the need for any maintenance or repair to any portion of the Condominium Property which the Association is obligated to maintain or repair pursuant to this Declaration or the Bylaws.

(c) Nondisturbance of Others

Perform his duties and responsibilities in such manner so as not to unreasonably disturb other Unit Owners and Occupants. The Board may adopt a Rule or Rules limiting the decibel level of sound that will be permitted to be heard outside the exterior of a Unit by reason of noises originating within a Unit; together with remedies and sanctions that may be imposed for violating such Rule(s).

(d) Pay for Utilities

Pay all costs for utility services (such as, without limitation, water, gas, electricity, sewage, rubbish and trash disposal or treatment and the like) furnished to his Unit, unless any or all of such services are provided or paid for by the Association and charged to the Unit Owners as part of the Common Expenses, in which case all or any of such services provided by the Association shall be paid for by the Unit Owner as part of his share of the Common Expenses.

(e) Comply with this Declaration

Faithfully and promptly pay all charges and assessments made against him or his Ownership Interest pursuant to this Declaration; and faithfully observe, fulfill and perform all of the covenants and restrictions herein contained and all other obligations of a Unit Owner as set forth in (or intended by) this Declaration, the Bylaws, the Rules, and Chapter 5311.

(f) Deeds, etc.

Include both his interest in the Unit and his corresponding share of interest in the Common Areas and Facilities in every deed, mortgage, lease or other instrument affecting title to his Ownership Interest, it being the intention hereof to prevent any severance of such combined ownership. In furtherance of the foregoing responsibility and obligations and not in limitation thereof or in limitation of the provisions of subparagraph 7(b), any deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

13. CONSTRUCTION DEFECTS

The obligation of the Association and of the Unit Owners to maintain, repair 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 of the Condominium Property. The undertaking of maintenance, repair 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 the fact that the Association and/or any Unit Owner may be entitled to the benefit of any guarantee or warranty of material or workmanship furnished by any construction trade responsible for any construction defects, or to benefits under 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 respective obligations hereunder.

14. ASSESSMENTS; COMMON EXPENSES AND COMMON PROFITS(a) General

Assessments for the Common Expenses shall be made in the manner provided herein and in the Bylaws.

(b) Division of Common Profits and Common Expenses

The Common Profits shall be distributed among, and the Common Expenses shall be assessed against, the Unit Owners by the Association in accordance with the share of interest in the

Common Areas and Facilities appertaining to the respective Units of the Unit Owners, as set forth in ATTACHMENT 3, attached hereto, as the same may be amended from time to time. Every Unit Owner shall pay his proportionate share of assessments for Common Expenses and any special assessments levied against him in such manner and at such times as provided herein and in the Bylaws.

(c) Non-Use of Facilities

No Unit Owner may exempt himself from liability for assessments levied against him by waiver of the use or enjoyment of any of the Common Areas and Facilities or by the abandonment of his Unit.

(d) Lien of Association

The Association shall have a lien upon each Unit Owner's Ownership Interest for the payment of all assessments (which word is intended to include "other charges"), as defined in subparagraph 1(a) hereof, against such Unit which remain unpaid for ten (10) days after the same have become due and payable. The lien shall be evidenced of record by a certificate therefor, subscribed by the President or other chief officer of the Association, filed in the Office of the Recorder of Cuyahoga County, Ohio, pursuant to authorization given by the Board. Such certificate shall contain a description of the Unit, the name or names of the record Unit Owner or Owners thereof, and the amount of such unpaid assessments. The lien shall be effective on the date the certificate is so filed. The certificate shall, also, secure all assessments which come due after the certificate is so filed until the claim of lien is satisfied. The lien shall remain valid for a period of five (5) years, commencing upon the date the lien is filed with the Cuyahoga County Recorder, 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 a Court having jurisdiction in an action brought to discharge such lien as hereinafter provided. In addition, the person or persons who appear from the records of Cuyahoga County to be the Unit Owners of a Unit against which an assessment is made shall be personally liable, jointly and severally, for all assessments made by the Association against such Unit during the period of time such person or persons are Unit Owners thereof. The existence of a mortgage, lien or other encumbrance and of a condition, possibility of reverter, or the like, shall not be deemed to be a defeasance of a Unit Owner's title under the preceding sentence.

(e) Priority of Association's Lien

The lien provided for in subparagraph (d) of this Paragraph 14 shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of a bona fide first mortgagee filed for record before the lien of an Association came into existence, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association after authorization from the Board. In any such foreclosure action, the Unit Owner 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, shall have power to bid in the Ownership Interest and to acquire and hold, lease, encumber and/or convey the same. The provisions of Paragraph 22 hereof shall be applicable to the Association's acquisition.

(f) Dispute as to Common Expense

Any Unit Owner who believes that the assessments levied against him or his unit, for which a certificate of lien has been filed by the Association, have been improperly determined may bring action in the Common Pleas Court of Cuyahoga County, Ohio, for the discharge of all or any portion of such lien.

(g) Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses

If any purchaser at a judicial foreclosure sale or the holder of a first mortgage of record acquires an Ownership Interest in a Unit as a result of foreclosure of the first mortgage or of the acceptance of a deed in lieu of foreclosure, such mortgagee, its successors and assigns, and purchaser shall not be liable for the assessments levied against such Unit which were levied prior to the acquisition of the Ownership Interest in such Unit. 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 to the Association. The owner or owners of a Unit prior to the judicial sale thereof or to the conveyance in lieu of foreclosure shall be and remain personally and primarily liable, jointly and severally, for the assessments against the judicially sold or voluntarily conveyed Unit up to the date of the judicial sale or conveyance, as provided in paragraph 14(d) hereof; but any unpaid part of the assessments shall be deemed to be Common Expenses and shall be assessed and levied against all of the Unit Owners, including the new owner of the Unit foreclosed.

(h) Liability for Assessments Upon Voluntary Conveyance

In a voluntary conveyance of an Ownership Interest the grantee of the Ownership Interest shall be jointly and severally liable with the grantor for all unpaid assessments levied by the Association against the grantor and his Unit prior to the time of the grant of conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such prospective grantee shall upon written request delivered to the President or Secretary of the Association be entitled to a statement from the Board setting forth the amount of all unpaid assessments with respect to the Ownership Interest to be conveyed, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments which became due prior to the date of the making of such request if the same are not set forth in such statement.

15. INSURANCE AND CASUALTY LOSSES

(a) Insurance

(i) General:

The Association shall obtain the following insurance:

- (A) insurance for all of the improvements constituting the Common Areas and Facilities (including all personal property owned in common and including all Limited Common Areas Facilities) against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover not less than eighty percent (80%) of the fair value of all Buildings and structures of the Condominium Property in the event of damage or destruction from any such hazard; PROVIDED, HOWEVER, such insurance may have a deductible clause in a reasonable amount;
- (B) insurance against liability for personal injury or property damage arising from or relating to the Common Areas and Facilities in a reasonable amount; and

- (C) insurance against liability for personal injury or property damage arising from or relating to the Condominium Property (that is, the Units as well as the Common Areas and Facilities) in a reasonable amount to protect only the Association, the Managing Agent of the Condominium (and its agents, employees and contractees), the members of the Board and the Association's contractees, agents and employees.

(ii) Other Insurance:

The Association may obtain such other insurance as it deems desirable, including, without limitation, insurance to cover the Association's indemnity under Section 1 of ARTICLE VI of the Bylaws, debris removal insurance, fidelity bonds, and insurance to provide some relief from monthly assessments on behalf of Unit Owners whose Units are rendered uninhabitable by a peril insured against. Premiums for all such insurance and bonds shall be a Common Expense. Except as provided in part (i)(C), above, of this subparagraph (a), all such insurance coverage obtained by the Association shall be written in the name of the Association (and/or of the Managing Agent of the Condominium) as Trustee for the Association, for each of the Unit Owners, and for the holders of mortgages upon the Ownership Interests, as their interests may appear.

(iii) Reasonable Amount:

The words "reasonable amount" in this subparagraph 15(a) mean

- (A) the amount determined by the Board to be reasonable, or
- (B) the amount determined to be reasonable by the affirmative vote of persons holding more than fifty percent (50%) of the voting power of the Association present and voting at a meeting of the Association membership at which notice was given that votes would be taken to determine reasonable amounts of deductibles and insurance being procured under Paragraph 15 of the Declaration. In case of conflict between an amount determined by the Board and an amount determined by vote of the Association membership, the amount determined by vote of the Association membership shall prevail.

(b) General Provisions Governing Insurance

All insurance affecting the Condominium Property shall be governed by the following provisions:

- (i) All policies shall be written with a company licensed to do business in the State of Ohio and, if possible, holding a rating of "AAA" or better by Bests's Insurance Reports.
- (ii) All policies shall be for the benefit of the Association, the Unit Owners, and their mortgagees as their interests may appear; except for the insurance described in part (i)(C) of subparagraph (a) of this Paragraph 15, which shall be limited as therein provided.
- (iii) Provisions shall be made for the issuance of a certificate of insurance or copy thereof to each Unit Owner and his first mortgagee, if any.
- (iv) The original of all policies and endorsements thereto shall be deposited with the Insurance Trustee which shall hold them subject to the provisions of subparagraph (c) of this Paragraph 15.
- (v) Exclusive authority to adjust losses under policies on the Common Areas and Facilities shall be vested in the Board; provided, however, that no first mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (vi) In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Unit Owners or their mortgagees.
- (vii) Each Unit Owner may obtain additional insurance at his own expense SUBJECT, HOWEVER, to the following RESTRICTIONS AND CONDITIONS:
 - (A) No Unit Owner shall separately insure any part of the Condominium Property against loss by fire or other casualty which is covered by insurance carried under Paragraph 15(a)(i);

(B) No Unit Owner shall maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all Unit Owners and their mortgagees, may realize under any insurance policy which the Association may have in force on the Condominium Property at any particular time;

(C) The insurance which is carried by a Unit Owner shall be (I) such personal liability insurance as he may desire, (II) such insurance upon the Unit Owner's personal property as he may desire, and (III) casualty insurance upon betterments and improvements made by the Unit Owner to his Unit, such insurance to be limited to the type and nature of coverage often referred to as "tenant improvements and betterments" and to provide expressly that it shall be without contribution as against the casualty insurance purchased by the Association;

(D) If any diminution in insurance proceeds on insurance purchased by the Association results from the existence of insurance purchased by a Unit Owner for the same casualty and loss as that covered by a policy purchased by the Association, then said Unit Owner shall be liable to the Association to the extent of any such diminution and/or loss of proceeds; and all proceeds of the Unit Owner's policies which were brought into proration with the policies of the Association shall be due and payable directly to the Association, it being agreed by the Unit Owner that his policies were purchased in trust and for the benefit of the Association;

(E) Each policy of insurance obtained by any Unit Owner shall contain, if obtainable, a clause or endorsement providing in substance that the insurance shall not be prejudiced if the insureds have waived right of recovery from any person or persons prior to the date and time of loss or damage, if any;

(F) Each Unit Owner who obtains an individual insurance policy covering any portion of the Condominium Property (excluding policies restricted to personal property belonging to such Unit Owner) shall file a copy of each such individual policy with the Secretary of the Association within 30 days after the purchase of such insurance.

(viii) It shall be the responsibility of each Unit Owner at his own expense to provide, as he sees fit, title insurance on his Ownership Interest, homeowner's liability insurance for his Unit, shelter insurance during any period of restoration of damage to a Unit Owner's Unit, and theft and other insurance covering Unit improvements, betterments and personal property damage and loss. The Association shall have no responsibility or obligation to insure such matters or against such risks for or on behalf of the Unit Owners. In allocating among the Unit Owners any insurance proceeds received by the Association, the Association may adjust the proportionate share of such proceeds allocable to a Unit to reflect the matters which should be paid for by (and insured by) the Unit Owners.

(ix) The Board shall, periodically, conduct an insurance review which may, at the option of the Board, include a replacement cost appraisal, without respect to depreciation, of all improvements constituting the Common Areas and Facilities by one or more qualified persons. Officers and members of the Board will not, however, be liable for any losses or damages resulting for their failure to conduct such a review.

(x) The Board shall make reasonable effort to secure insurance policies that will provide for the following:

(A) A waiver of subrogation by the insurer as to any claims against the Board, its Manager, the Unit Owners and the Occupants;

(B) That the master policy on the Common Areas and Facilities cannot be cancelled,

invalidated or suspended on account of any one or more individual Unit Owner;

(C) That the master policy on the Common Areas and Facilities cannot be cancelled, invalidated or suspended on account of the conduct of any director, officer or employee of the Association or its duly authorized Manager without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, the Manager, any Unit Owner or mortgagee;

(D) That the any "other insurance" clause in the master policy exclude individual Unit Owners' policies from consideration;

(E) That notwithstanding any provision of any policy which gives the carrier an option to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the case of removal of the Condominium Property from the provisions of Chapter 5311 as provided for in this Declaration; and

(F) That the coverage of any policy shall not be terminated for nonpayment of premiums without at least ten (10) days' written notice to each holder of a first mortgage upon a Unit of which such carrier or carriers have written notice.

(c) Insurance Trustee

- (i) Insurance policies purchased by and in the name of the Association shall provide that proceeds covering property losses shall be paid jointly to the Association and a Trustee which shall be a banking institution, savings association, or savings and loan association, with offices in Cuyahoga County, Ohio, having at least Ten Million Dollars (\$10,000,000.00) total capital and surplus, or a title insurance company licensed to do business in Ohio and which acts as escrow agent, selected by the Board, which Trustee, is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment

of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. The Insurance Trustee has no obligation to inspect the property to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other persons. In recognition of the fact that the use of a bank, savings association, savings and loan association, or title company as insurance trustee may become infeasible or unreasonable (by reason of the charges made, changes in law, or otherwise), the Board may disregard this requirement and make such other arrangements as it deems reasonable for holding the insurance policies, collecting the proceeds thereof, and distributing the proceeds. For example, but not hereby intending to limit the generality of the foregoing, the Board could arrange to have the Association's Managing Agent, if there is one, act as Insurance Trustee.

Notwithstanding the foregoing, if no Insurance Trustee is in existence, the holder of any first mortgage of record on any unit may demand the appointment of one by a written notice to the Board (see Paragraph 24(i), below). If the Board fails to appoint an Insurance Trustee within seven (7) days after such demand, the entities holding a majority in number of first mortgages of record on Units may select an Insurance Trustee by a writing signed by such majority. If holders of a majority in number of first mortgages of record on Units fail to appoint an Insurance Trustee within seven (7) days after the time for the Board to appoint one has expired, the first mortgage of record which made the demand for appointment may, for a period of fourteen (14) days after the time for a majority of all first mortgages to appoint has expired, appoint an Insurance Trustee. The Insurance Trustee may be the holder of one of the mortgages. The Board and a majority of first mortgages of record on Units may agree to the appointment of an Insurance Trustee or the replacement of any Insurance Trustee, however originally selected.

- (ii) The duty of the Insurance Trustee shall be to receive such proceeds as are paid and delivered to it and to hold such proceeds in trust for the benefit of the Unit Owners, their mortgagees and

the Association, in the shares described below, but such shares need not be set forth in the records of the Insurance Trustee.

(iii) Proceeds of the insurance policies received by the Insurance Trustee shall be disbursed as follows:

(A) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, all expenses of the Insurance Trustee shall be first paid and the remaining proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such expenses of the Insurance Trustee and the cost of the repairs and reconstruction shall be disbursed to the Unit Owners in accordance with their percentage interests in the Common Areas and Facilities. If there is a mortgage lien or liens on an Ownership Interest, the remittance to the Unit Owners thereof and their mortgagees shall be paid to them as their interests may appear. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(B) If it is determined, as provided in part (iii) of subparagraph (d) of this Paragraph 15 (Election Not to Restore), that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed to such persons as therein provided.

(C) Any and all disbursements of funds, whether such funds consist of insurance proceeds, special assessments, sales proceeds or any combination thereof, to be made by the Insurance Trustee for any purpose whatsoever, shall be made pursuant to and in accordance with a certificate of the Association signed by the President or Vice President and by the Secretary or an Assistant Secretary. If the damage or destruction is not to be repaired or reconstructed, the certificate shall so state and shall direct that disbursements be made by the Insurance Trustee as by law

provided and in accordance with the terms of part (iii) of subparagraph (d) of this Paragraph.

If the damage or destruction is to be repaired or reconstructed, the certificate shall direct the Insurance Trustee to make disbursements to those persons and in such amounts as may be specified therein and according to such procedures, in such amounts, and upon and pursuant to such lien waivers, statutory affidavits, applications, written authorizations submitted to it by an architect or other person named therein as having been employed by the Condominium Association to supervise or make such repairs or reconstruction; or other documentation as may be specified in the certification.

The Insurance Trustee shall not incur any liability to any Unit Owner, mortgagee or other person for any disbursements made by it pursuant to and in accordance with any such certificates or written authorizations.

(d) Damage and Destruction

(i) Adjustment at Loss; Determination of Cost.

Immediately after the damage or destruction by fire or other casualty to all or any part of the Condominium Property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Such costs may include professional fees and premiums for such bonds as the Board deems necessary. Repairs or reconstruction, as used in this subparagraph, means repairing or restoring the Common Areas and Facilities to substantially the same condition in which they existed prior to the fire or other casualty. Each Unit Owner shall be deemed to have delegated, and does delegate upon acquisition of title to an Ownership Interest, to the Board or its agent, his right to adjust with insurance companies all losses under the Casualty Insurance policies referred to in subparagraph (a) of this

Paragraph 15. In furtherance of this delegation, the Board, and its authorized agents, is and are hereby appointed the attorney-in-fact for all Unit Owners to negotiate loss adjustment on any and all of said policies.

(ii) Responsibility for Restoration.

Except as otherwise expressly provided in part (iii) below of this subparagraph (d), in the event the Common Areas and Facilities, or any part thereof, shall be damaged or destroyed, the Association shall promptly cause the same to be restored, in a good and workmanlike manner, substantially in accordance with the Drawings, as provided in subparagraph (e), below.

(iii) Election Not to Restore After Damage or Destruction; Sale of Condominium Property.

Subject to the provisions of subparagraph (f), below, immediately after the occurrence of any damage or destruction to all or any part of the Common Areas and Facilities, the Board or Managing Agent of the Association shall cause to be prepared such working drawings and specifications as are necessary to obtain thereon bids from two or more reputable and bondable contractors to restore the Common Areas and Facilities to their condition immediately prior to the damage or destruction. If the lowest bid of a reputable and bondable contractor is more than fifty percent (50%) of the reasonable estimate of the cost of reconstructing all of the improvements on the Land constituting the Common Areas and Facilities (that is, assuming a complete and total destruction of all such Common Areas and Facilities) then the Board shall forth with, upon receipt of the bids, call a meeting of all of the Unit Owners to consider electing not to restore. If the Board fails to proceed in the manner hereinabove prescribed within sixty (60) days after the occurrence of a casualty, any Unit Owner may cause such working drawings and specifications to be prepared, solicit bids, call the meeting of Unit Owners, and conduct the same. If the extent of the damage is as great as aforesaid, and if all of the foregoing is done within ninety (90) days of the occurrence of the damage, and if, further, Unit Owners by the affirmative vote of those

entitled to exercise not less than seventy-five percent (75%) or more of the voting power of the Association elect not to repair and restore such damage at a meeting called to consider such matter, then the repairs and restoration shall not be made, this Condominium shall terminate, and all of the Condominium Property (exclusive of the improvements and betterments within Units belong to the respective Unit Owners), shall thereafter be subject to an action for sale as upon partition at the suit of any Unit Owner. In the event of any such sale (or a sale of the Condominium Property after such election by agreement of all Unit Owners) the net proceeds of the sale together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective share of interest in the Common Areas and Facilities. No Unit Owner, however, shall receive any portion of his share of such proceeds until all lines and encumbrances on his Unit have been paid, released or discharged.

(e) Repair and Construction

- (i) If the damage or destruction for which the insurance proceeds are paid to the Insurance Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without a vote of the members, levy a special assessment against all Unit Owners in sufficient amount to provide funds to pay such excess cost of repair or reconstruction. Additional assessments may be made in a like manner at any time during or following the completion of any repair or reconstruction. Such assessments shall be in proportion to the Unit Owners' shares of interest in the Common Areas and Facilities.
- (ii) Any and all sums paid to the Association under and by virtue of those special assessments provided for above to defray the estimated excess cost of repair or reconstruction shall be deposited by the Association with the Insurance Trustee. The proceeds from insurance and assessments, if any, received by the Insurance Trustee, when the damage or destruction is to be

repaired or reconstructed, shall be disbursed as provided for in subparagraph (c) of this Paragraph 15.

- (iii) The Association shall restore or cause to be restored all damage to or destruction of the Common Areas and Facilities promptly, and in a good and workmanlike manner, substantially in accordance with the Drawings and as such Common Areas and Facilities existed immediately prior to the damage or destruction.

(f) Minor Repairs

- (i) Notwithstanding the foregoing provisions of this Paragraph 15, if the aggregate amount of the estimated cost of repairing any damage to the Common Areas and Facilities is less than \$50,000.00, the instrument (or draft) by means of which any insurance proceeds are paid shall be endorsed by the Insurance Trustee and delivered to the Association and the damage shall be repaired and the proceeds shall be used in accordance with part (ii) of this subparagraph.
- (ii) The Board (or Managing Agent) shall cause the damaged Common Areas and Facilities to be restored promptly and in a good and workmanlike manner to the condition in which they existed immediately prior to the occurrence of the damage and shall use the insurance proceeds to defray the cost of such work. If the cost is less than the amount of such insurance proceeds, the excess shall be retained by the Association or its duly authorized agent, and placed in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Areas and Facilities or treated as Common Profits. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess may be provided either by means of a special assessment levied by the Board against all Unit Owners in proportion to each Unit Owner's share of interest in the Common Areas and Facilities, or by means of an appropriation from the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Areas and Facilities, as the Board in its sole discretion may determine.

(g) Waiver of Subrogation

The Association and each Unit Owner and Occupant as a condition of accepting title and possession, or either, of a Unit agree, provided such agreement does not invalidate or prejudice any policy of insurance, that in the event the Condominium Property (including the Units therein), any part or parts of the Condominium Property, or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance of any Unit Owner, Occupant or the Association and the lessees and sublessees of any one of them, the rights, if any, of any party against the other, or against the employees, agents, licensees or invitees of party, 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.

16. CONDEMNATION**(a) General**

Whenever all or part of the Common Areas and Facilities shall be taken by an authority having the power of condemnation eminent domain (a "TAKING"), each Unit Owner shall be entitled to notice thereof. Each Unit Owner hereby designates and appoints the Association, and any duly authorized agent of the Association, as his exclusive agent to handle, negotiate, settle and conduct all matters, proceedings and litigation incident to such Taking; and the Association shall have the power and authority to do so. Any award made for such Taking shall be payable to the Association if such award amounts to less than Fifty Thousand Dollars (\$50,000.00) and to the Insurance Trustee if such award amounts to Fifty Thousand Dollars (\$50,000.00) or more. Unless otherwise provided by law at the time of such Taking, any award made therefor shall be disbursed by the Association or the Insurance Trustee, as the case may be as hereinafter provided in this Paragraph 16.

(b) Common Areas and Facilities

- (i) If a Taking takes only Common Areas and Facilities and not a Unit, the Association shall be deemed to have determined to repair, restore and, if reasonably feasible and desirable, replace any Common Areas and Facilities taken, remaining and/or damaged in accordance with plans prepared at the instance of the Association unless Unit Owners having at least seventy-five percent (75%) of the total vote of the Association shall decide by vote, at a meeting of the Unit Owners of the

Association called for that purpose and held within sixty (60) days after the Taking, not to restore, repair and replace. The Board shall make arrangements for any restoration, repair and/or replacement in accordance with the plans prepared by the Association. The Association or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award in the same manner as they are required to disburse insurance proceeds where damage or destruction to the Common Areas and Facilities is to be repaired or constructed, as provided in Paragraph 15 hereof; subject, however, to the determination of any court of competent jurisdiction that a disproportionate distribution be made, and subject, further, to the right hereby reserved to the Board to hire a real estate appraiser to recommend (or recommend against) a disbursement of the award (after payment of all costs incident to the repair, restoration and/or replacement and all expenses of the Insurance Trustee and appraiser) to Unit Owners or any one or more of them in amounts disproportionate to their share of undivided interest in the Common Areas and Facilities, which disproportionate amounts shall correspond with the disproportionate damages sustained by the Unit Owners or any one or more of them. If the appraiser should recommend a disproportionate distribution, he shall state the manner in which he believes the distribution should be made. The Board shall use reasonable judgment in deciding whether to hire an appraiser to make such recommendations. If an appraiser is hired, a copy of his recommendation shall be given (in the manner of giving notices to Unit Owners) to all Unit Owners, and neither the Insurance Trustee nor the Association shall make any distribution of the award within twenty days following the delivery of copies of the recommendation to the Unit Owners nor within any period of time thereafter that the recommendation may be subject to or is being arbitrated. Within twenty (20) days after a copy of the recommendation has been mailed (or otherwise delivered) to the Unit Owners, any Unit Owner may give written notice to the Association and the Insurance Trustee that he objects to the recommendation. Any objection shall be submitted to and settled by arbitration in accordance with the Rules of the American Arbitration Association

and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The proper parties before the Arbitration shall be the Unit Owners who have given notice of their objection to the recommendation and the Association or its authorized agent who shall act on behalf of all non-objecting Unit Owners. If an objection is not submitted to arbitration as herein provided within thirty (30) days after written notice of the objection was given to the Association, then any Unit Owner who shall have given notice of objection shall be deemed to have withdrawn his objection and the Insurance Trustee or the Association, as the case may be, shall distribute the award in accordance with the recommendation.

- (ii) If Unit Owners having at least seventy-five percent (75%) of the total vote of the Association shall decide by vote at a meeting of the Unit Owners of the Association held within sixty (60) days after the Taking, not to restore, repair, and replace the Taking or damage, then such taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed as provided for in part (iii) of subparagraph (d) of Paragraph 15 hereof, whereupon, the Condominium shall be terminated in the manner therein prescribed, unless otherwise provided by law.

(c) Units

If the Taking includes one or more Units, or any part or parts thereof, whether or not there is included in the Taking any part of the Common Areas and Facilities, then the award shall be disbursed and all related matters, including without limitation alteration of the percentages of undivided interests of the Unit Owners in the Common Areas and Facilities, shall be handled pursuant to and in accordance with the consent of all Unit Owners expressed in a duly recorded amendment to this Declaration. The Unit Owners of any Unit taken shall be deemed to be Unit Owners for the purpose of signing such an amendment. In the event that such an amendment shall not be recorded within ninety (90) days after such Taking, the matter of what shall happen to this Condominium, the disposition of the award, and all other issues arising out of the Taking shall be submitted to the Common Pleas Court in the County of Cuyahoga Ohio, for resolution and determination.

17. REHABILITATION OF BUILDINGS AND OTHER IMPROVEMENTS

The Association may, by the affirmative vote of Unit Owners entitled to 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 thereof shall be a Common Expense. 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 Ownership Interest, less (i) the amount of any liens and encumbrances on his Unit as of the date such vote is taken and (ii) the amount of any liens and encumbrances filed or otherwise arising against his Unit during the period from the date of such vote to the date of conveyance, in return for a conveyance of his Ownership Interest (subject to such liens and encumbrances) to the President of the Association as trustee for all other Unit Owners. In the event of such election by a Unit Owner to receive the fair market value of his Ownership Interest, such conveyance and payment of the consideration therefor, which shall be a Common Expense to the Unit Owners who have elected to renew and rehabilitate, shall be made within ten (10) days thereafter, and, if such Unit Owner and a majority of the Board cannot agree upon 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 the Board, one of which shall be appointed by such Unit Owner, and the third of which shall be appointed by the first two appraisers.

18. REMOVAL FROM PROVISIONS OF CHAPTER 5311

(a) The Unit Owners, by unanimous vote, may elect to remove the Condominium Property from the provisions of Chapter 5311. In the event of such election, all liens and encumbrances, except taxes and assessments not then due and payable, upon all or any part of the Condominium Property, shall be paid, released, or discharged and a certificate setting forth that such election was made shall be filed with the Recorder of Cuyahoga County, Ohio, and by him recorded. Such certificate shall be signed by the President of the Association, who shall certify therein under oath that all liens and encumbrances, except taxes and assessments not then due and payable, upon all or any part of the Common Areas and Facilities have been paid, released or discharged, and shall also be signed by the Unit Owners, each of whom shall certify therein under oath that all such liens and encumbrances on his Unit or Units have been paid, released or discharged.

(b) Upon removal of the Condominium Property from the provisions of Chapter 5311, the property so removed shall be deemed to be owned in common by the Unit Owners. The undivided interest in the property owned by each Unit Owner shall be the share of undivided interest previously owned by such Unit Owner in the Common Areas and Facilities.

(c) The removal provided for in this paragraph shall in no way bar the subsequent resubmission of the property to the provisions of Chapter 5311 in the manner provided for herein.

19. ADDITION TO CONDOMINIUM PROPERTY

(a) General

Declarant contemplates that it may construct on a part or parts of the Expansion Area additional Buildings.

(b) Option to submit Part or Parts of the Expansion Area to the Condominium Property

(i) Reservation of Option.

Declarant hereby reserves unto itself and its assigns, the right and option to submit from time to time any part or parts of the Expansion Area and all improvements thereon to the provisions of this Declaration and thereby cause said part or parts of the Expansion Area and said improvements to become a part of this Condominium.

(ii) Limitation of Option.

Except as provided in this Paragraph 19, there are no limitations on this Option. The Consent of Unit Owners shall not be required.

(iii) Time Limitations.

This Option must be exercised by Declarant or its assigns at any time, and from time to time, prior to the expiration of seven (7) years from the date this Declaration filed for record with the Cuyahoga County, Ohio Recorder. This option is renewable for an additional seven-year period at the option of Declarant, exercisable within six (6) months prior to the expiration of the initial seven-year period and with the consent of the majority of Unit Owners other than Declarant upon which the option to expand the Condominium

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Property will expire. Declarant may exercise this right to extend its option to add property in the Expansion Area by a notice of Declarant's exercise given to the Board as provided in Paragraph 24(1). There are no circumstances which shall terminate Declarant's option to add property in the Expansion Area pursuant to this Paragraph 19 prior to the expiration of the initial seven-year (7) time limit.

(iv) Legal Description of Expansion Area.

A legal description of the Expansion Area that may be submitted to the provisions of Chapter 5311 and that thereby may be added to the Condominium Property is attached at ATTACHMENT 2.

(v) Limitations on Expansion Area.

There are no limitations on the portions of the Expansion Area that may be added to the Condominium Property.

(vi) Time for Adding Expansion Area.

Portions of the Expansion Area may be added to the Condominium Property at different times. There are no limitations fixing the boundaries of those portions, or regulating the order in which they may be added to the Condominium Property.

(vii) Limitations on Location of Improvements in Expansion Area.

There are no limitations as to the location of any improvements that may be made on any portion of the Expansion Area that may be added to the Condominium Property.

(viii) Maximum Number of Units in Expansion Area.

The maximum number of Units that may be created on the Expansion Area is thirty-two (32). The maximum number of Units per acre that may be created on any portion of the Expansion Area added to the Condominium Property is ten (10). At no time will the Condominium contain in the aggregate more than nine (9) Units per acre.

(ix) Units Restricted to Residential Use.

Subject to paragraph 9 of this Declaration, all Common Areas and Facilities and all Units are restricted to residential use.

(x) Compatibility of Structures.

All of the structures erected on any portion of the Expansion Area which is added to the Condominium Property will be substantially compatible with the structures on the submitted Condominium Property, in terms of quality of construction, principal materials used, and architectural style.

(xi) Improvements Other Than Structure

With respect to all improvements to any portion of the Expansion Area added to the Condominium Property, other than structures,

(A) The only improvements (other than structures) that must be made are roads for ingress and egress, utility lines to the Buildings to service the Buildings and Units therein, and grading as required by applicable codes, and

(B) There are no restrictions or limitations upon improvements (excluding structures) that may be made, except those imposed by applicable codes, rules, and regulations.

(xii) Units

With respect to all Units created on any portion of the Expansion Area added to the Condominium Property,

(A) No such Units need be substantially identical to the Units on previously submitted land, and

(B) There are no limitations as to what types of Units may be created on the Expansion Area.

(xiii) Right to Create Limited Areas.

Declarant reserves the right to create Limited Common Areas and Facilities within any portion of the Expansion Area and to designate Common Areas and Facilities within each portion of the Expansion Areas that may subsequently be assigned as Limited Common Areas and Facilities. The types, sizes and maximum number of Limited Common Areas and Facilities in each portion of the Expansion Area will be substantially the same in terms of the types, sizes, and maximum number of such Common Areas and Facilities and Limited Common Areas and Facilities as exist in this submission, described in this Declaration, and depicted graphically in the Drawings.

(xiv) Allocation of Units' Share in Common Areas.

A par value of one (1) will be assigned to every Unit created or proposed to be created on any of the Expansion Area added to the Condominium. This par value of one will be the numerator of a fraction, the denominator of which will be the number of Units existing in the Condominium from time to time. This fraction will be the share of undivided interest of each Unit in the Common Areas and Facilities and the share of interest of each Unit in the Association for voting purposes, for distribution of Common Profits, for assessments and payment of Common Expenses, and for all other purposes.

(xv) Procedure for Adding Property

This Option may be exercised from time to time in accordance with Section 5311.051 of Chapter 5311, by the executors and filing for record with the Cuyahoga County Recorder by Declarant, or its successor or assigns, of an appropriate amendment to this Declaration that contains the information and drawings with respect to the additional property and improvements required by sections 5311.06 [recording, attachments, and filing with County Auditor], 5311.07 [drawings], 5311.05(A) [manner of signing and acknowledgement], and 5311.05(B) [minimum contents required] of Chapter 5311. Each amendment, pursuant to this Declaration and section 5311.04 of Chapter 5311 [allocation of interests in common areas and

facilities], shall allocate and reallocate shares of interest in the Common Area and Facilities appertaining to each Unit.

(xvi) Consequences of the Amendment.

The allocation of fractional interests among the Units made by Declarant in accordance with part (xiv), above, and stated in the amendment shall be conclusive and binding upon all Unit Owners. Upon the exercise, if any, of the option herein granted, this Declaration, together with the amendment, shall embrace and submit to Chapter 5311 all the Land described on ATTACHMENT 1 hereto and all land and improvement thereon in the Expansion Area which is added, from time to time, to this Declaration, pursuant to this Paragraph 19.

(xvii) Non-exercise of Option.

Should this option not be exercised within the term specified, it shall in all respects expire and be of no further force or effect. Declarant shall not be obligated to submit any part or parts of the Expansion Area to this Declaration, shall not be obligated to construct on the Expansion Area improvements of any kind or similar to those described herein, and shall not be obligated to use any part or parts of the Expansion Area or any improvements constructed thereon for residential, apartment or similar uses.

(xviii) Consent of Unit Owners to Amendment by Declarant.

Declarant, on his own behalf as the owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, thereby consents to and approves of all of the provisions of this Paragraph 19, including, without limiting the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided herein, and all such Unit Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such

instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate these provisions.

(xix) Grant of Power-of-Attorney to Declarant.

Each Unit Owner and his respective mortgagees by acceptance of a deed conveying an Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, hereby irrevocably appoints Declarant his Attorney-in-Fact, coupled with an interest, and authorizes, directs and empowers such Attorney, at the option of the Attorney in the event that Declarant exercises the option and the rights reserved in this Paragraph 19, to add, from time to time and at any time within seven (7) years from the filing of this Declaration for record, and any duly exercised and consented to renewal period, any part or parts of the Expansion Areas and the improvements constructed thereon to the Condominium Property as herein provided, to execute, acknowledge and record for and in the name of such Unit Owner an amendment or amendments of this Declaration for such purpose and for and in the name of such respective mortgagees, a consent to such amendment or amendments.

20. AMENDMENTS

(a) By Declarant

(i) Pursuant to Paragraph 19.

This Declaration may be amended by Declarant, his heirs and assigns, and by the owner (if not Declarant) of the fee simple title to the Expansion Area, in the manner and within the time provided in Paragraph 19 hereof.

(ii) Adjustment to Units by Declarant.

Anything herein to the contrary notwithstanding, Declarant reserves the right to change the interior design and arrangements of all Units, to subdivide a single Unit into two or more Units, to combine (in whole or in part) two or more Units into a single Unit, and to alter the boundaries between the Units, so long as Declarant owns the Units so altered, subdivided, or combined, and so

long as the exterior walls of a Building are not altered, SUBJECT, HOWEVER, to the rights granted in Paragraph 7(d), above. If Declarant alters the boundaries between Units, combines Units, or subdivides a Unit, Declarant shall prepare, execute and file with the Recorder of Cuyahoga County an appropriate amendment to this Declaration and the Drawings. The amendment shall specify the share interest in the Common Areas and Facilities, the proportionate share of Common Profits and Common Expenses, and the voting power of the Unit or Units resulting from the division or combination, the total of which, in each case, shall equal the interest, share, and power of the former Unit or Units divided or combined.

The Amendment of this Declaration reflecting such authorized alteration or subdivision of Units by Declarant need be signed and acknowledged only by Declarant, and need not be approved by the Association, Unit Owners, or lienors (other than first mortgagees), whether or not elsewhere required for an amendment. The amendment shall include an amendment to the Drawings which shall be duly verified as required by Chapter 5311, but, likewise, shall require no approval by anyone except Declarant. The amendments shall be duly filed for record by Declarant.

Declarant, on its behalf as owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves and each Unit Owner and his mortgagees by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, thereby consents to and approves of all of the provisions of this part (ii), including, without limiting the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided herein, and all such Unit Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate these provisions.

Declarant hereby reserves the right to perform and do such other acts and things as are necessary to carry out the intent and purposes of this part

(ii). The provisions of this unlettered and unidentified paragraph and of the preceding unlettered and unidentified paragraph are not to be construed as mandatory, limitations upon, or conditions precedent to the exercise, operation, or effect of the rights reserved and provisions provided for in the first two unlettered and unidentified paragraphs of this part (ii), but are contained and reserved herein as supplementary and further assurance to the rights reserved by Declarant under said first two unlettered and unidentified paragraphs. Anything in the foregoing provisions of this part (ii) to the contrary notwithstanding, Declarant shall not amend this Declaration as provided in this part (ii) without the consent in writing, endorsed upon or attached to the amendment, of the holder of any recorded first mortgage upon the Units being altered, combined or subdivided by the amendments, and such holder may, at its discretion, refuse to sign such consent. If any such mortgagee does refuse to sign such consent, such mortgagee agrees to accept a payment, without charging a penalty or prepayment fee, of the indebtedness (and accrued interest) secured by the mortgage and to deliver to Declarant a recordable discharge of the mortgage upon such payment.

(b) By Others

- (1) In addition to the manner of making amendments described in or referred to in subparagraph (a) of this Paragraph 20, this Declaration, the Drawings, and the Bylaws may be amended upon the filing for record with the Cuyahoga County Recorder of an instrument in writing setting forth specifically the item and items to be amended and any new matter to be added, which instrument shall have been duly executed by Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Condominium Association. Such amendment must be executed with the same formalities as this instrument, must refer to the volume and page in which this instrument and the Drawings are recorded, and must contain an affidavit by the President, Vice President, or Secretary of the Association that a copy of the amendment has been personally delivered at an office of, or has been mailed to, all mortgagees which (A) have bona fide liens of record against

any Unit Ownership Interest, and (B) whose mortgagees have given the Secretary of the Association the name and address of the holder of the mortgage as required by Paragraphs 22(a) and 24(b), below. No amendment made pursuant to this subparagraph (b) shall have any effect, however, upon the rights or duties of the Declarant, the rights of Declarant under this Declaration, and the rights of bona fide first mortgagees until the written consent of the Declarant, and/or such mortgagees 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 consent or non-consent of Declarant and the names of the consenting and non-consenting mortgagees of the various Units shall be sufficient for reliance by the general public. If the Declarant does not consent to an amendment to the Declaration, Drawings, and/or Bylaws and/or if less than all mortgagees consent to an amendment to Declaration, Drawings, and/or Bylaws, such amendment or modification shall nevertheless be valid among the Unit Owners, inter sese, provided that the rights and reservations of the Declarant and the rights of a non-consenting mortgagee shall not be reduced by an amendment made pursuant to this subparagraph (b). No provisions in this Declaration or Bylaws may be changed, modified or rescinded, which, after such change, modification or rescission would conflict with the provisions of Chapter 5311, and, except as otherwise provided in Paragraphs 19 and 20, no amendment may be made to the share interests set forth in ATTACHMENT J, attached hereto, (as they may be amended or supplemented by Declarant) without, in addition to the requirements set forth above, the prior unanimous approval of (A) all Unit Owners of Units whose share interests are being changed and (B) their respective mortgagees.

21. REMEDIES FOR BREACH OF COVENANTS AND RULES

(a) Abatement and Enjoinment

The violation of any restriction, condition or Rule adopted by the Association or the breach of any restriction, covenant or provision contained in this Declaration or in the Bylaws shall give the Association the right, in addition to the rights hereinafter set forth in this Paragraph 21 and those

provided by law, (i) to enter upon the land or Unit or portion thereof upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the Owner of the Unit where the violation or breach exists (or if the violation or breach is in respect to Limited Common Areas and Facilities the Owner of the Unit to which the Limited Common Areas and Facility is appurtenant), any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration, the Bylaws, or the Rules, and the Association, and its agent, shall not be thereby deemed guilty in any manner of trespass; (ii) to enjoin, abate or remedy by appropriate legal or equitable proceedings the continuance of any breach; and/or (iii) to commence and prosecute an action or recover any damages which may have been sustained by the Association or any Unit Owner or Unit Owners.

(b) Involuntary Sale

If any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit) shall violate any covenants or provisions contained in this Declaration or the Rules and such violation shall continue for one hundred eighty (180) days after notice in writing from the Association or shall occur repeatedly during any one hundred eighty (180) day period after written notice or request to cure such violation from the Association, or if the violation constitutes a nuisance or constitutes a threat to the health and safety of the Occupants or to a part or parts of the Condominium Property, and the violation continues for thirty (30) days after notice in writing from the Association or occurs repeatedly during any thirty (30) day period after written notice of request to cure from the Association, then the Association shall have the right to give to the defaulting Unit Owner a notice in writing that the rights of such Unit Owner and all Occupants of such Unit to continue as a Unit Owner or Occupant and to continue to occupy, use or control his Unit shall terminate as of the tenth (10th) day following the giving of such notice, and all rights and privileges of such Unit Owner and of all Occupants of his Unit shall terminate on such tenth day. At any time within ninety (90) days after such tenth (10th) day, an action may be filed by the Association against such Unit Owner or Occupant for a decree of mandatory injunction against said Unit Owner or Occupant, or for a decree declaring the termination of the right of such Unit Owner or Occupant to occupy, use or control the Unit owned or occupied by him and ordering that all the right, title and interest of the Unit Owner or Occupant of his Ownership Interest or interest therein shall be sold (subject to any liens and encumbrances thereon) at a judicial sale upon such notice and terms as the court shall establish, except that the court may be requested to enjoin and restrain such Unit Owner or Occupant from reacquiring his Ownership Interest at such judicial

sale, and the court shall grant all such relief requested by the Association. The Association however, may acquire said Ownership Interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, receiver's fees, referee's fees, court reporter charges, reasonable attorney's fees and all other expenses of the proceedings, and all such items shall be taxed against such Unit Owner and Occupant in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments owing to the Association and all mortgages and other liens and encumbrances required to be discharged, shall be paid to the Unit Owner. Upon the confirmation of such sale, the purchaser thereat shall, subject to the rights and privileges of the Association provided in Paragraph 21 hereof, thereupon be entitled to a conveyance of the Ownership Interest or interest therein and to immediate possession of the Unit so conveyed, and may apply to the court for a writ for the purpose of acquiring such conveyance and possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in such Ownership Interest or interest therein subject to this Declaration.

The provisions of this subparagraph (b) and the rights of the Association hereunder shall not be deemed or interpreted to prevent the holder of any first mortgage upon the affected Unit from accelerating the time or times of payment of the indebtedness secured by such mortgage, and if such holder does accelerate payment of the secured indebtedness, such holder shall be entitled to payment of the full indebtedness from the proceeds of sale in accordance with the priority of the mortgage lien.

The provisions of this subparagraph (b) shall, further, not be exclusive of the rights and remedies of the Association or of any Unit Owner or Occupant in the event of any violation or breach of any clause of this Declaration or the Rules; and the time periods herein set forth shall not be applied to or be interpreted to restrict the time within which the Association or any Unit Owner may undertake and proceed with any other right, remedy or action it may have or otherwise act in respect to any violation or breach of any clause of this Declaration or Rules.

(c) Additional Rights

Without limiting the foregoing, Declarant, and any Unit Owner, any person entitled to occupy a Unit and any agent of any of them is liable in a civil action for damages caused to any person by his failure to comply with any lawful provision of the Condominium Instruments. Any interested person may commence an action for a declaratory judgment to determine his legal relations under the Condominium Instruments or to obtain an

injunction against Declarant, a Unit Owner, a person entitled to occupy a Unit or the agent of any of them who refuses to comply, or threatens to refuse to comply, with a provision of the Condominium Instruments. One or more Unit Owners may bring a class action on behalf of all Unit Owners. The lawful provisions of the Condominium Instruments may, if necessary to carry out their purposes, be enforced against the Condominium Property or any person who owns or has previously owned any interest in the Condominium Property.

An action by the Association under this Paragraph 21 may be commenced by the Association in its own name, or in the name of the Board, or in the name of the Association's managing agent.

22. TRANSFER OF OWNERSHIP

(a) Purchase, Lease, Transfer, or Mortgage

Any person who acquires or has an Ownership Interest or any interest therein by purchase, lease, sublease, gift, devise, inheritance or any other form of transfer shall give to the Secretary of the Association not less than ten (10) days after acquiring such interest his name and address and the name and address of any person or institution to whom he has given a mortgage or other security interest in the Unit, in accordance with subparagraph 24(b) hereof.

(b) Defaults in Payments

In the event any Unit Owner shall default in the payment of any moneys required to be paid under the provisions of any mortgage or trust deed against his Ownership Interest, or any other obligation which may result in a lien on his Ownership Interest, the Association shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefor against such Ownership Interest, which lien shall have the same force and effect and the same priority and may be enforced in the same manner as provided in subparagraphs (d) and (e) of Paragraph 14 hereof.

(c) Association's Purchase of Ownership Interest;
Consent of Voting Members

The Association may bid to purchase and purchase or any Ownership Interest or interest therein, upon the prior written consent of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power in the Association, which said consent shall set forth a maximum price

which the Association is authorized to bid and pay for the Ownership Interest or interest therein.

Any Ownership Interests or interest therein acquired by the Association shall be held of record in the name of the Association. Any Ownership Interests or interests therein acquired by the Association may be used (for residential purposes), leased, or sold upon such conditions and terms as the Board deems appropriate, with the right of the Association membership, however, to direct the Board to sell the Ownership Interest, hold and the the Ownership Interest, or otherwise use it (provided it is used for residential purposes).

23. CERTAIN DISCLOSURES REQUIRED BY CHAPTER 5311

In accordance with Section 5311.25 of Chapter 5311 and in connection with the sale or offer to sell Condominium Ownership Interests by the Declarant, the Declarant agrees that:

(a) Any deposit or down payment made in connection with the sale of a Unit will be held in trust or escrow until delivered at settlement or returned to or otherwise credited to the Purchaser of a Unit or forfeited to the Declarant, and if a deposit or down payment of TWO THOUSAND DOLLARS (\$2,000.00) or more is held for more than ninety (90) days, interest at the rate of at least four percent (4%) per annum for any period exceeding ninety 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 Declarant. Deposits and down payments held in trust or escrow pursuant to this paragraph shall not be subject to attachment by creditors of the Declarant or a purchaser of a Unit.

(b) Except in its capacity as a Unit Owner of unsold Condominium Ownership Interests, the Declarant will not retain a property interest in any of the Common Areas and Facilities after control of the Condominium Property is assumed by the Association, except that Declarant may retain an interest therein consistent with this Declaration to insure ingress and egress, from and to the Common Areas and Facilities by the prospective Unit Owners in the Expansion Area.

(c) The Unit Owners of Condominium Ownership Interests that have been sold by the Declarant or his agent will assume control of the Common Areas and Facilities and of the Association as prescribed in division (C) of Section 5311.08 of Chapter 5311.

(d) Neither the Association nor the Unit Owners will be subject to any management contract or agreement executed prior to the assumption of control as prescribed by Section 5311.08(C) of

Chapter 5311 for more than one year subsequent to that assumption of control unless such a contract or agreement is renewed by a vote of Unit Owners pursuant to the By-Laws required by Section 5311.08 of Chapter 5311.

(e) Except as provided in subparagraph (e)(3), below Declarant will furnish a two (2) year warranty covering 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 necessitated by a defect in material or workmanship and a one (1) year warranty covering 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, commencing as follows:

- (1) The two (2) year warranty shall commence for the property originally submitted in this Declaration on the date that the deed or other evidence of ownership is filed for record following the sale of the first Condominium Ownership Interest, and for any additional property submitted by amendment to the Declaration, on the date the deed or other evidence of ownership is filed for record following the sale of the first Condominium Ownership Interest in the additional property; in either case, to a purchaser in good faith for value.
- (2) The one (1) year warranty shall commence on the date the deed or other evidence of ownership is filed for record following the first sale of a Condominium Ownership Interest to a purchaser in good faith for value.
- (3) In the case of ranges, refrigerators, washing machines, clothes dryers, hot water heaters and other similar appliances, installed and furnished as part of the Unit by Declarant, the valid assignment by Declarant of the express and implied warranty of the manufacturer satisfies the Declarant's obligation under this subparagraph 23(e) with respect to such appliances, and the Declarant's warranty is limited to the installation of the appliances. [Ranges, refrigerators, washing machines, and dryers are not being furnished by Declarant in this Condominium.]

(4) All warranties made to the Declarant that exceed the time periods specified in this subparagraph 23(e) with respect to any part of the Units or Common Areas and Facilities shall be assigned to the purchaser.

(f) Declarant will assume the rights and obligations of a Unit Owner in its capacity as owner of a Condominium Ownership Interest 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.

24. MISCELLANEOUS PROVISIONS

(a) Gender

The words he, his, it, and its, shall mean the feminine as well as the masculine, and the plural as well as the singular, where the context or reasonable interpretation so requires.

(b) Notices of Mortgages

Any Unit Owner who mortgages his Ownership Interest or interest therein, shall immediately notify the Association, in such manner as the Association may direct, of the names and addresses of his mortgagees and of the amount being secured thereby and thereafter shall notify the Association of the payment, cancellation or other alteration in the status of such mortgages. The Association shall maintain such information in a book entitled "Mortgages of Units."

(c) Copies of Notices to Mortgage Lender

Upon written request to the Board, the holder of any duly recorded mortgage on any Ownership Interest or interest therein shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner or Owners whose Ownership Interest or interest therein is subject to such mortgage, of any assessments made against the Unit, and of any other written communications given by the Association to the Unit Owners, even though such written communication may not reach the status of "Notice."

(d) Covenants Running with Land

Each grantee, lessee, and contractee of any interest whatsoever in any part of the Condominium Property, by the acceptance of a deed of conveyance, lease, or contract in respect to any interest in any part of the Condominium Property accepts the same subject to all restrictions, conditions, covenants,

reservations, liens and charges, and jurisdiction, rights and powers created or reserved by this Declaration, all rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the Land, and shall bind any person having at any time any interest or estate in said Condominium Property, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed, lease and contract.

(e) Termination

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 Ownership Interest or interest therein shall terminate and be of no further force or effect.

(f) Waiver

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

(g) Severability

The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration. The cy pres rule shall be applied in all cases where any covenant, restriction, condition, or other provision of this Declaration or any part thereof is found to be illegal or impossible of being given literal effect.

(h) Time Limits

If any of the privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (i) the rule 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 Ronald Reagan, currently President of the United States of America.

24 (i) Service of Notices on Association

Except where otherwise herein expressly provided, notices required to be given to the Board or the Association shall be in writing and shall be delivered to any two (2) members of the Board or to the President of the Association, either personally or by certified or registered mail, return receipt requested, with postage prepaid, addressed to such members or officer at his Unit.

(j) Service of Notices on Unit Owners

Unless otherwise expressly provided for herein, any notices required or designed to be given to the Unit Owners or to any one or more of them shall be in writing and shall be deemed to have been effectively given if it shall have been (i) delivered personally to the Unit owner or Unit Owners (if there be more than one person owning a single Unit, a notice given to any one of such several persons shall be deemed to have been given personally to all of the persons owning an interest in such Unit), (ii) placed upon or beneath the front door of the Unit or otherwise left at the Unit (it shall then be deemed to have been given to all persons owning an interest in such Unit), or (iii) sent by certified or registered mail, return receipt requested, with postage prepaid, addressed to the Unit Owner at the mailing address of his Unit, or such other mailing address furnished by him to the Secretary of the Association.

(k) Duration

If any Ohio law should be deemed to limit the period during which covenants restricting lands to certain uses may run, it shall be the duty of the Board to cause the covenants contained herein, as amended from time to time, to be extended when necessary by filing in the Recorder's Office of Cuyahoga County a document bearing the signatures of a majority (or such lesser or greater number as may be permitted or required by law) of the then Unit Owners reaffirming and newly adopting this Declaration in order that the same may continue to bind and run with the Land. Such adoption by a majority (or such lesser or greater number as may be permitted or required by law) shall be binding on all, and each Unit Owner of any Unit, by acceptance of a deed therefor, is deemed to agree that this Declaration may be extended as provided in this subparagraph. This subparagraph is precautionary only. If the effect of Chapter 5311 is to abrogate any law limiting the period during which covenants restricting lands to certain uses may run, then such document need not be filed. This subparagraph shall not be deemed to limit in any respect the covenants, restrictions and declarations herein con-

tained, it being the intention of Declarant and all Unit Owners that all of the declarations, covenants and restrictions herein contained shall continue until this Declaration and submission is terminated in the manner herein provided.

(1) Headings

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

(m) Interpretation

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

IN WITNESS WHEREOF, Declarant has executed this Declaration this 6th day of FEBRUARY, 1987.

Witnesses:

THE COURTS OF CHAFFEE INC.

Donald H Powers

By: *William J. Snider*
William J. Snider, President

Theresa A. Powers

STATE OF OHIO)
) SS.,
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me this 6th day of FEBRUARY, 1987, by William J. Snider, President, of THE COURTS OF CHAFFEE, INC., an Ohio corporation, on behalf of the Corporation.

Donald H Powers
Notary Public

DONALD H. POWERS, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

THE COURTS OF CHAFFEE CONDOMINIUM ASSOCIATION

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EXHIBIT A

Description of Types of Units

Type D consists of the following:

Kitchen
Living Room
Dining Room
2 Bedrooms
Den
2 Bathrooms
Basement
2 Car Garage

Type E and E1 consist of the following:

Kitchen
2 Bedrooms
Living Room
Den
2 1/2 Bathrooms
Basement
2 Car Garage

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BY-LAWS
OF
THE COURTS OF CHAFFEE CONDOMINIUM ASSOCIATION, INC.

ARTICLE I

THE ASSOCIATION

Section 1. Name and Nature of Association

The Association shall be an Ohio nonprofit corporation called THE COURTS OF CHAFFEE CONDOMINIUM ASSOCIATION, INC.

Section 2. Membership

Each Unit Owner upon acquisition of an Ownership Interest in a Unit, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such Unit Owner of his Ownership Interest, at which time the new Unit Owner shall automatically become a member of the Association.

Section 3. Meetings of Members

A. Mandatory Meetings.

The percentages of interest referred to in this part A of this Section 3 are to be computed by comparing the number of Units sold and conveyed to the maximum number of Units that may be created in this Condominium, namely 40.

(1) First Mandatory Meeting: Not later than the time that Units to which 25% of the undivided interests in the Common Areas and Facilities appertain have been sold and conveyed by Declarant, Declarant will cause a meeting of the members of the Association to be held by a notice from Declarant to all Unit Owners, for the purpose of Unit Owners other than Declarant electing one person to be a member of the Board.

(2) Second Mandatory Meeting: Not later than the time that Units to which 50% of the undivided interests in the Common Areas and Facilities appertain have been sold and conveyed by Declarant, Declarant will cause a meeting of the members of the Association to be held by a notice from

Declarant to all Unit Owners, for the purpose of Unit Owners other than Declarant electing two persons to be members of the Board.

(3) Third Mandatory Meeting: Not later than the date on whichever of the following is first to occur:

- (a) five (5) years after the establishment of the Association, or
- (b) thirty (30) days have elapsed after the sale and conveyance of Units to which appertain 75% of the undivided interests in the Common Areas and Facilities to purchasers in good faith for value,

Declarant will cause a meeting of the members of the Association to be held by a notice from Declarant to all Unit Owners, for the purpose of Unit Owners electing all members of the Board. This meeting shall be deemed to be the first annual meeting of the Association.

B. Annual Meeting. The first annual meeting, which shall be the Third Mandatory Meeting described in part A(3), above, will be held at such place within five miles of the Condominium Property and at such time [on or prior to the date determined by part A(3), above] as is established by Declarant. This meeting will be the first annual meeting for the year in which it is held, regardless of whether it is held before or after the third Wednesday of May of the year in which it is held.

Thereafter the annual meeting of members of 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 place upon the Condominium Property or off the Condominium Property but within five miles of the Condominium Property as may be designated by either the Board or the President and specified in the notice of such meeting. The annual meeting ~~will be held on the third Wednesday of each May,~~ if not a legal holiday and if a legal holiday then on the next succeeding business day, at 8:00 o'clock, P.M., or at such other time as may be designated by the Board or the President and specified in the notice of the meeting.

C. Special Meeting. Special meetings of the members shall be called upon the written request of (1) the President of the Association or (2) in case of the President's absence, death or disability, the Vice President of the Association, (3) a majority of the members of the Board acting either with or

without a meeting, or (4) Unit Owners entitled to exercise at least ten percent (10%) of the voting power. Upon request in writing for a special meeting delivered either in person or by certified mail to the President or the Secretary of the Association by any persons entitled to call a meeting of members, such officer shall forthwith cause to be given to the members entitled thereto notice of a meeting to be held on a date not less than seven (7) or more than sixty (60) days after the receipt of such request as such officer may fix. If such notice is not given within thirty (30) days after delivery or mailing of such request, the persons calling the meeting may fix the date and place of the meeting and give notice thereof. Each special meeting shall be held upon the Condominium Property or off the Condominium Property but within five miles of the Condominium Property as shall be specified in the notice of the meeting. No business other than that specified in the call shall be considered at any special meeting.

D. Notices of Meeting. 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 or at the direction of the Secretary of the Association or any other person or persons required or permitted by these Bylaws to give such notice. The notice shall be given to each member of the Association in any manner permitted in subparagraph 24(j) of the Declaration. If mailed the notice shall be addressed to the members of the Association at their respective addresses as they appear on the records of the Association.

E. Waiver of Notice. Notice of the time, place and purpose of any meeting of members of the Association may be waived in writing, either before or after the holding of such meeting, by any member of the Association, which writing shall be filed with or entered upon the records of the meeting. The attendance of any member of the Association at any such meeting without protesting, prior to or at the commencement of the meeting, the lack or proper notice shall be deemed to be a waiver by him of notice of such meeting.

F. Quorum; Adjournment. At any meeting of the members of the Association, members present at the meeting, in person or by proxy, shall constitute a quorum for such meeting; provided, however, that no action required by law, by the Declaration, or by these Bylaws to be authorized or taken by a specified proportion or number of voting members may be authorized or taken by a lesser proportion or number; and provided, further, that a majority of the members present at a meeting, whether or not a quorum is present, may adjourn such meeting from time to time.

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.

G. Order of Business. The order of business at all 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 or appointment of inspectors of election (if used);
- (7) Election of members of Board;
- (8) Unfinished and/or old business;
- (9) New Business;
- (10) Adjournment.

Section 4. Voting Rights

A. One Unit-One Vote. Each member owning the entire Ownership Interest in a Unit shall be entitled to exercise that share of the total voting power of the Association which is equal to the share of such member's Unit in the Common Areas and Facilities. Since each Unit has a par value of one, each Unit has a vote of one. Its share of the entire voting power in the Condominium is one over the number of Units in the Condominium. If two or more persons, whether fiduciaries, tenants in common, or otherwise own undivided interests in an Ownership Interest, each shall be entitled to exercise such proportion of the voting power for such Unit as shall be equivalent to such person's proportionate interest in the Ownership Interest. If an Ownership Interest is held in joint tenancy or tenancy by the entirety, each joint tenant (and the husband and wife), for voting purposes, shall be entitled to vote his share of the voting power applicable to the Unit so owned. For example, if two persons own as joint tenants an Ownership Interest, each of the two joint tenants shall have 1/2 point vote in the Association, since each Unit has a par value of one.

B. Proxies. Members may vote or act in person or by proxy. The person appointed as proxy need not be a member of the Association. Each proxy shall be executed in writing by the Unit Owner or by his duly authorized attorney-in-fact and filed with the Secretary of the Association (or if there is no Secretary, then with the person conducting the meeting for which the proxy is given) at or before the meeting. Every appointment of a proxy shall be revocable unless such appointment is coupled with an interest. Without affecting any vote previously taken, the

person appointing a proxy may revoke a revocable appointment by a later appointment received by the Association in writing or in open meeting. The presence at a meeting of the person appointing a proxy does not revoke the appointment.

C. Voting by Corporate Members. When any corporation holds membership in the Association the Chairman of the Board, the President, any Vice President, the Secretary, or the Treasurer of the corporation holding such membership, shall conclusively be deemed to have authority to vote on behalf of said corporation, and to appoint proxies and execute written consents, waivers, and releases on its behalf, unless before a vote is taken or a consent, waiver, or release is acted upon it appears by a certified copy of the regulations, the bylaws, or a resolution of the trustees, directors, or executive committee of said corporation that such authority does not exist or is vested in some other officer of person. For the purpose of this paragraph C a person exercising such authority as such officer is prima-facie deemed to be duly elected, qualified, and acting as such officer.

D. Votes Required for Action at a Meeting. The affirmative vote of a majority of the voting power present at a meeting at which a quorum is present shall be sufficient for the authorization or taking of any action voted upon by the members; provided that if a greater proportion of interest or number of votes than a majority of the affirmative votes cast at the meeting is required by law, the Declaration, or these Bylaws to authorize or take any action or do any thing such greater proportion of interest or number shall be required.

E. Voting by Mail. Voting at elections and votes on other matters may be conducted by mail. Where voting is conducted by mail members holding a majority of the voting power in the Association must respond, with signatures of the voting members on the ballot. Facsimile signatures shall not be used or accepted. The affirmative vote of a majority of the voting power responding (and a majority of the total voting power of the Association must respond, as stated above) shall be sufficient for the authorization or taking of any action; provided that if a greater proportion of interest or number of votes is required by law, the Declaration, or these Bylaws to authorize or take any action or do anything such greater proportion of interest or number shall be required.

F. Votes Required for Rescission. The authorization or taking of any action by vote, consent, waiver, or release of the members may be rescinded or revoked by the same vote, consent, waiver, or release as at the time of rescission or

revocation would be required to authorize or take such action in the first instance, subject to the contract rights of other persons.

Section 5. Actions Without a Meeting

All actions, except removal of a Board member, 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 of the Association having the percentage of voting power required to take such action if the same were taken at a meeting; provided that not less than a majority of the voting power of the Association sign the writing. Facsimile signatures shall not be used or accepted. Such writings shall be filed with the Secretary of the Association and entered among the records of the Association.

ARTICLE II

BOARD OF MANAGERS

Section 1. Number and Qualification

A. Until the first mandatory meeting, described in ARTICLE I, Section 3, part A(1), above, the Board of Managers shall consist of three persons designated by the Declarant. None of such three persons need be Unit Owners or Occupants. At the first mandatory meeting, Unit Owners, other than Declarant, shall elect one additional person (who must be a Unit Owner and Occupant or an Occupant spouse of a Unit Owner) to the Board so that the Board will then consist of three persons designated by the Declarant and one person elected by Unit Owners other than Declarant. At the second mandatory meeting, Unit Owners, other than Declarant, shall elect two additional persons (who must be Unit Owners and Occupants or an Occupant spouse of a Unit Owner) to the Board so that the Board will then consist of three persons designated by the Declarant and two persons elected by Unit Owners other than Declarant. At the third mandatory meeting, that is, the first annual meeting of members of the Association, the three persons designated by Declarant as Managers shall resign and thereafter the Board of Managers shall consist of five persons, except as otherwise provided, all of whom must be Unit Owners and Occupants or the spouse (who must be an Occupant) of a Unit Owner. If at any time, one bank, savings and loan association, insurance company, or other lending institution shall hold mortgages upon more than fifty percent (50%) of the Units, such lending institution may designate its representative who shall be a sixth member of the Board. Such representative need not be a Unit Owner or Occupant.

B. Until the third mandatory meeting or the time it should be held, whichever is first to occur, Declarant or persons designated by him may appoint and remove members of the Board, other than the member(s) elected by Unit Owners other than Declarant at the first or second mandatory meeting, and other officers of the Association and may exercise the powers and responsibilities otherwise assigned by law or the Declaration to the Association, the Board, or other officers.

Section 2. Election of Board

Board members shall be elected at the annual meeting of members of the Association or at a special meeting called for such purpose. At a meeting of members of the Association at which Board members are to be elected, only persons nominated as candidates shall be eligible for election as Board members. At all elections of Board members the candidates receiving the greatest number of votes shall be elected. Elections may be conducted by mail in accordance with the provisions of ARTICLE I, Section 4, Paragraph E.

Section 3. Vacancies

In the event of the occurrence of any vacancy or vacancies in the Board, however caused, the remaining Board members, though less than a majority of the whole authorized number of Board members, may, by vote of a majority of their number, fill any such vacancy for the unexpired term; provided, however, that a vacancy in the position of a representative of a lending institution as provided in Section 1 of this ARTICLE II, if any, shall be filled by such lending institution.

Section 4. Term of Office; Resignation

Each Board member shall hold office until the annual meeting of the members of the Association held for the election of his position and until his successor is elected, or until his earlier resignation, removal from office, or death. Any Board member may resign at any time by oral or written statement to that effect delivered to the President or Secretary of the Association, such resignation to take effect immediately or at such other time as the Board member may specify. Members of the Board shall serve without compensation. At the first annual meeting of the members of the Association, that is, at the third mandatory meeting, the term of office of three Board members shall be fixed so that their terms will expire one year after the date of the next following annual meeting of members of the Association, and the term of office of two Board members shall be fixed so that their terms will expire on the date of the next

following annual meeting of members of the Association. At the expiration of the term of office of each respective Board member, his successor shall be elected to serve for a term of two (2) years.

Section 5. Organization Meeting

Immediately after each annual meeting of members of the Association, the newly elected Board members and those Board members whose terms hold over shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

Section 6. Regular Meetings

Regular meetings of the Board may be held at such times and places as shall be determined by a majority of the Board, but 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 Board members. Notice of the time and place of each such meeting shall be given to each Board member in any manner permitted in Paragraph 24 of the Declaration for the giving of notice to Unit Owners, or by telegram or telephone, at least two days before the meeting, which notice need not specify the purposes of the meeting, provided, however, that attendance of any Board member at any such meeting without protesting prior to or at the commencement of the meeting the lack of proper notice, shall be deemed to be a waiver by him of notice of such meeting, and such notice may be waived in writing either before or after the holding of such meeting by any Board member, which writing shall be filed with or entered upon the records of the meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organization, regular or special meeting.

Section 8. Quorum; Adjournment

A quorum of the Board shall consist of a majority of the Board members then in office; provided that a majority of the Board members in office constitute a quorum for filling a vacancy in the Board. A majority of the Board members present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time. 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 and business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these Bylaws.

Section 9. Tele-communications

Meetings of the Board may be held through any communications equipment if all persons participating can hear each other; and participation in a meeting pursuant to this Section shall constitute presence at such meeting.

Section 10. Action Without a Meeting

Any action which may be authorized or taken at a meeting of the Board may be authorized or taken without a meeting with the affirmative vote of approval of, and in a writing or writings signed by, all of the members of the Board. Facsimile signatures may not be used or accepted. Any such writing shall be filed with the Secretary of the Association and entered upon the records of the Association.

Section 11. Powers and Duties

Except as otherwise provided by law, the Declaration or these bylaws, all power and authority of the Association shall be exercised by or under the direction of the Board. For its own government, the Board may adopt a code of regulations that are not inconsistent with these Bylaws, the Articles of Incorporation, or the Declaration. In carrying out the purposes of the Condominium Property and subject to the limitations prescribed by law, the Declaration, or these Bylaws, 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 any interest therein;
- B. Make contracts, including a contract, not to exceed five years duration, with a cable television company to provide cable television service to all Units;
- C. Effect insurance;
- D. Borrow money, and issue, sell, and pledge notes, bonds, and other evidences of indebtedness of the Association;

- E. Levy assessments against Unit Owners;
- F. Employ a managing agent to perform such duties and services as the Board may authorize;
- G. Employ lawyers, accountants, engineers and others to perform such legal, accounting, engineering and other services as the Board may authorize; and
- H. Do all things permitted by law and exercise all power and authority within the purposes stated in these Bylaws or the Declaration or incidental thereto.

Section 12. Removal of Members of 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 Board members, except the Board member (if any) acting as a representative of a lending institution as provided in Section 1 of this ARTICLE II, may be removed with or without cause by vote of the members of the Association entitled to exercise at least seventy-five percent (75%) of the voting power of the Association, and a successor or successors to such Board member or members so removed shall then and there be elected to fill the vacancy or vacancies thus created. Any Board member whose removal has been proposed by the members of the Association shall be given an opportunity to be heard at such meeting.

Section 13. Fidelity Bonds

The Board may require that all agents, 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 III

OFFICERS

Section 1. Election and Designation of Officers

Except as otherwise provided in the Declaration or these Bylaws, the Board shall elect a President, a Vice President, a Secretary and a Treasurer, each of whom shall be a member of the Board. The Board may also appoint an Assistant Treasurer and an Assistant Secretary and such other officers as

in their judgment may be necessary. Such other officers do not need to be members of the Board but must be members of the Association or a spouse of a member of the Association.

Section 2. Term of Office; Vacancies

Except as otherwise provided in the Declaration or these Bylaws, the officers of the Association shall hold office until the next organization meeting of the Board and until their successors are elected, except in case of resignation, removal from office, or death. The Board may remove any officer at any time with or without cause by a majority vote of the Board members then in office. Any vacancy in any office may be filled by the Board.

Section 3. President

The President shall be the chief executive officer of the Association. He shall preside at all meetings of members of the Association and shall preside at all meetings of the Board. Subject to directions of the Board, the President shall have general executive supervision over the business and affairs of the Association. Except as otherwise provided in the Declaration or these Bylaws, he may execute all authorized deeds, contracts and other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board or otherwise be provided for in the Declaration or in these Bylaws.

Section 4. Vice President

The Vice President shall perform the duties of the President whenever the President is unable to act and shall have such other authority and perform such other duties as may be determined by the Board.

Section 5. Secretary

The Secretary shall keep the minutes of the members of the Association and of the Board. He shall keep such books as may be required by the Board, shall give notices of meetings of members of the Association and of the Board as required by law, the Declaration or by these Bylaws, and shall have such authority and shall perform such other duties as may be determined by the Board or otherwise be provided for in the Declaration or in these Bylaws.

Section 6. Treasurer

Unless otherwise provided in an agreement between the Association and a managing agent, the Treasurer shall receive and have in charge all money, bills, notes and similar property belonging to the Association, and shall do with the same as may be directed by the Board. He shall keep accurate financial accounts and hold the same open for inspection and examination of the Board and shall have such authority and shall perform such other duties as may be determined by the Board.

Section 7. Other Officers

The Assistant Secretaries and Assistant Treasurers, if any, and all other officers whom the Board may appoint shall, respectively, have such authority and perform such duties as may be determined by the Board.

Section 8. Delegation of Authority and Duties

The Board is authorized to delegate the authority and duties of any officer to any other officer, to a managing agent, or to a management company and to require the performance of duties in addition to those mentioned herein. The execution of a management agreement with a managing agent or management company to perform certain duties shall be deemed to be a delegation and authorization to such managing agent or management company of such duties and of all power and authority necessary to carry out such duties.

ARTICLE IV

GENERAL POWERS OF THE ASSOCIATION

Section 1. Common Expenses

Except as otherwise provided in the Declaration, the Association, for the benefit of all the Unit Owners, shall pay all Common Expenses arising with respect to, or in connection with, the Condominium Property, which Common Expenses shall include, without limitation, the following:

A. Utility Service for Common Areas and Facilities.

The cost of water, sewer, waste removal, electricity, gas, or any other utility service for the Common Areas and Facilities. Notwithstanding the foregoing, the Board may, in addition, elect to include and pay from time to time as Common Expenses any and all utilities and services

(including water, sanitary sewer, waste removal, garage collection and disposal, electricity, cable television service, gas, and other power or energy) furnished to or consumed by the Occupants of the Units. Upon determination of the Board that any Unit Owner is using excessive amounts of any utility services which are Common Expenses, the Association shall have the right to levy special assessments against such Unit Owner to reimburse the Association for the expense incurred as a result of such excessive use.

B. Management.

The fee of the management company or agent.

C. Insurance.

Premiums upon policies of insurance obtained by the Association in accordance with Paragraph 15 of the Declaration and on any policy to insure Board members and officers against those matters for which they are indemnified by the Association under Section 1 of ARTICLE VI of these Bylaws.

D. Workers' Compensation.

Workers' Compensation insurance to the extent necessary to comply with any applicable laws.

E. Wages and Fees for Services.

The wages and/or fees for services of any person or firm employed by the Association, including, without limitation, the services of a person or firm to act as a manager or managing agent for the Condominium Property, the services of any person or persons required for the maintenance or operation of the Condominium Property, and legal, engineering, accounting and/or other services necessary or proper for the operation of the Condominium Property or the enforcement of the Declaration and these Bylaws and for the organization, operation and enforcement of the rights of the Association.

F. Care of Common Areas and Facilities.

The cost of landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintaining, decorating, repairing and replacing of the Common Areas and Facilities, and such furnishings and equipment for the Common Areas and Facilities as the Board shall determine are necessary and proper; PROVIDED, HOWEVER, that any single expenditure

costing more than \$10,000.00, must first be approved by Unit Owners entitled to exercise not less than a majority of the voting power of the Association, except for repair or replacement due to casualty loss and except for emergency situations where the Board determines that an immediate expenditure is necessary for the preservation and safety of the Condominium Property, for the safety of persons, or to avoid suspension of necessary services. Subject to the foregoing requirement as to Association approval, the Board shall have the exclusive right and duty to acquire furnishings and equipment for the Common Areas and Facilities. In this connection the Board may permit Occupants to install their equipment or property in or on any Common Areas and Facilities pursuant to rules, regulations and conditions adopted by the Board, which Rules may provide who shall be responsible for the maintenance of such equipment or property.

G. Additional Expenses.

The cost of any materials, supplies, furniture, labor, services, maintenance, repairs, replacements, structural alterations, improvements, additions, and insurance which the Association is required to secure or pay for pursuant to the terms of the Declaration, these Bylaws, or law, or which the Board deems necessary or proper for maintenance and operation of the Condominium Property as a first-class condominium project or for the enforcement of the Declaration, these Bylaws, and the Rules; PROVIDED, HOWEVER, that any single expenditure costing more than \$10,000.00, or any series of related expenditures costing in the aggregate more than \$10,000.00, must first be approved by Unit Owners entitled to exercise not less than a majority of the voting power of the Association, except for repair or replacement due to casualty loss and except for emergency situations where the Board determines that an immediate expenditure is necessary for the preservation and safety of the Condominium Property, for the safety of persons, or to avoid suspension of necessary services.

H. Discharge of Mechanics' Liens.

Any amount necessary to discharge any mechanic's lien or other encumbrance which may in the opinion of the Association constitute a lien against the Common Areas and Facilities or any part thereof and which arose by virtue of any authorization or direction by the board. Where one or more Unit Owners are responsible for the existence of such lien or for the work or labor authorized or directed by the Board, the Association may pay or otherwise discharge the

lien, but the responsible Unit Owner or Owners shall be jointly and severally liable for the costs and expenses of discharging it, and any costs and expenses incurred by the Association by reason of said lien or liens shall be specially assessed to said Unit Owner.

I. Certain Maintenance of Units.

The cost of the maintenance and repair of any Unit if such maintenance or repair is necessary, in the discretion of the Association, to prevent damage to or destruction of any part of the Common Areas and Facilities or any other Unit and the Unit Owner owning such Unit requiring such maintenance or repair shall have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Unit Owner; provided, however, that the Association shall levy a special assessment against such Unit Owner to recover the amount expended for such maintenance or repair.

J. Miscellaneous.

Any and all other costs and expenses designated as Common Expenses in the Declaration (which includes these Bylaws) or incurred by the Association to carry out its duties, obligations or undertakings under the Declaration (which includes these Bylaws).

Section 2. Association's Right To Enter Units

The Association or its agents may enter any Unit and Limited Common Areas and Facilities when necessary in connection with any maintenance, repair or construction for which the Association is responsible or has a right to maintain, repair or reconstruct. Such entry shall be made with as little inconvenience to the Unit Owner as practicable, and any damage caused thereby shall be repaired by the Association. The Association reserves the right to retain a pass key to each Unit. Unit Owners may install safety or night latches or other security devices to the doors of their Units for their security; but in the event of any emergency originating in or threatening any Unit, or at any other time when required alterations or repairs are scheduled, the managing agent or his representative or any person designated by the Board, and any police, safety, firefighting, health or similar official, may enter the Unit immediately, whether the Unit Owner is present or not, and use such force as necessary to make entrance. Any damage caused to the Unit or Common Areas and Facilities by reason of such entry

being made through such safety, night or security latches, locks or devices shall be repaired and paid for by the Unit Owner who installed or used such latch, lock or device.

Section 3. Maintenance and Improvements
Requiring Unit Owner Consent

In the case of any work or cost which requires the approval of the Unit Owners by reason of the PROVISOS in ARTICLE IV, Section 1, Paragraph F and G, above, the Board shall first secure plans and specifications, if appropriate, and bids from at least three vendors or contractors and submit them to the Unit Owners for the required vote approval. If approved, the Board shall then proceed with the work in accordance with the plans, specifications and bid so approved.

Section 4. Rules and Regulations

The Association, by vote of the members entitled to exercise a majority of the voting power of the Association, or the Board, may adopt such reasonable Rules and from time to time amend the same as it or they may deem advisable for the maintenance, conservation and beautification of the Condominium Property, and for the health, comfort, safety and general welfare of the Unit Owners and Occupants. Written notice of such Rules shall be given to all Unit Owners and Occupants and the Condominium Property shall at all times be maintained subject to such Rules. In the event such Rules shall conflict with any provisions of the Declaration or these Bylaws, the provisions of the Declaration and these Bylaws shall govern.

Section 5. Special Services

The Association may arrange for special services and facilities for the benefit of such Unit Owners and Occupants as may desire to pay for them, including, without limitation, the cleaning, repair and maintenance of Units, special recreational, education or medical facilities, washing, drying, and other laundry services and facilities, car washing, and concessions of a similar or dissimilar kind. The cost of any such special services or facilities shall be determined by the Association and may be charged directly to participating Unit Owners as a special assessment or paid by the Association as a Common Expense, in which case a special assessment shall be levied against such participating Unit Owners to reimburse the Association therefor. The services and facilities may be furnished on a concession or other basis pursuant to which a contractee or licensee pays a fee to the Association for the right to maintain certain facilities upon the Common Areas and Facilities and charge the users thereof a fee for their use. The foregoing description is not to be

considered exclusive of any other arrangements the Association might desire to make for special services and facilities authorized by the first sentences of this Section.

Section 6. No Active Business to be Conducted for Profit

Nothing herein contained 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; but this shall not preclude the Association from entering into contracts, licenses, concessions, agreements and the like affecting parts or uses of the Common Areas and Facilities which result in the production of income for the Association, or from making arrangements of the types described in Section 5 of this ARTICLE.

Section 7. Delegation of Duties

Nothing herein contained shall be construed so as to preclude the Association, through its board and Officers, from delegating in accordance with the Declaration, to persons, firms or corporations, 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. Contracting and Sharing with Others

The Association may enter into agreements with others, including owners of adjoining or nearby lands, to share the costs or services and facilities that may be common or beneficial to both. Without intending to limit the foregoing authority, such things as snow plowing common roads (which may exist if the Expansion Area is added to this Condominium), lawn care, and some utility charges might be so shared or contracted.

Section 9. Applicable Laws; Priority of Documents

The Association shall be subject to and governed by the provisions of Chapter 5311; provided, however, that all inconsistencies between or among the permissive provisions of Chapter 5311 and provisions of the Declaration shall be resolved in favor of the Declaration; and any direct inconsistency between any obligatory provisions of Chapter 5311 and any provisions of the Declaration shall be resolved in favor of Chapter 5311. In the event of any inconsistency between the Declaration and these Bylaws, the provisions of the Declaration shall prevail.

ARTICLE V

FINANCES OF ASSOCIATIONSection 1. Preparation of Estimated Budget

Declarant shall have the exclusive right to fix and establish the "Estimated Unit Owners Cash Requirements," hereafter defined, until the First Annual Meeting of the Association, that is, the third mandatory meeting. Each year on or before December 15, (after the First Annual Meeting) the Association shall estimate the total amount necessary to pay all the Common Expenses for the next calendar year, a reasonable amount considered by the Association to be necessary for a reserve for contingencies and replacements, and the Common Profits. On or before December 15 (after the First Annual Meeting) the Association shall notify each Unit Owner in writing as to the amounts of such estimates, and shall send a copy of such notice to each holder of a first mortgage upon a Unit who has made a request in writing for such notification. The net of the aggregate amounts of such estimates (herein called the "Estimated Unit Owners Cash Requirements") shall be assessed to the Unit Owners according to each Unit Owner's share of ownership in the Common Areas and Facilities. On or before January 1st of the ensuing year, and on or before the first of each consecutive month thereafter in said year, each Unit Owner shall pay to the Association or as it may direct, one-twelfth (1/12th) of the assessment made pursuant to this section. On or before the date of each annual meeting, the Association shall furnish to all Unit Owners an itemized accounting of the Common Expenses and Common Profits for the preceding calendar year, together with a tabulation of the amounts collected pursuant to the estimates provided, by special assessments, or otherwise, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each Unit Owner's share of ownership in the Common Areas and Facilities to the next monthly installments due from Unit Owners under the current year's estimate, until exhausted, and any net shortage shall be added according to each Unit Owner's share of ownership in the Common Areas and Facilities to the installments due in the succeeding six months after rendering the accounting. If necessary to avoid the assessment of a governmental tax upon the Association, any excess shall be refunded to the Unit Owners as soon as the excess is determined to exist. The Association is not to be a profit-making entity.

Section 2. Reserve for Contingencies and Replacements

After the First Annual Meeting of the Association, the Association shall build up and maintain a reasonable reserve for contingencies and replacements. If necessary, to avoid the imposition of income taxes on the reserves and their expenditure, the reserves shall be segregated and maintained in a separate account in such manner (including an agency relationship) and with such designation as may be appropriate to avoid taxes on them. As hereinabove stated, the Association is not a profit making entity and exists solely to facilitate the Unit Owners' carrying out their common obligations pursuant to Chapter 5311 and to limit their potential liabilities. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year, shall be charged first against such reserve. If the "estimated Unit Owners Cash Requirements" proves inadequate for any reason, including nonpayment of any Unit Owner's assessment, the deficiency and any extraordinary expenditures in excess of the reserves therefor shall be assessed to the Unit Owners according to each Unit Owner's share of ownership in the Common Areas and Facilities. The Association shall serve notice of such further assessment on all Unit Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall be payable with the next regular monthly payment becoming due to the Association but not sooner than ten (10) days after the delivery or mailing of such notice of further assessment. The assessment may, in the discretion of the Board, be payable in such number of monthly installments as determined by the Board. All Unit Owners shall be obligated to pay the adjusted monthly amount.

Section 3. Failure to Prepare Annual Budget

The failure or delay of the Association to prepare or deliver to the Unit Owners any annual or adjusted estimate shall not constitute a waiver or release in any manner of the Unit Owners' obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Unit Owners shall continue to pay the monthly maintenance charge at the existing monthly rate established for the previous period until the Association mails or delivers notice of the new monthly maintenance payment due as a result of the determination of the new annual or adjusted estimate.

Section 4. 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 representative duly authorized in writing, at such

reasonable time or times during normal business hours as may be requested by such Unit Owner. Upon ten (10) days notice to the Board and 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 5. 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 hereunder against less than all of the Unit Owners, and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the use, benefit and account of all the Unit Owners in proportion to each Unit Owner's share of ownership in the Common Areas and Facilities.

Section 6. Annual Audit

The books of the Association shall be audited or caused to be audited once a year by the Board and such audit shall be completed prior to each annual meeting. If requested by two members of the Board, such audit shall be made by a Certified Public Accountant. In addition and at any time requested by Unit Owners or by holders of first mortgages on Units (or by any combination of Unit Owners and holders of first mortgages on Units) possessing in the aggregate fifty percent (50%) or more of the voting power in the Association, the Board shall cause an additional audit to be made.

Section 7. Security Deposits from Certain Unit Owners

(A) If in the judgment of the Board, the equity of the persons owning the Ownership Interest in any Unit at any time is not sufficient to assure payment (whether by foreclosure of the lien in favor of the Association, or otherwise) of all assessments, charges or other sums which may be levied by the Association during a one-year period, then whether or not such Unit Owner shall be delinquent in the payment of any assessments, the Association shall have the right to require such Unit Owner to pay the Association a security deposit in an amount which the Board deems necessary for such purposes, provided, however, that such security deposit shall in no event exceed an amount which, when added to such Unit Owner's equity interest in his Unit, exceeds twenty-five percent (25%) of the fair market value or of the purchase price, whichever is greater, of the unit in question. In the event that any Unit Owner shall fail to pay any assessments, charges or other sums which may be due hereunder or shall otherwise violate any covenants, terms and conditions of

the Declaration or these Bylaws, the Association shall have the right, but not the obligation, to apply such security deposit to the unpaid assessments, charges or other sums due and to the damages resulting from such violations, which right shall be in addition to all other remedies provided for in the Declaration or these Bylaws. Upon any sale by such Unit Owner of his Unit or at such time as such Unit Owner's equity in his Unit is sufficiently great to dispense with the necessity of such security deposit, any unapplied balance of said security deposit remaining to the credit of said Unit Owner shall be refunded, provided that such Unit Owner shall not be in default under any of his obligations under the Declaration or these Bylaws. The Association shall have the right to maintain all security deposits held by it as aforesaid in a single bank account and shall not be required to credit interest thereon to any Unit Owner. Interest, if any, received shall be paid to and retained by the Association. Said security deposit shall at all times be subject and subordinate to the lien in favor of the Association as described in the Declaration and all rights there shall inure to the benefit of the lienor.

(B) Anything in the foregoing subparagraph (a) to the contrary notwithstanding, if a Unit Owner becomes in arrears in the payment of his assessments in an amount equal to four-twelfths of his share of the current Estimated Unit Owners Cash Requirements, or if a Unit Owner is more than ten days late in paying his assessments on six different occasions in any twelve consecutive months, then regardless of such Unit Owner's equity in his Ownership Interest, the Association shall have the right to require such Unit Owner to pay to the Association and the Unit Owner shall pay to the Association a security deposit in an amount equal to such Unit Owner's annual share of the current Estimated Unit Owners Cash Requirements plus the Board's estimate of all special assessments which may be levied against such Unit Owner during the next ensuing twelve month period. Such security deposit shall be held, used and applied in the same manner as the security deposit provided for in the foregoing subparagraph (A), except that the security deposit shall be held until there elapses a period of not less than twenty-four months (i) during which there shall have been no default or delay of any kind whatsoever by such Unit Owner in making payment of the assessments against him and (ii) during which the Unit Owner and/or the Occupant of his Unit shall not have violated any provisions of the Declaration, Bylaws or Rules of this Condominium, including provisions not related to the payment of money. Upon the sale by such Unit Owner of his Unit, any unapplied balance of the security deposit remaining to the credit of said Unit Owner shall be refunded, even though a twenty-four month default-free period had not then occurred.

(C) The Association shall have all of the rights to collect any security deposit provided for in the foregoing subparagraphs (A) and (B) from such Unit Owner, as it has to collect unpaid assessments, the amount of such security deposit being deemed to be an assessment until it is actually received by the Association.

Section 8. Remedies for Failure to Pay Assessments

A late charge of \$25.00 shall be due on each monthly assessment not paid by the eighth day of each month. Each assessment shall, in addition bear interest at the rate on one and one-half percent (1 1/2%) per month from the date it is due to the date it is paid.

If a Unit Owner is in default in the payment of any of the aforesaid charges or assessments for ten (10) days, the Association, upon authorization of the Board, may bring suit to enforce collection thereof or to foreclose the lien therefor as provided in the Declaration; and there shall be added to the amount due the costs of said suit, all late charges, interest at the rate aforesaid, and reasonable attorneys' fees to be fixed by the Court. The amount of any delinquent and unpaid charges or assessments, late charges, interest, costs and fees as above provided shall be and become a lien or charge against the Ownership Interest of the Unit Owner involved and may be foreclosed by an action brought by the Association as in the case of foreclosure of liens against real estate. As provided in the Declaration, the Board shall have the power to bid in the interest so foreclosed at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Indemnification of Board Members and Officers

Each Board member and officer of the Association, and each former Board member and officer of the Association, shall be indemnified by the Association against the costs and expenses reasonably 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 his being or having been such Board member or officer of the Association (whether or not he is a Board member or officer at the time of incurring such costs and expenses), except with respect to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for misconduct or negligence in the

performance of his duty as such Board member or officer. In the case of the settlement of any action, suit or proceeding to which any Board member or officer of the Association is made a party or which may be threatened to be brought against him by reason of his being or having been a Board member or officer of the Association, he shall be indemnified by the Association against the costs and expenses (including the cost of settlement reasonably incurred by him in connection with such action, suit or proceeding (whether or not he is a Board member or officer at the time of incurring such costs and expenses) if --

- A. the Association shall be advised by independent counsel that such Board member or officer did not misconduct himself or was not negligent in the performance of his duty as such Board member or officer with respect to the matters covered by such action, suit or proceeding, and the cost to the Association of indemnifying such Board member or officer (and all other Board members and officers, if any, entitled to indemnification hereunder in such case) if such action, suit or proceeding were carried to a final adjudication in their favor could reasonably be expected to exceed the amount of costs and expense to be reimbursed to such Board members and officers as a result of such settlement, or
- B. disinterested Association members entitled to exercise a majority of the voting power shall, by vote at any annual or special meeting of the Association, by mail vote, or by an action in writing without a meeting, approve such settlement and the reimbursement to such Board member or officer of such costs and expenses.

The phrase "disinterested members" shall mean all members of the Association other than (i) any Board member or officer of the Association who at the time is or may be entitled to indemnification pursuant to the foregoing provisions, (ii) any corporation or organization of which any such Board member or officer owns of record or beneficially 10% or more of any class of voting securities, (iii) any firm of which such Board member or officer is a partner, and (iv) any spouse, child, parent, brother or sister of any Board member or officer. The foregoing rights of idemnification shall inure to the benefit of the heirs and legal representatives of each such Board member or officer, and shall not be exclusive of other rights to which any Board member or officer may be entitled as a matter of law or under the Declaration, any vote of Association members, or any agreement.

Section 2. Definitions

The definitions set forth in Paragraph 1 of the Declaration shall be applicable to the words and terms used in these Bylaws unless expressly otherwise provided herein or unless the context otherwise requires.

ATTACHMENT 1

Land
Submitted to
The Courts of Chaffee Condominium

Parcel No. 1

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, being further bounded and described as follows:

Beginning in the centerline of Chaffee Court, 40 feet wide, as shown by the dedication plat recorded in Volume 186 of Maps, page 25 of Cuyahoga County Map Records, at a point being North 89° 51' 59" West, 318.06 feet from its intersection with the centerline of Elm Street, 40 feet wide; Thence North 00° 08' 01" East, 20.00 feet to the Northerly line of said Chaffee Court and the principal place of beginning of the parcel of land described herein; Thence Westerly along the Northerly line of said Chaffee Court, North 89° 51' 59" West, 359.49 feet to a point; Thence North 00° 08' 01" East, 20.00 feet to a point; Thence North 89° 51' 59" West, 20.00 feet to the Westerly line of Parcel No. 3 of land conveyed to Snider Building Corporation by deed recorded in Volume 13811, page 221 of Cuyahoga County Deed Records; Thence Northerly along the Westerly line of said Parcel No. 3, North 00° 03' 41" East, 64.17 feet to an angle point; Thence continuing along the Westerly line of said Parcel No. 3, North 00° 32' 00" East, 34.18 feet to the Northwesterly corner thereof; Thence Easterly along the Northerly line of said Parcel No. 3 and along the Northerly lines of Parcel Nos. 1 and 5 of land so conveyed to said Snider Building Corporation, South 89° 53' 19" East, 379.33 feet to the Northeasterly corner of said Parcel No. 5; Thence Southerly along the Easterly line of said Parcel No. 5, South 00° 08' 01" West, 118.50 feet to the principal place of beginning and containing 1.02226 acres of land as surveyed in August, 1986 by Wheeler and Melena, Inc., be the same, more or less, but subject to all legal highways.

Parcel No. 2

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, being further bounded and described as follows:

Beginning in the centerline of Chaffee Court, 40 feet wide, as shown by the dedication plat recorded in Volume 186 of Maps, page 25 of Cuyahoga County Map Records, at a point being North $89^{\circ} 51' 59''$ West, 549.50 feet from its intersection with the centerline of Elm Street, 40 feet wide; Thence South $00^{\circ} 08' 01''$ West, 20.00 feet to the Southerly line of said Chaffee Court and the principal place of beginning of the parcel of land described herein; Thence continuing South $00^{\circ} 08' 01''$ West, 120.00 feet to a point; Thence North $89^{\circ} 51' 59''$ West, 110.00 feet to a point; Thence North $26^{\circ} 41' 11''$ West, 84.04 feet to the Westerly line of Parcel No. 4 of land conveyed to Snider Building Corporation by deed recorded in Volume 13811, Page 221 of Cuyahoga County Deed Records; Thence Northerly along the Westerly line of said Parcel No. 4, North $00^{\circ} 03' 41''$ East, 25.00 feet to a point; Thence South $89^{\circ} 51' 59''$ East, 20.00 feet to a point; Thence North $00^{\circ} 08' 01''$ East, 20.00 feet to the Southerly line of said Chaffee Court; Thence Easterly along the said Southerly line of said Chaffee Court, South $89^{\circ} 51' 59''$ East, 127.95 feet to the principal place of beginning and containing 0.3657 acres of land therein as surveyed in August, 1986 by Wheeler and Melena, Inc., be the same, more or less, but subject to all legal highways.

ATTACHMENT 2

Expansion Area*
of
The Courts of Chaffee Condominium

Parcel A

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 further bounded and described as follows:

Beginning in the Easterly line of the parcel of land conveyed to Levi Billings by deed dated May 10, 1848, and recorded in Volume 42 of Maps, Page 248 of Cuyahoga County Records, at the Southwesterly corner of the parcel of land conveyed to Esther M. Alger by deed dated July 11, 1928 and recorded in Volume 3832, Page 428 of Cuyahoga County Records; Thence Easterly, along the Southerly line of said parcel of land so conveyed to Esther M. Alger and the Easterly prolongation thereof about 189.32 feet to an iron monument; Thence Southerly parallel with the Easterly line of said parcel of land conveyed to Levi Billings as aforesaid, about 413.13 feet to an iron monument in the Northerly line of the parcel of land conveyed to Max Rothstein by deed dated August 1, 1921 and recorded in Volume 2535, Page 415 of Cuyahoga County Records, said iron monument being distant Easterly from the Northwesterly corner of said parcel of land so conveyed to Max Rothstein 189.42 feet; Thence Westerly, along the Northerly line of said parcel of land so conveyed to Max Rothstein, 189.42 feet to an iron monument in the Easterly line of the said parcel of land conveyed to Levi Billings, as aforesaid; Thence Northerly along the Easterly line of said parcel of land conveyed to Levi Billings as aforesaid, about 419.7 feet to the place of beginning, and containing 1.81 acres, be the same more or less.

Parcel B

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 further bounded and described as follows:

Beginning at a point in the centerline of Chaffee Court as shown by the dedication plat recorded in Volume 186 of Maps, Page 25, of Cuyahoga County Map Records, at its Westerly

terminus, said point also being in the Westerly line of said Parcel No. 3 of land conveyed to Snider Building Corporation by deed recorded in Volume 13811, Page 221 of Cuyahoga County Deed Records; Thence South 00 03' 41" West, 65 feet to a point and the principal place of beginning; Thence, continuing South 00 03' 41" West, 100 feet to a point; Thence Easterly and parallel with the centerline of Chaffee Court, 148 feet to a point; Thence North 00 08' 01" East, 25 feet to a point, (said point being the Southeasterly corner of the proposed Parcel No. 2 of the Courts of Chaffee Condominium); Thence North 89 51' 59" West, 110 feet to a point; Thence North 26 41' 11" West, 84.04 feet to the principal place of beginning.

Parcel C

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 further bounded and described as follows:

Beginning at a point in the centerline of Chaffee Court as shown by the dedication plat recorded in Volume 186 of Maps, Page 25, of Cuyahoga County Map Records, at its Westerly terminus, said point also being in the Westerly line of Parcel No. 3 of land conveyed to Snider Building Corporation by deed recorded in Volume 13811, Page 221 of Cuyahoga County Deed Records; Thence Northerly along the Westerly line of said Parcel No. 3, North 00 03' 41" East, 104.17 feet to a point; Thence South 77 West, 309 feet to a point; Thence due South, 335 feet to a point; Thence due East approximately 302 feet to the Westerly line of a parcel of land conveyed to M. E. Murphy, Trustee, Volume 84-4150, Page 66 of Cuyahoga County Deed Records; Thence Northerly along said Westerly line and along the Northerly prolongation thereof to the principal place of beginning.

* The Expansion Area is not now owned by Declarant.

The descriptions of the Expansion Area stated on this ATTACHMENT 2 were not prepared from a survey. When and if the Expansion Area, or any part or parts thereof, are added to this Condominium, the area(s) may vary slightly from that described above in Parcels A, B, and C.

ATTACHMENT 3

Unit Designations; Rooms; Sizes;
and Share and Interest of Units
in the Common Areas and Facilities,
in the Association for Voting Purposes,
in the Common Expenses and in Common Profits of
The Courts of Chaffee Condominium

<u>Unit Location and Designation</u>		<u>Type of Unit</u>	<u>Square Footage</u>	<u>Share and Interest in Common Areas</u>
<u>Unit # on Drawings</u>	<u>Street No.</u>			
Building 1				
1	6917	A	2072	1/11
2	6909	B	1900	1/11
3	6901	B	1900	1/11
4	6893	BU	2502	1/11
Building 2				
5	6885	BU1	2340	1/11
6	6877	B1	1748	1/11
7	6869	B1	1748	1/11
8	6861	BU1	2340	1/11
Building 3				
9	6856	A1	2180	1/11
10	6850	D	2062	1/11
11	6846	A1	2180	1/11

ATTACHMENT 3

Description of Types of Units
(Rooms)

Type A and A1 consist of the following:

Kitchen
2 Bedrooms
Living Room
Den
1 1/2 or 2 Bathrooms
Basement
2 Car Garage

Type B and B1 consist of the following:

Kitchen
Great Room
Den
2 Bedrooms
2 or 2 1/2 Bathrooms
2 Car Garage

Type BU and BU1 consist of the following:

Kitchen
Great Room
2 Bedrooms
Den
2 or 2 1/2 Bathrooms
Family Room and Walkout
Lower Level
2 Car Garage

Type D consists of the following:

Kitchen
Living Room
Dining Room
2 Bedrooms
Den
2 Bathrooms
Basement
2 Car Garage

[Handwritten signature]

RECORDED

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350260
868,00

This will certify that copies of the Declaration of Condominium Ownership for The Courts of Chaffee Condominium, together with Drawings and Bylaws attached as Exhibits thereto, have been filed in the Office of the County Auditor, Cuyahoga County, Ohio.

COUNTY AUDITOR

By: *[Handwritten signature: Janice S. ...]*

Date: *February 10*, 1987

87 FEB 10 P 2: 06
CUYAHOGA CITY RECORDER

RECORDER NOTE:
FOR MAPS ACCOMPANYING THIS DECLARATION AND BY-LAWS SEE VOL. 64 PAGES 76 TO 90 INCLUSIVE OF CONDOMINIUM MAP RECORDS.

This instrument prepared by:
Donald H. Powers, Esquire
DONALD H. POWERS CO., L.P.A.
2 Berea Commons, Suite 215
P.O. Box 1059
Berea, Ohio 44017

Telephone: (216) 243-2955

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[Handwritten signature: J. Timothy ...]
COUNTY AUDITOR