

16819

COPLEY VILLAGE CONDOMINIUM NO. 2

Copley, Ohio

28001 1st Amend to Copley Village Condo #2 See Vol 6452 Pg. 325

Pt Lot 24 1-14-8

Phase I Parcel 2

(Plat Rec in P.B. 123 Pg. 17)

for Plat sought book 172 pgs 7 to 12 incl

DECLARATION OF CONDOMINIUM OWNERSHIP

This will certify that copies of this Declaration, along with By-Laws, Drawings, Legal Descriptions and the Representations of Declarant attached hereto as Exhibits A, B, C and D, respectively, have been filed in the Office of the County Recorder, Summit County, Ohio.

Dated: OCT. 2, 1980

AUDITOR
County Recorder

By: John Boda

This Instrument Prepared By:

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Vol 6440 page 131

17862 2nd Amend. to Copley Vill Condo #2 See Vol. 6521 Pg 6/27-28-81

Pt Lot 24 Parcel 2 Phase
Plat REC. IN P.B. 125 Pg. 19-

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DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

COPLEY VILLAGE CONDOMINIUM NO. 2

WHEREAS, Copley Village Development Co., an Ohio corporation, shall hereinafter be referred to as "Declarant"; and

WHEREAS, Declarant is the owner in fee simple of the real property hereinafter described as Parcel 1 together with all buildings, improvements and other permanent fixtures situated thereon and appurtenances thereto; and

WHEREAS, it is the desire of Declarant to submit Parcel 1 to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership and thereby to establish for the mutual benefit of all future owners, mortgagees, or occupants of Parcel 1 certain easements and mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance of said property and to require that the occupants shall hold their interests in Parcel 1 subject to the conditions, rights, easements, privileges and restrictions of public record and as hereinafter set forth in this Declaration as well as the By-Laws and Articles of Incorporation of Copley Village Condominium Association No. 2, a true copy of which By-Laws is attached hereto as Exhibit "A" and made a part hereof as though fully rewritten herein at length; and

WHEREAS, Declarant is the owner or has the right to purchase Parcel 2 (hereinafter described) upon which Parcel 2 or parts thereof Declarant has or proposes to construct improvements for residential use; and

WHEREAS, Declarant desires to provide for the right and option to submit all or part of Parcel 2, together with the buildings and improvements constructed or to be constructed thereon, in various phases, to the provisions of said Chapter 5311 of the Ohio Revised Code after this Declaration is filed for record with the County Recorder;

NOW, THEREFORE, Declarant hereby declares as follows:

ARTICLE I

LEGAL DESCRIPTIONS AND DEFINITIONS

1. LEGAL DESCRIPTIONS.

A. The legal description of Parcel 1 is attached hereto as Exhibit "C1".

B. The legal description of Parcel 2 is attached hereto as Exhibit "C2".

2. DEFINITIONS. The terms used herein and in the By-Laws attached hereto as Exhibit "A" shall have the meanings stated in the Condominium Act of the State of Ohio as set forth in Chapter 5311 of the Ohio Revised Code and as follows unless the context otherwise requires or specifies:

A. "Additional Property" - means the land described in Article I, Paragraph 1(B) which land or portions thereof may be added to the Condominium Property from time to time in the future.

B. "Association" - Copley Village Condominium Association No. 2 is a non-profit Ohio corporation acting as an organization of all the Unit Owners for administering the Condominium Property subject to this Declaration and which is more fully described in subsequent Articles in this Declaration.

C. "Board" - the Board of Trustees of the Association as the same may be constituted from time to time.

D. "Buildings" - shall mean all of the structures presently constructed on Parcel 1 as set forth in the Drawings; provided, however, when buildings have been added to the Condominium Property pursuant to the provisions of Article XV hereof, the term "Buildings" shall also include all of any such buildings.

E. "By-Laws" - the By-Laws of the Association, an exact and true copy of which is attached hereto as Exhibit "A" and made a part hereof.

F. "Common Areas and Facilities" - all parts of the Condominium Property except the Units and more fully described and designated in Article V hereof.

G. "Common Assessments" - means assessments charged proportionately against all Units for common expenses.

H. "Common Expenses" - means those expenses designated as Common Expenses in the By-Laws, the Act and/or as may be declared by the Association, from time to time, which expenses may or may not include, but may not be limited to,

- (i) all sums lawfully assessed against the Unit Owners by the Association;
- (ii) expenses of administration, repair and replacement of the Common Areas and Facilities and maintenance of said Facilities; and
- (iii) reserves for future replacement and rehabilitation of Common Areas and Facilities.

I. "Common Losses" - means the amount by which the Common Expenses during any period of time exceeds Common Assessments and Common Profits during that period.

J. "Common Profits" - means the amount by which the total income received from assessments charged for special benefits to specific Units, rents received from rentals of equipment or space in Common Areas, and any other fee, charge or income other than Common Assessments exceeds expenses allocable to the income, rental, fee or charge.

K. "Common Surplus" - means the amount by which Common Assessments collected during any period exceeds Common Expenses.

L. "Condominium Property" - means Parcel 1; Parcel 1 Buildings and all other 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, when all or portions of the Additional Property have been added to this Condominium Property pursuant to the provisions of Article XV hereof, the term "Condominium Property" shall also include all or such portions of the Additional Property which are so added and the Buildings thereon and all other 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.

M. "Declaration" - this instrument and all Exhibits attached hereto and amendments hereto as provided in Article XV.

N. "Drawings" - the drawings attached to this Declaration as Exhibits B1-B3 which were certified by Donald Hedrick, Registered Engineer, and Ronald A. Kluchen, Registered Surveyor, or when amended pursuant to Article XV hereof, as so amended.

O. "Limited Common Areas and Facilities" - those parts of the Common Areas and Facilities reserved for use of a certain unit to the exclusion of all other Units and designated as Limited Common Areas and Facilities in Article VI.

P. "Occupant" - person or persons, natural or artificial, other than the Unit Owner in possession.

Q. "Ownership Interest" - a Unit and the undivided interest in the Common Areas and Facilities appurtenant thereto.

R. "Rules" - the rules and regulations governing the operation and use of the Condominium Property as may be adopted from time to time by the Board.

S. "Unit" - that part of the Condominium Property more fully described in Article IV hereof.

T. "Unit Owner" - any person who owns a Condominium Unit.

U. "Parcel 1" - means the land described in Article 1, Paragraph 1(A) hereof.

V. "Parcel 2" - means all the Additional Property.

W. "Parcel 1 Buildings" - means the structures and other facilities constructed on Parcel 1.

X. "Parcel 2 Buildings" - means the structures and other facilities which are constructed or may be constructed by Declarant on the Additional Property, from time to time, pursuant to the provisions of Article XV hereof.

Y. "Phase" - the Condominium Property as presently constituted or any particular portion thereof which may be hereafter added pursuant to the provisions of Article XV hereof.

2. "Act" - the Ohio Condominium Act set forth in Chapter 5311 of the Ohio Revised Code as the same may be amended or supplemented from time to time.

ARTICLE II

ESTABLISHMENT OF CONDOMINIUM AND DIVISION OF CONDOMINIUM PROPERTY

Declarant is the owner of the properties described in Article I, Paragraph 1(A) hereof which, together with the other portions of the Condominium Property, is hereby submitted to the provisions of Chapter 5311 of the Ohio Revised Code.

ARTICLE III

NAME

The Condominium Property shall be known as Copley Village Condominium No. 2.

ARTICLE IV

DESCRIPTION OF PROPERTY AND UNITS

1. GENERAL DESCRIPTION OF CONDOMINIUM PROPERTY. Until amended as provided in Article XV hereof, the Condominium Property consists of Parcel 1 and the Parcel 1 Buildings and other improvements located thereon, including, without limitation, two (2) residential buildings, two stories in height. The Buildings are designated as Buildings 60 and 61 on the Drawings and each building contains four (4) Units on the first floor designated as Units A, B, C and D and four (4) Units on the second floor designated as Units E, F, G and H. Units A, C, E and H each have three (3) bedrooms, two (2) baths and a kitchen, dining and living room which contain approximately 1,357 square feet. Units B, D, F and G each have two (2) bedrooms, one (1) bath and a kitchen, dining and living room which contain approximately 1,070 square feet. Further, Units A, B, C and D each have a vestibule and entrance closet containing approximately 60 square feet and Units E, F, G and H each have a stairway and entrance closet containing approximately 60 square feet. In addition, the above Units include all easements, rights and appurtenances belonging thereto and all articles of personal property existing thereon for

the common use of the Unit Owners. The Parcel 1 Buildings are constructed principally of wood framing and rough cedar siding. They are of contemporary architecture. The particular location, layout, dimensions and particulars of each Unit and the Common Areas and Facilities surrounding each Unit are shown graphically on the Drawings.

2. DESCRIPTION OF UNITS. Each Unit shall constitute a freehold estate and shall consist of the space bounded by the horizontal and vertical planes formed by the undecorated interior surfaces of the perimeter walls, the upper surface of the basement floors and the lower surface of the roof of each Unit (regardless of the materials) projected, if necessary, by reason of structural division such as interior walls, floors, ceilings, and other partitions as may be necessary to form a complete enclosure of space with respect to such Unit, all as shown on the Drawings. Without limiting the generality of the foregoing, each Unit shall include (a) any finishing material applied or affixed to the interior surfaces of the perimeter walls, floors, or ceilings including, but not limited to, paint, lacquer, varnish, wallpaper, tile and paneling; (b) the receptacle and switch plates or covers within the bounds of the Unit; (c) the space occupied by any Common or Limited Common Areas and Facilities located within the bounds of the Unit, but shall not include any Common Areas and Facilities located within the bounds of such Unit; and (d) windows and doors in the perimeter walls.

Except with respect to any of the Common Areas and Facilities located within the bounds of the Unit, each Unit Owner shall be entitled to the exclusive ownership and possession of his Unit and to the ownership of an undivided interest of the Common Areas and Facilities in the percentage hereinafter expressed. No Unit Owner shall, by deed, plat or otherwise, subdivide, or, in any other manner, cause his Unit to be subdivided into tracts, parcels or units smaller than the whole Unit as shown on the Drawings.

ARTICLE V

COMMON AREAS AND FACILITIES

1. DESCRIPTION. Except as otherwise in this Declaration provided, the Common Areas and Facilities shall consist of all parts of the Condominium

Property except the Units and shall include, but not be limited to, foundations, roofs, gutters, downspouts, exterior lighting fixtures, installations of central services such as outside lighting, sewer lines, cold water for each building, yards, surface parking areas, roads, walks, and storage spaces for rubbish disposal and all repairs and replacements of any of the foregoing.

2. OWNERSHIP OF COMMON AREAS AND FACILITIES. The Common Areas and Facilities shall be owned by the Unit Owners as tenants in common, and ownership thereof shall remain undivided. No action for partition of any part of the Common Areas and Facilities shall be maintainable, except as specifically provided in Chapter 5311 of the Ohio Revised Code, nor may any Unit Owner otherwise waive or release any rights in the Common Areas and Facilities; provided, however, that if any Units shall be owned by two (2) or more co-owners as tenants in common or as joint tenants, nothing herein contained shall be deemed to prohibit a voluntary judicial partition of such Unit Ownership as between such co-owners.

Until amended as provided in Article XV, the percentage of interest in the Common Areas and Facilities of each Unit has been determined by Declarant in accordance with the provisions of Chapter 5311.04 of the Ohio Revised Code based on the proportion that the fair market value of each Unit bears to the aggregate fair market value of all the Units on the date this Declaration is filed for record. If Additional Property is added to the Condominium Property then the percentage of interest herein shall be adjusted in accordance with the provisions of Article XV hereof. In no event, however, shall said percentage of interest be greater than that percentage set forth below or be less than .00035 after the same is amended in accordance with Article XV:

<u>Building No.</u>	<u>Unit No.</u>	<u>Percentage of Interest</u>
40	A	6.43205
40	B	5.70380
40	C	5.70380
40	D	6.43205
40	E	6.79620
40	F	6.06795
40	G	6.06795
40	H	6.79620

<u>Building No.</u>	<u>Unit No.</u>	<u>Percentage of Interest</u>
41	A	6.43205
41	B	5.70389
41	C	5.70389
41	D	6.43205
41	E	6.79620
41	F	6.06795
41	G	6.06795
41	H	6.79620

The undivided percentage of interest of the Unit Owners in the Common Areas and Facilities and the fee title to the respective Units shall not be separated or separately conveyed, encumbered, inherited or divided, and each undivided interest shall be deemed to be conveyed or encumbered with such respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to such Unit.

Except as provided in Article XV hereof, the undivided percentage of interest of the Unit Owners may not be amended without the unanimous consent of all Unit Owners and their mortgagees.

3. THE USE OF COMMON AREAS AND FACILITIES. 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, and such rights shall be appurtenant to and run with his Unit; provided, however, that no person shall use the Common Areas and Facilities or any part thereof in such manner as to interfere with or restrict or impede the use thereof by others entitled to the use thereof.

ARTICLE VI

LIMITED COMMON AREAS AND FACILITIES AND EXCLUSIVE USE AREAS

1. LIMITED COMMON AREAS. Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy the Limited Common Areas and Facilities located within the bounds of his Unit or which serve only his Unit. The Limited Common Areas and Facilities with respect to each Unit shall consist of:

A. All interior walls, doors, floors and ceilings located within the bounds of each Unit, excluding the structural and component parts thereof.

B. All ducts and heating and air-conditioning equipment, systems and control devices located within the bounds of each Unit or which serve only such Unit.

C. All gas, electric, sewer, water or other utility or service lines, parts, wires and conduits located within the bounds of such Unit and which serve only such Unit.

D. Patios, balconies and front and back stoops, if any, and any concrete pads or decks for the placement of central air-conditioning equipment.

E. All other Common Areas and Facilities as may be located within the bounds of such Unit and which serve only such Unit.

No Unit Owner, however, shall decorate, paint, or otherwise adorn any patio or deck in any manner contrary to the rules unless he shall first obtain the written consent of the Board nor shall any Unit Owner decorate or apply any finishing material to the exterior surface of any door except that the Unit Owner may clean the interior and exterior surfaces of any window or glass which is part of the door.

2. EXCLUSIVE USE AREAS. Each Unit Owner is hereby granted an exclusive license to use and enjoy such Exclusive Use Areas as the Association may allocate to such Owner; provided, however, that the Association may, at any time and from time to time, revoke such license and re-assign the use of such areas in accordance with such standards as it may establish from time to time. Notwithstanding the above, each Unit will be designated the exclusive use of one (1) carport for the parking of one (1) vehicle, and although the Board may re-assign the location of the carport it must designate one (1) carport for each Unit.

ARTICLE VII

ASSOCIATION

Declarant shall cause to be formed an Association for the administration of the Condominium Property to be called the Copley Village Condominium Association No. 2 which shall be a non-profit Ohio corporation. Each Unit Owner shall be a member of the Association, including Unit Owners in Parcel 2 or any part thereof if this Declaration is amended in accordance with Article XV, which membership shall terminate upon the sale or other disposition by such member of his Unit at which time, the successor Unit Owner shall

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become a member of the Association. The Association shall be governed by the By-Laws which may be amended from time to time as therein provided.

The Association shall be established not later than the date the deed is filed for record conveying the first sale of an ownership interest. Except in its capacity as a Unit Owner of unsold condominium ownership interests, the Declarant shall not retain a property interest in any of the Common Areas and Facilities after control of the condominium development is assumed by the Association. Until the first meeting of Unit Owners is called in accordance with Article I, Section 5(A) of the By-Laws, and members of the Board of Trustees are elected from owners other than the Declarant or its agents in accordance with Article III, Section 3 of the By-Laws, the Declarant or persons designated by it may appoint and remove members of the Board and other officers of the Association, and may assert any other rights granted in Section 5311.08 (D) of the Act subject, however, to the obligations, conditions and limitations set forth in Section 5311.08(D) of the Act.

The administration of the Condominium Property shall be in accordance with the provisions of this Declaration and the By-Laws and each Unit Owner and occupant shall comply with the provisions of this Declaration, the By-Laws and Rules and the decisions and resolutions of the Association with the understanding that failure to comply with any such provisions, decisions, or resolutions shall be the grounds for an action for damage or for injunctive relief.

ARTICLE VIII

AGENT FOR SERVICE OF PROCESS

George Zablo, a natural person resident in the County in which the Condominium Property is situated and whose resident address is 1105 Kirkwall Drive, Copley, Summit County, Ohio, 44321, is hereby appointed as the agent to receive service of process for the Association. The agent for service of process may be changed from time to time by filing with the Secretary of State of Ohio an appropriate form for the appointment of a statutory agent of an Ohio non-profit corporation.

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ARTICLE IX

GENERAL PROVISIONS AS TO UNITS IN COMMON
AND LIMITED AREAS AND FACILITIES

1. EASEMENTS. The Condominium Property is hereby made subject to the following easements, each of which shall be in perpetuity, and shall run with the land, and shall 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 their respective heirs, devisees, administrators, executors, personal representatives, successors, nominees, trustees and assigns of any of the foregoing persons.

A. Encroachments. If by reason of the construction, repair, restoration, partial or total destruction and rebuilding, or settlement or shifting of any of the buildings or improvements constituting a part of the Condominium Property, any part of the Common Areas and Facilities shall encroach upon any part of a Unit, or any part of a Unit shall encroach upon any part of the Common Areas and Facilities, or any part of a Unit shall encroach upon any part of any other Unit, or if by reason of the design or construction or rebuilding of the utility systems comprised within the Condominium Property, any pipes, ducts, or conduits serving that Unit shall encroach upon any other Unit, easements in favor of the Unit Owner or Association, as the case may be, for such encroachments and the maintenance of any such encroachments are hereby established; provided, however, in no event shall a valid easement for any encroachment be created in favor of a Unit Owner if such encroachment occurred due to his willful conduct.

B. Right-of-Way, Utility and Support Easements. Every portion of a building or utility easement and line or any improvement or any portion of the property contributing to the support of another building, utility easement and line, improvement, or another portion of the Condominium Property, shall be burdened with an easement of support for the benefit of all other such buildings, portions thereof, utility easements and lines, improvements and other portions of the Condominium Property. Each Unit shall be subject to such

easements of access as may be necessary for the maintenance, repair or replacement of any Common Areas and Facilities or the operation of the buildings in which such Unit is located and shall be specifically subject to such easements as may be necessary for the installation, maintenance, operation, repair, removal, or replacement of any pipes, ducts, wires, conduits, television lines or antennae, or structural components in the interior walls or ceilings of such Units and/or for the purposes of sewer and water facilities in the floor of each Unit. In this respect, easements are hereby granted in favor of each Unit Owner to and through the Common Areas and Facilities as may be necessary for the use of water, gas, sewer, electric power and other utilities now or hereafter existing within the walls and/or other portions of the Condominium Property and further, for the use of television antennae on the roofs comprising the Common Areas and Facilities subject to prior approval by the Association as hereinafter provided.

C. Reserved Easements. Easements are hereby reserved in favor of Declarant and its successors or assigns (including all future Unit Owners) over and under the land comprising the Condominium Property (as the same may be expanded from time to time) for the benefit of Parcel 2, or any part thereof, jointly and severally, to:

- (i) install, use, maintain, repair and replace pipes, wires, conduits, or other utility lines, water, storm and sanitary sewer, gas, electric, telephone, and television lines and services and appurtenances thereto;
- (ii) traverse by motor vehicle or otherwise over all common roadways and walkways as a means of ingress and egress to a dedicated road;
- (iii) to establish the grade on each Parcel or any portion thereof with each other Parcel or any portion thereof and for necessary access over each Parcel to construct the Parcel Buildings and other improvements on each Parcel or any portion thereof.

D. Future Easements to Others. Such easements as Declarant and/or the Association, if the same has been formed, from time to time may hereafter grant to others on behalf of the Unit Owners of the Condominium Property for utility purposes, including, but not limited to, the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines,

gas mains, telephone wires and equipment and television and electrical conduits and wires over, under and along any portion of the Common Areas and Facilities provided that it shall be a condition precedent to the use and enjoyment of any such easements that the owner or owners of land benefitted thereby shall, at its or their expense, restore the Common Areas and Facilities to the same condition as existed prior to the installation of any such utility improvements. Each Unit Owner and his respective mortgagee, by acceptance of a deed conveying such ownership interest or a mortgage encumbering such ownership interest, as the case may be, hereby irrevocably appoints Declarant, or the Association if the same has been formed, his Attorney-in-Fact, coupled with an interest, to execute, acknowledge and record for and in the name of each Unit Owner and his mortgagee such easements or other instruments as may be necessary to effect the foregoing.

E. Existing Easements. Such easements are easements which have been granted by or to Declarant or its predecessors in title by or to third parties and which have been duly recorded with the County Recorder prior to the filing of the Declaration.

Each grantee of a Unit and each mortgagee in whose favor a mortgage with respect to any Unit is granted 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.

F. The Association, on behalf of the Unit Owners, may hereafter grant, amend or release easements, and any obligations incident thereto, relating to the Condominium Property or any part thereof; provided, however, if Declarant retains ownership in any Unit or any part of the Condominium Property, then the Association may only so act if it first obtains the written consent of the Declarant to any such act.

2. MANAGEMENT, MAINTENANCE, REPAIRS AND REPLACEMENT OF COMMON AREAS AND FACILITIES

A. Warranties of the Declarant. The Declarant shall furnish to

each Unit Owner and hereby does furnish to each Unit Owner the warranties required to be furnished under Ohio Revised Code Section 5311.25 for the period of time therein specified which warranties are set forth in Exhibit "D", attached hereto.

B. Responsibility of the Association. The management, maintenance, repair and replacement of the Common Areas and Facilities shall be the responsibility of the Association, but the Association shall, unless otherwise agreed to in writing by seventy-five percent (75%) of the Unit Owners and their respective mortgagees, engage a professional independent management company to discharge such responsibilities. Such delegation shall be evidenced by a management contract which shall not exceed two (2) years in duration and which shall provide for the payment of reasonable compensation to said managing agent as a common expense. Said agreement shall also provide that the management contract may be terminated for cause on thirty (30) days' written notice. Upon the expiration of the initial term, the management contract may be renewed by its terms or otherwise from time to time for successive periods, no one of which terms shall exceed two (2) years. The Declarant may, after this Declaration is filed, cause a contract to be entered into with a management agent in accordance with the conditions hereof except that such contract shall provide that it may be terminated by the Association at any time after one (1) year subsequent to the assumption of control of the Association by the Unit Owners in accordance with Article VII hereof. The Association, at its expense, shall be responsible for the maintenance, repair and replacement of those portions of the Common Areas and Facilities located within the bounds of a Unit; excluding, however, the interior surfaces of any perimeter walls, floors, doors, and ceilings and the surfaces of any interior walls which are a part of the Common Areas and Facilities and other portions of the Common Areas and Facilities within its bounds, the maintenance, repair, or replacement of which is the responsibility of a Unit Owner under any other provision of this Declaration. Nothing herein contained shall be deemed to impose any contractual liability

on the Association for the maintenance, repair, or replacement of the Common Areas and Facilities or any portion thereof, but the Association's liability shall be limited to damages resulting from negligence. The Declarant and/or the Association reserve the right to install separate electrical or other utility meters for each Unit and each Unit Owner shall cooperate with Declarant or the Association with respect to such installation.

C. Responsibility of Unit Owner. The responsibility of each Unit Owner shall be as follows:

- (i) to maintain, repair and replace, at his expense, all portions of his Unit and all internal installations of such Unit such as appliances, heating, plumbing, air-conditioning, and electrical fixtures and installations located within the Unit bounds and not constituting a part of the Common Areas and Facilities;
- (ii) to maintain, repair and replace, at his expense, all portions of the Limited Common Areas and Facilities designated for his use including patios and/or courtyards and the interior of any fences, subject to any Rules or Regulations of the Association;
- (iii) to repair and replace, at his expense, any doors and windows of his Unit and constituting a part of the Common Areas and Facilities that may be damaged or broken by the Owner or any of his occupants, tenants, guests, invitees, or servants;
- (iv) not to unreasonably disturb other Unit Owners in the performance of the responsibilities set forth in this Declaration;
- (v) not to paint or otherwise finish or decorate or change the appearance of any portion of the buildings not within the bounds of the Unit, without the prior written consent of the Association;
- (vi) to report promptly to the Association or its managing agent any defect or need for repairs of which he has knowledge, the responsibility for the remedying of which is with the Association;
- (vii) not to make any alterations in any portions of the buildings which are to be maintained by the Association or to remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety or soundness of the buildings without prior written consent of the Association;
- (viii) to pay the Unit's proportionate share (as determined in the sole discretion of the Board) of all costs or utility services furnished to his Unit for which he is not billed directly;
- (ix) not to impair or obstruct any easement without the prior written consent of the Association and of any other person for whose benefit such easement exists; and

- (x) to observe, fulfill and perform all other obligations of a Unit Owner as set forth in this Declaration or the By-Laws or the Rules.

Each Unit Owner agrees to maintain, repair and replace, at his expense, all portions of the Common Areas and Facilities which may be damaged or destroyed by reason of his own or his occupants' acts or neglect, or by the act or neglect of any tenant, guest, invitee or servant of such Unit Owner or occupant.

D. Construction Defects. The obligation of the Association and of the Unit Owners to repair, maintain, or 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.

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

ARTICLE X

COMMON EXPENSES AND ASSESSMENTS

1. COMMON PROFITS AND COMMON EXPENSES. The Common Profits of the Condominium Property shall be distributed among, and the Common Expenses shall be assessed against the Unit Owners by the Association according to the percentage of interest in the Common Areas and Facilities of their respective Units as heretofore set forth in Article V(2). Each Unit Owner shall pay his proportionate share of assessments for Common Expenses and any special assessments levied against him, and no Unit Owner shall exempt himself from liability for such assessments by waiver of the use or enjoyment of any of the Common Areas and Facilities or by the abandonment of his Unit.

2. DECLARANT'S OBLIGATION TO PAY COMMON EXPENSES AND ASSESSMENTS.

In accordance with the requirements of Section 5311.25(F) of the Act, Declarant will assume the rights and obligations of a Unit Owner for all Units not sold to third parties including, without limitation, the obligation to pay those Common Expenses charged to Unit Owners from and after the date this Declaration is filed for record. Nothing contained in this subparagraph shall be construed to prohibit payment by the Association to Declarant for sums expended by Declarant for improvements, repairs, alterations, maintenance, insurance and other expenses incurred by Declarant pertaining to the Common Areas and Facilities and Limited Common Areas and facilities of the Condominium Property. Conversely, nothing contained herein shall prohibit Declarant from paying all the then designated Common Expenses thereby eliminating any immediate need for Unit assessments.

3. PAYMENTS. All assessments unless otherwise provided for herein or otherwise designated by the Board shall be annual assessments but may be paid in monthly installments so long as said installments are paid when due. Assessments and installments thereon paid on or before ten (10) days after the day when the same shall become due, shall not bear interest, but all sums not paid on or before ten (10) days when due shall bear interest at the rate of twelve percent (12%) per annum (or the maximum permitted by the Veterans Administration, FIA or any other governmental or insurance agencies if said agencies are involved in any Unit Owner's mortgage) from the date the assessment payment first becomes due. If any installment of any assessment is not paid on or before thirty (30) days after the same shall become due, the Board of Trustees shall notify in writing the first mortgagee of said Unit and may declare the balance of the entire annual assessment as to the delinquent Owner then due and payable as if so originally assessed; provided, however, that these provisions shall not apply to Declarant for delinquent assessments on unsold Units owned by Declarant. In addition to the remedies hereinafter set forth, the Board of Trustees may also, in their sole discretion, discontinue any and all services (including central utilities) to the Unit owned by any Unit Owner which may be included as part of the Common

Expenses who fails to pay his assessment within thirty (30) days after the same has become due and payable.

4. LIEU FOR ASSESSMENT. The Association shall have a lien upon each Unit Owner's ownership interest for the payment of all assessments levied by the Association against such Unit which remains unpaid for ten (10) days after the same had become due and payable including the accumulation of interest thereon. Said lien shall be effective from and after the time of recording a certificate therefor with the County Recorder of Summit County, Ohio. The Certificate of Lien shall set forth the description of the Unit, the name or names of the Unit Owner or Owners, the amount due and the date when due. Such Certificate and claim of lien shall be executed and verified by an officer of the Association or by a managing agent of the Association. Said lien shall remain valid for a period of five (5) years from the time of filing thereof 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 in an action brought to discharge all or any portion of such lien as hereinafter provided. Such lien shall be subordinate to the lien of a mortgage or other liens recorded prior to the date of recording the claim of the Association lien. Liens for assessment may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property. In any such foreclosure, the Owner of the Unit shall be required to pay a reasonable rental for the use of the Unit and the Association shall be entitled, as a matter of law, to the appointment of a receiver to collect the same. The Association may also bring a suit to recover a money judgment for the unpaid assessments without waiving the lien securing the same, it being understood that the Unit Owner shall be personally liable for any unpaid and outstanding assessments against his Unit.

5. STATEMENT OF UNPAID EXPENSES. Any prospective grantee or mortgagee of an ownership interest may request, in writing, a written statement from the Board or managing agent of the Association setting forth the

amount of unpaid assessments with respect to the unit ownership to be sold or encumbered. Upon receipt of said request, the Board and/or agent shall within ten (10) days after such request furnish such a statement. In the case of a sale of any ownership interest, no grantee shall be liable for nor shall any ownership interest be subject to a lien for any unpaid assessments which become due prior to the date of the making of such request and which are not set forth in such statement. In the case of the creation of any mortgage, any lien of the Association for unpaid assessments which become due prior to the date of the making of such request shall be subordinate to such mortgage if such unpaid assessments are not set forth in the statement.

6. LIABILITY FOR ASSESSMENTS UPON VOLUNTARY CONVEYANCE. In a voluntary conveyance of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter up to time of transfer without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor except as may be provided in subparagraph 4 above or in the event of a deed in lieu of foreclosure as hereinafter provided for. A Unit Owner shall be liable for all assessments made while he is the Owner of a Unit, and no Unit Owner shall be liable for any such assessments made after he ceases to be the Owner of the Unit.

7. LIABILITY FOR ASSESSMENTS BY PURCHASER FROM FORECLOSURE SALE. Where the mortgagee of a first mortgage of record or other purchaser of a Unit obtains title to the Unit as a result of the foreclosure of the assessment lien or lien filed prior to the assessment lien, or where a mortgagee of a first mortgage of record obtains title to the Unit as a result of a conveyance in lieu of foreclosure of the first mortgage, such acquirer of title, its successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association pertaining to such Unit or chargeable to the former Owner of such Unit which become due prior to the acquisition of title in the manner above provided. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collect-

able from all of the Unit Owners including such acquirer, its successors and assigns, and shall be levied against said parties at the time of the first assessment next following the acquisition of title by such person. It is understood, however, that the Association does not waive any right which it may have to collect said unpaid assessment from the Owner of the Unit at the time said assessment was incurred.

ARTICLE XI

RESTRICTIONS AS TO USE AND OCCUPANCY OF CONDOMINIUM PROPERTY

1. RESTRICTIONS. The covenants and restrictions hereinafter set forth as to the use and occupancy of the Condominium Property shall run with the land and shall be binding upon each Unit Owner and occupant.

2. PURPOSE OF PROPERTY. The Condominium Property shall be used for residential purposes only and for purposes of occupancy and use. A Unit shall be considered a "single family home" under the zoning ordinances of the municipality in which the Unit is located except as otherwise provided in Paragraph 10 of this Article XI.

3. LAWFUL USE. No immoral, improper, or offensive or unlawful use shall be made of the Condominium Property or any part thereof and all valid laws, zoning ordinances and regulations of all governmental authorities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental authorities which shall require maintenance, modification or repair of the Condominium Property shall be the same as the responsibility for maintenance and repair of the property concerned.

4. HAZARDOUS USE AND WASTE. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance on the Common Areas and Facilities or on any other Unit on the Condominium Property or contents thereof without the prior written consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or the Common Areas and Facilities which will result in the cancellation of insurance on the Common Areas and Facilities or other Units on the Condominium Property or contents thereof, or which would be in violation of any law. No waste shall be deposited in the Common Areas and Facilities.