

Vol 34 Pgs 20

#2024-620

REFERENCE SURVEY:
'G'-423; 'I'-133; 'M'-121; 'N'-61;
'R'-306; 'T'-349; PLAT VOL. 1;
PG. 260, PLAT VOL. 2; PG. 436

BASIS OF BEARING:
The bearings as shown hereon are
relative to GRID NORTH of the OHIO
STATE PLANE COORDINATE SYSTEM,
NAD 83 DATUM

PPN: 58-00583.000
LOT 246A1

S89°53'54"E 120.00'

LOT 3847

0.281 AC.
12237.8 SF.

S.A. SMITH LLC
OR VOL 957, PG 5783
PPN: 58-00110.000

5/8" IRON BAR
N.W. COR. W.
PT. LOT 247A2

5/8" IRON BAR
60.00'

BRENNAMAN CONDOMINIUMS

PHASE 1

LOT 3847

BRENNAMAN ALLOTMENT 2023
PLAT VOL. 33; PG. 491

CITY OF ORRVILLE COUNTY OF WAYNE STATE OF OHIO

XX-670

SHEET B6

PROJECT
LOCATION



LOCATION MAP



- I.P. OR PIPE FD. (AS NOTED)
- ✕ MAG NAIL SET
- 5/8" REBAR SET WITH I.D. CAP MARKED "S.J.L. INC"



Approved:
this 17th day of January, 2024

Approved for Recording:
this 19th day of January, 2024

Transferred:
this 24th day of January, 2024

Steven M. Wheeler
Orville City

Stacy Peppard
Wayne County Map Office
STACY PEPPARD
Johnna Hatten
Wayne County Auditor's Office
Johnna Hatten

Filed for record in Wayne Co. Ohio
Jane Carmichael
JANE CARMICHAEL, RECORDER
DATE 1-24-24 AT 8:41
INSTRUMENT # 2024-620
PLAT VOL. 34 PAGE 20
FEE \$ 360.00

AUDITOR: 1.00
RECORDER: 360.00
TOTAL: 361.00

PARADISE ST. ~ 60'

20240000621 01/24/2024 08:41 AM
Filed for Record in WAYNE County, Ohio
Jane Carmichael Rec Fees: \$390.00
D&B OR Vol 960 Pgs 3149 - 3192

--- CENTERLINE
= PROPERTY LINE
- - - R/W LINE

20240000620 01/24/2024 08:41 AM
Filed for Record in WAYNE County, Ohio
Jane Carmichael Rec Fees: \$360.00
COND OR Vol 34 Pgs 20 - 28

1/2" IRON BAR
1.2" DEEP W. PT. LOT 432

3/4" IRON PIPE
W.M. PT. LOT 432



SURVEYOR'S DECLARATION: I declare that this plan was prepared from an actual survey. That the same shows graphically, insofar as possible, the location of the boundaries, the layout, location and dimensions of units and of the buildings, the location and layout of limited common areas and facilities, the location and layout of common areas and facilities, the location and layout of common areas and facilities, and the location of appurtenant easements, if any.



ENGINEER'S DECLARATION: I declare that this plan shows graphically, insofar as possible, the layout and dimensions of units and of the buildings.

John A. Long
John A. Long, P.E. 67239

8/30/23
Date

Mark E. Purdy
Mark E. Purdy, P.S. 7307

8-30-23
Date

SHAFFER, JOHNSTON, LICHTENWALTER & ASSOCIATES, INC.
Consulting Engineers & Surveyors
3477 Commerce Parkway, Suite C
Wooster, Ohio 44691
TEL (330) 345-6377 FAX (330) 345-6725 EMAIL sjl@sjl-inc.com

DRAWN C. Fallb	CHECKED	1" SCALE = 30'	DATE 08/18/2023
DWG NO: SW-6036	JOB NO: SW-6036	SHEET 1 OF 2	

REFERENCE SURVEY:
 'G'-423; 'I'-133; 'M'-121; 'N'-61;
 'R'-306; 'TT'-349; PLAT VOL. 1;
 PG. 260, PLAT VOL. 2; PG. 436

BASIS OF BEARING:
 The bearings as shown hereon are
 relative to GRID NORTH of the OHIO
 STATE PLANE COORDINATE SYSTEM,
 NAD 83 DATUM



BRENNAMAN CONDOMINIUMS

PHASE 1

LOT 3847

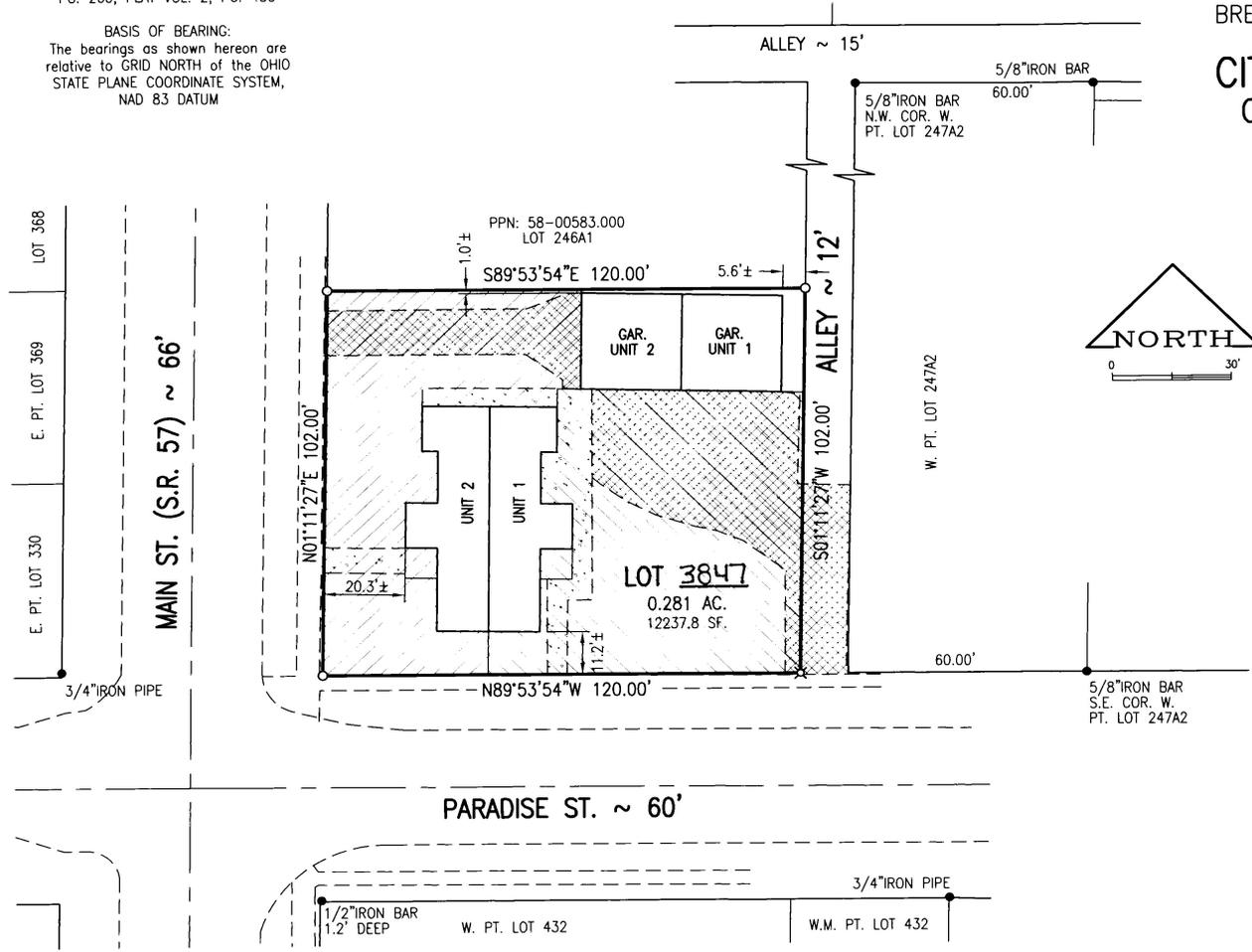
BRENNAMAN ALLOTMENT 2023

PLAT VOL. 33; PG. 491

CITY OF ORRVILLE
 COUNTY OF WAYNE
 STATE OF OHIO

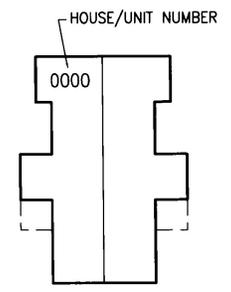
XX-670

SHEET B6



- I.P. OR PIPE FD (AS NOTED)
 - ⊗ MAG NAIL SET
 - 5/8" REBAR SET WITH I.D. CAP MARKED "SJL, INC"
- EX. BUILDING
 - EX. CONC. WALK
 - EX. CONC. DRIVE

- LIMITED COMMON ELEMENT, UNIT 1
- LIMITED COMMON ELEMENT, UNIT 2



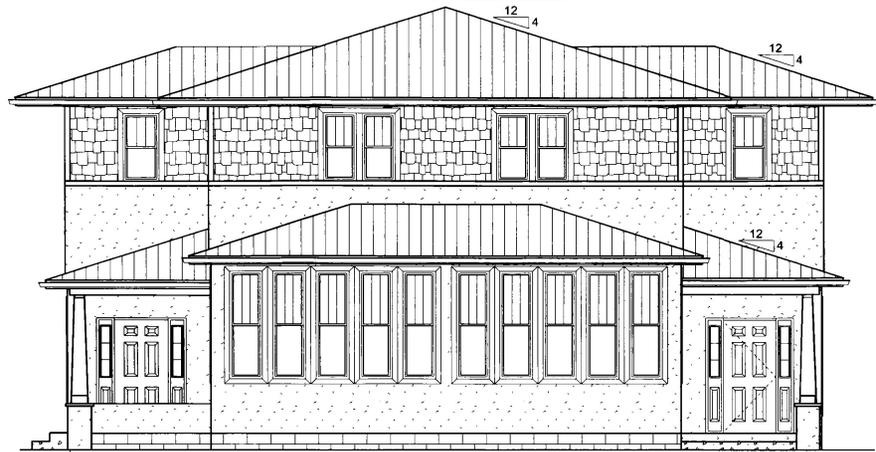
- CENTERLINE
- PROPERTY LINE
- R/W LINE

SHAFFER, JOHNSTON, LICHTENWALTER & ASSOCIATES, INC.
 Consulting Engineers & Surveyors
 3477 Commerce Parkway, Suite C
 Wooster, Ohio 44691
 TEL (330) 345-6377 FAX (330) 345-6725 EMAIL sjl@sjl-inc.com

DRAWN C. Folb	CHECKED	SCALE 1" = 30'	DATE 08/18/2023
DWG NO: SW-6036		JOB NO: SW-6036	
SHEET 2 OF 2			



20240000620
BK 34 PG 22



SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



NORTH ELEVATION
SCALE: 1/4" = 1'-0"

SHEET:

A-1

OWNER:

S A SMITH LLC.
424 S. MAIN ST.
ORRVILLE, OH 44667

BUILDER:

DRAWN BY: D COBLENTZ

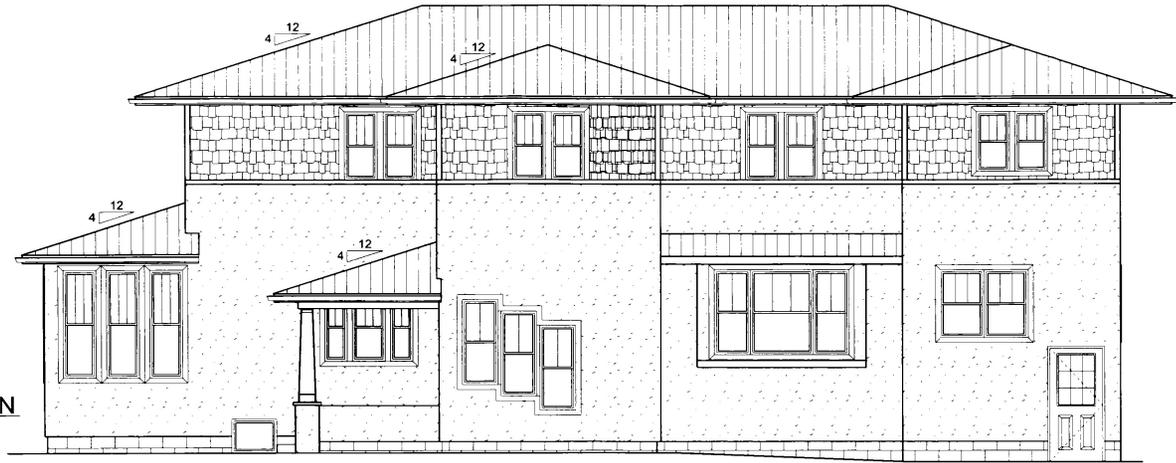
DATE: JULY 26, 2023

SCALE SIZE ON
EACH PAGE

ELEVATION



202400000620
BK 34 PG 23



EAST ELEVATION
SCALE: 1/4" = 1'-0"



WEST SIDE
SCALE: 1/4" = 1'-0"

SHEET:

A-2

OWNER:

S A SMITH LLC.
424 S. MAIN ST.
ORRVILLE, OH 44667

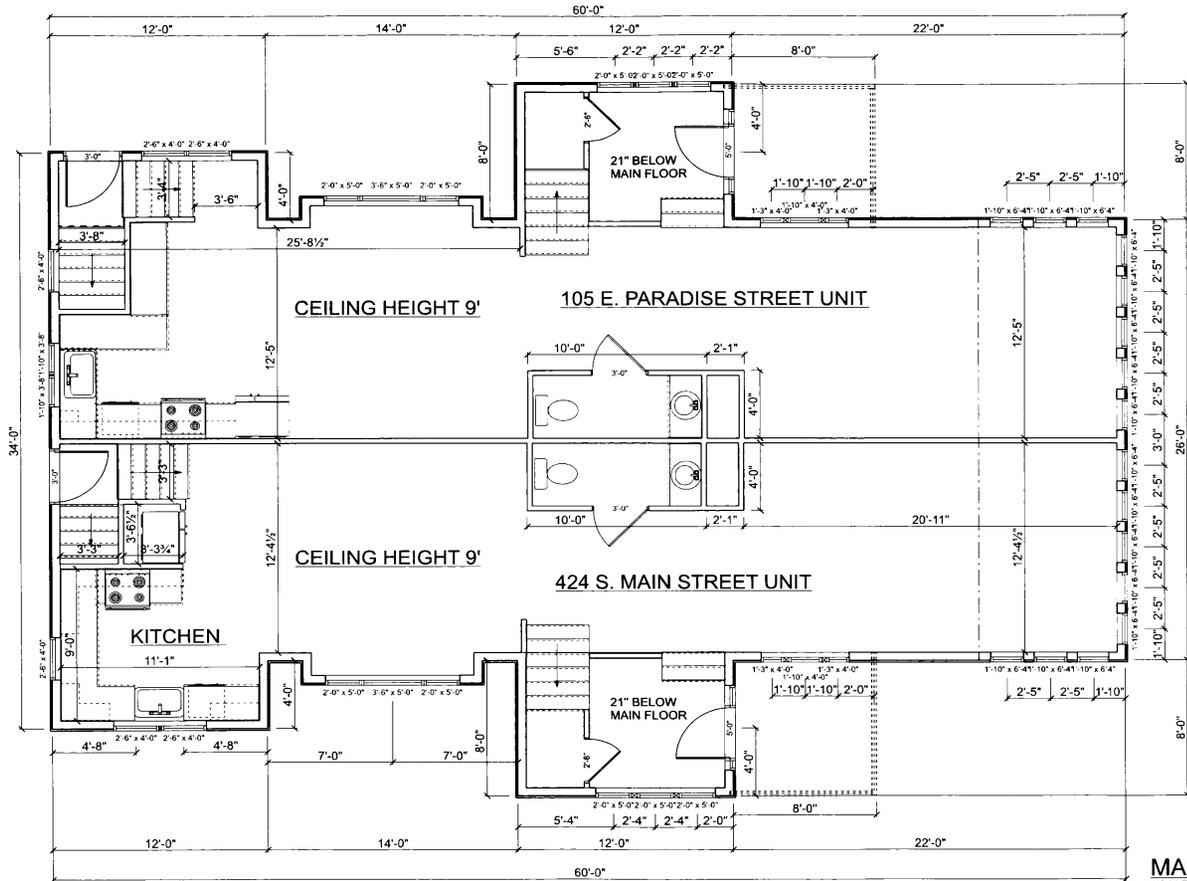
BUILDER:

DRAWN BY: D COBLENTZ

DATE: JULY 26, 2023

SCALE SIZE ON
EACH PAGE

ELEVATION 11

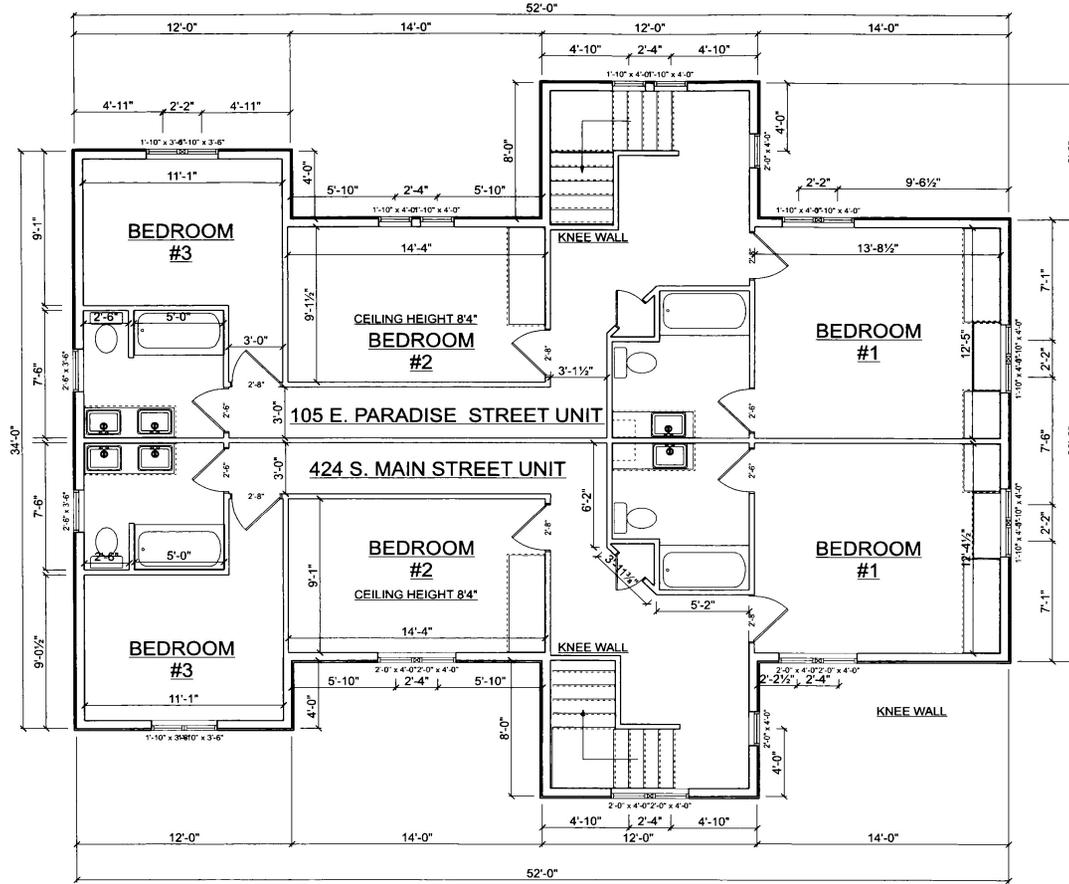


MAIN FLOOR
SCALE: 1/4" = 1'-0"

<p>SHEET: A-4</p>	<p>OWNER: S A SMITH LLC. 424 S. MAIN ST. ORRVILLE, OH 44667</p>	<p>BUILDER:</p>	<p>DRAWN BY: D COBLENTZ</p>
			<p>DATE: JULY 26, 2023</p>
			<p>SCALE SIZE ON EACH PAGE</p>
			<p>MAIN FLOOR</p>



20240000620
BK 34 PG 26



SECOND STORY
SCALE: 1/4" = 1'-0"

SHEET:

A-5

OWNER:

S A SMITH LLC.
424 S. MAIN ST.
ORRVILLE, OH 44667

BUILDER:

DRAWN BY: D COBLENTZ

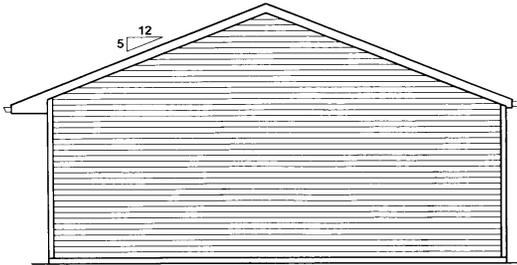
DATE: JULY 26, 2023

SCALE SIZE ON
EACH PAGE

SECOND STORY



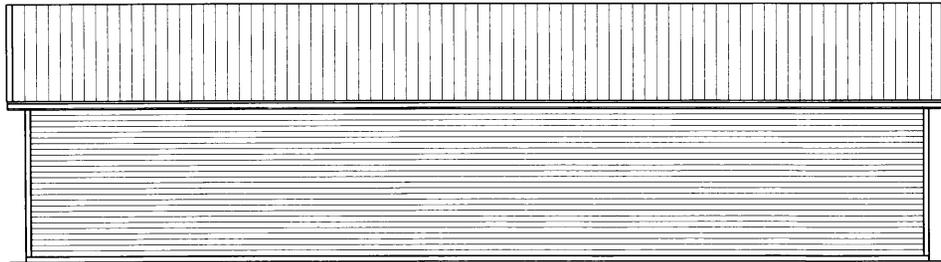
20240000620
BK 34 PG 27



EAST ELEVATION
SCALE: 1/4" = 1'-0"



SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



NORTH ELEVATION
SCALE: 1/4" = 1'-0"



WEST ELEVATION
SCALE: 1/4" = 1'-0"

SHEET:

G-1

OWNER:

S A SMITH LLC.
424 S. MAIN ST.
ORRVILLE, OH 44667

BUILDER:

DRAWN BY: D COBLENTZ

DATE: JULY 25, 2023

SCALE SIZE ON
EACH PAGE

ELEVATION

WAYNE COUNTY TAX MAP
Serials Simp FILE# 2024. 0178
DATE 01/24/2024
IDENT. 08.006.3847 - map

Filed for Record in Wayne County, Ohio
202400000621 01/24/2024 08:41 AM COPY
Jane Carmichael Rec Fees: \$390.00
D&B OR Vol 960 Pgs 3149 - 3192

DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

BRENNAMAN CONDOMINIUM

ORRVILLE, OHIO

AND

BYLAWS

OF

BRENNAMAN CONDOMINIUM ASSOCIATION, INC.

DEVELOPED BY:

S.A. SMITH, LLC

THIS INSTRUMENT PREPARED BY:

MARK J. STOCKMAN, ESQ.
FRANTZ WARD LLP
200 Public Square, Suite 3000
Cleveland, Ohio 44114-1230
(216) 515-1660.

This Conveyance has been examined and the
Grantor has complied with Section 319 202
Of the Revised Code.

FEE \$ _____
EXEMPT

JARRA L. UNDERWOOD, County Auditor

AMT PD \$1.00 DATE 1/24/24

JARRA L UNDERWOOD, AUDITOR

J. Anna Hatten DEPUTY
Anna Hatten

**DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
BRENNAMAN CONDOMINIUM**

This Declaration made at Orrville, Ohio, by **S.A. SMITH, LLC**, an Ohio limited liability company, hereinafter referred to as "**Declarant**,"

WITNESSETH: THAT

WHEREAS, the Declarant is the owner of the real estate referred to herein as the "**Property**" and described in **Exhibit "A"** attached hereto and made a part hereof; and

WHEREAS, it is the desire and intention of the Declarant to enable the Property, together with the buildings, structures, improvements and fixtures of whatsoever kind thereon, and all rights and privileges belonging or in any way pertaining thereto, owned by Declarant under that certain form of co-operative ownership commonly known as "CONDOMINIUM", and to submit the Property to the provisions of the "**Condominium Act**" of the State of Ohio, being Chapter 5311 of the Ohio Revised Code; and

WHEREAS, the Declarant is further desirous of establishing for its own benefit and for the mutual benefit of all future owners or occupants of the Property, or any part thereof, which shall be known as "**Brennaman Condominium**" certain easements and rights in, over and upon the Property and certain mutually beneficial restrictions, reservations and obligations with respect to the proper use, conduct and maintenance thereof; and

WHEREAS, the Declarant desires and intends that the several owners, mortgagees, occupants, and other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interests subject to the rights, easements, privileges, and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the co-operative aspect of ownership and to facilitate the proper administration of the Property and are established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property; and

WHEREAS, the Declarant hereby establishes by this Declaration a plan for the individual ownership of the Property consisting of the area or space contained in each of the Units, and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining Property which is hereinafter defined and referred to herein as the Common Elements.

NOW, THEREFORE, Declarant hereby makes the following Declaration as to divisions, covenants, restrictions, limitations, conditions, easements, reservations and uses to which the Property may be put, hereby specifying that the provisions of this Declaration shall constitute covenants to run with the land and shall be binding on Declarant and each successor of Declarant who stands in the same relation to the Property as Declarant and its and their respective heirs, executors, administrators, successors and assigns, and all Unit Owners together with their grantees, successors, heirs, executors, administrators, devisees, successors and assigns.

ARTICLE I
DEFINITIONS

The following words and terms used in this Declaration are defined as set forth in Section 5311.01, of the Ohio Revised Code, except as otherwise herein provided.

(A) **“Association”** means an Ohio non-profit corporation that is the organization of both Unit Owners in the Property that administers the Property known as Brennaman Condominium Association, Inc.

(B) **“Board”** means the Board of Directors of the Association, which Board shall be comprised of one person representing each Unit who is given the right to represent said Unit by all other Owners of that Unit, if there are more than one Owner, or by the entity owning such Unit as affirmed by a resolution of that entity in conformance with the provisions governing the operation of such Owner entity.

(C) **“Building”** means the structure that contains the Units.

(D) **“Bylaws”** means the Bylaws of the Association attached hereto as **Exhibit “B”** and incorporated in this Declaration by reference as if fully rewritten herein.

(E) **“Common Assessments”** means assessments charged proportionately against all Units for common purposes. Common Assessments are sometimes referred to as **“Assessments.”**

(F) **“Common Elements”** includes, unless otherwise provided in the Declaration, the Property described in Article II(B) of this Declaration.

(G) **“Common Expenses”** means those expenses designated as such in the Condominium Act or in accordance with the provisions of this Declaration, or both.

(H) **“Common Losses”** means the amount by which the Common Expenses during any period of time exceeds Common Assessments and Common Profits during that period.

(I) **“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 Elements, and any other fee, charge or income other than Common Assessments exceeds expenses allocable to the income, rental, fee or charge.

(J) **“Common Surplus”** means the amount by which Common Assessments collected during any period exceed Common Expenses.

(K) **“Eligible Mortgage Holders”** means the holder, insurer or guarantor of a first mortgage on a Unit of whose mortgage interest the Association has received written notice (such written notice shall include the name and address of such holder, insurer, or guarantor and the address of the Unit). Eligible Mortgage Holders are sometimes referred to herein as first mortgagees of Units.

(L) "Enforcement Assessment" means assessments imposed pursuant to Section 5311.08(B)(12) of the Condominium Act, including, but not limited to, the imposition of interest and late charges for late payment of Assessments, imposition of assessments for violation of the Declaration, Bylaws, and reasonable charges for damage to the Common Elements or other property.

(M) "Limited Common Elements" means the Common Elements designated in the Declaration as reserved for a certain Unit to the exclusion of the other Unit.

(N) "Occupant" means a person or persons, natural or artificial, in possession of a Unit.

(O) "Operating Fund" mean the fund provided for in the Bylaws required to meet the Common Expenses of the Association.

(P) "Ownership Interest" means a fee simple estate in a Unit, together with an appurtenant undivided interest in the Common Elements.

(Q) "Property" means the Property described in Exhibit "A", all Buildings, improvements and structures on the Property, all easements, rights and appurtenances belonging to the Property, and all articles of personal property submitted to the provisions of the Condominium Act.

(R) "Purchaser" means a person who purchases a Condominium Ownership Interest for consideration pursuant to an agreement for the conveyance or transfer of that interest for consideration.

(S) "Reserve Fund" means the fund provided for in the Bylaws required to maintain reasonable reserve funds to finance the cost of repair or replacement of the major capital components of the Common Elements that the Association is charged with repairing and replacing.

(T) "Undivided Interests" means the percentage of ownership interest of the Unit in the Common Elements as set forth in this Declaration.

(U) "Unit" means the part of the Property that is designated as a Unit in the Declaration and delineated as a Unit on the Drawings prepared pursuant to Section 5311.07 of the Condominium Act and consists of one or more rooms on one or more floors of a Building. "Unit" is more fully defined in Article II (A) hereof.

ARTICLE II

ESTABLISHMENT OF CONDOMINIUM OWNERSHIP AND DIVISION OF PROPERTY

Declarant, in order to establish a plan of condominium ownership for the Property, hereby submits the Property, hereinbefore described, to the provisions of Chapter 5311 of the Ohio Revised Code. The Property, including the structures thereon, containing an aggregate of two (2) separate Units, is hereby divided into two (2) separately designated and legally described freehold estates, and one freehold estate hereinafter described and referred to as "Common Elements". EACH UNIT OWNER

SHALL HAVE A ONE-HALF UNDIVIDED INTEREST IN THE COMMON ELEMENTS AS TENANTS-IN-COMMON.

- Unit 1 (422 S. Main Street Unit on Drawings) = 50% Undivided Interest
- Unit 2 (424 S. Main Street Unit on Drawings) = 50% Undivided Interest

Insofar as is possible, all the particulars of the land, Buildings, and other improvements, including but not limited to, the layout, location, designations and dimensions of each Unit, the layout, location and dimensions of the Common Elements and Limited Common Elements, and the location and dimensions of all appurtenant easements are shown graphically on the set of drawings incorporated herein by reference, prepared and bearing the certified statements of Mark E. Purdy, Professional Surveyor, and John A. Long, Professional Engineer, of Shaffer, Johnston, Lichtenwalter & Associates, Inc., as required by Section 5311.07, of the Ohio Revised Code. Such set of drawings is hereinafter referred to as the "Drawings" and are incorporated herein.

(A) **Description of Units.** Each of the two residential (2) Units hereby declared and established as a freehold estate shall consist of all the space bounded by: (i) at the bottom, the lower surface of the basement floor structure of the Unit, (ii) at the sides of the Unit, the exterior surfaces of the framing members of the perimeter walls of the Unit, or to the interior surfaces of the framing members of common walls between Units, and excluding, however, the framing for common walls between Units (which is a Common Element) and (iii) at the top, the lower plane of the structure of the second floor ceiling joists of the Unit, all projected, if necessary, by reason of structural divisions to form a complete enclosure of space, but excepting, however, all components of the Building located therein, described as Common Elements herein.

Each Unit also includes the space within the garage building appurtenant to such Unit as shown on the Drawings. Each of the two garage portions of the Units shall consist of all the space bounded by: (i) at the bottom, the lower surface of the garage floor slab, (ii) at the sides, the exterior surfaces of the framing members of the perimeter walls of the Unit, or to the interior surfaces of the framing members of common walls between Units, and excluding, however, the framing for common walls between Units (which is a Common Element) and (iii) at the top, the lower plane of the structure of the roof joists of the Unit, all projected, if necessary, by reason of structural divisions to form a complete enclosure of space, but excepting, however, all components of the garage Building located therein, described as Common Elements herein.

Accordingly, each Unit includes all appurtenant drywall or plaster on all walls, the basement or garage concrete slab, all exterior or interior doors and windows (including garage doors), all nonstructural framing members, sub floor, interior finishes, and all electrical, mechanical, plumbing, sewer, gas, telecommunications, water, and other systems serving only one Unit exclusively, and not serving any part of the Common Elements.

The layout, location, designation and dimensions of both Units are shown on the Drawings. Each Unit has a direct exit to a public street or to a Common Element (including a permanent easement) leading to a public street.

Units 1 and 2 are both two story wood-frame units with: (i) a finished laundry room and unfinished area in the basement, (ii) vestibule, kitchen, dining area, lavatory, and living area on the first floor, (iii) three bedrooms and two full bathrooms on the second floor, and (iv) a two-car garage space in a detached garage. Any inconsistencies between the narrative description of the Building and the Units and/or of the Common Elements on one hand, and the Drawings on the other hand shall be resolved in favor of the Drawings.

(B) Description of Common Elements and Limited Common Elements.

(1) Description of Common Elements. The Common Elements are comprised of the following components (all of which components are part of the Common Elements and are to be maintained by the Association as provided herein), and which descriptions pertain to both the main residential building and the garage building:

- (a)** The real estate (land) described in Exhibit "A";
- (b)** The foundations and footings of the Building and all structural framing members (not including non-structural framing members internal to a Unit);
- (c)** The wood roof decking, roof underlayment, ice guard, metal roofing (or other roofing materials), flashing, rain gutters, and downspouts for the Building;
- (d)** The exterior siding and weather resistant surfaces of the Building, including wood or stucco siding, and wood trim;
- (e)** Any utility line, pipe, wire, etc. that serves both Units, including any common storm or sanitary sewer lines;
- (f)** The rear patio, as shown on the drawings;
- (g)** Any easements created for the benefit of the Property; and
- (h)** In general all apparatus and installations existing for common use of both Units.

The foregoing are hereby declared and established as Common Elements, the care, maintenance, repair and replacement of which shall be the responsibility of the Association.

(2) Description of Limited Common Elements. Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy to the exclusion of all others the Limited Common Elements which serve only his or her Unit. The Limited Common Elements with respect to each Unit shall consist of such of the following components, all of which components are part of the Common Elements and are to be maintained by the Owner of the Unit to which they are appurtenant) and which are shown on the Drawings:

(a) The sidewalks and driveways that exclusively serve each Unit;

(b) The exterior porch serving the entrance to each Unit;

(c) A yard area and the appurtenant lawn, trees, plantings and landscaping adjacent to each Unit shown as a Limited Common Element on the Drawings, if any. The construction of an addition to or an expansion of a Unit into Limited Common Elements may not be authorized without the consent of the Owner(s) of the other Unit.

(C) Use, Ownership, Partition, Regulation and Management of Common Elements.

(1) **Use of Common Elements.** Each Unit Owner shall own an undivided interest in the Common Elements as a tenant in common with the other Unit Owner, and, except as otherwise limited in this Declaration and in the Bylaws each Unit Owner shall have the right to use the Common Elements for all purposes incident to the use and occupancy of his or her Unit as a place of residence and such other incidental uses permitted by this Declaration and the Bylaws, including the non-exclusive easement, together with other Unit Owners, to the use and enjoyment of the Common Elements and for ingress and egress to and from the respective Units to a public street or highway, or to a Common Element leading to a public street or highway, which rights shall be appurtenant to and shall run with his or her Unit. The extent of such ownership in the Common Elements is hereby deemed and expressed by the Undivided Interest hereinafter set forth; such Undivided Interest shall remain constant and shall not be changed except by an amendment to this Declaration unanimously approved by all Unit Owners.

(2) **Ownership of Common Elements.** The Undivided Interest in the Common Elements attributable to the Ownership Interest in each Unit, together with the Undivided Interest in the Association for the division of Common Expenses, Common Assessments, Common Surplus, Common Profits and Common Losses, shall be as provided in the first paragraph of this Article II. For purposes of conveyance of title to Purchasers of individual Units, description by Unit number and reference to this Declaration, any amendments hereto and the Drawings and any amendments to the Drawings shall be sufficient to convey the Unit and the Ownership Interest in the Common Elements (including the Limited Common Elements) appurtenant thereto. Owners may use the Common Elements in such manner as will not restrict, interfere with or impede the use thereof by other Owners.

(3) **Partition of Common Elements.** There shall be no partition of the Common Elements through judicial proceedings or otherwise until this Declaration is terminated and the Property is withdrawn from its terms or from the terms of any statute applicable to Condominium Ownership; provided, however, that if any Unit shall be 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 Unit ownership as between such co-owners.

(D) Maintenance, Repairs, Alterations and Improvements.

(1) The Association. The Association shall maintain and keep the Common Elements (except the Limited Common Elements) 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 Elements, 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 Association shall also be responsible for repairing all damage to a Unit caused by the Association, including damage caused by performance by the Association of its obligations hereunder.

(2) Unit Owner. Except as may otherwise be provided herein, the responsibility of each Unit Owner shall be as follows:

(a) To maintain, repair and replace at his or her expense all portions of his or her Unit and appurtenant Limited Common Elements.

(b) Not to make any alterations in the portions of the Common Elements, 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 Units or the Common Elements without first obtaining the written consent of the Board member representing the other Unit, nor shall any Unit Owner impair any easement without first obtaining the written consents of the Board member representing the other Unit and of the person or persons for whose benefit such easement exists.

(c) To report promptly to the Board member representing the other Unit any defect or need for repairs, the responsibility for the remedying of which is with the Association.

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

(e) To maintain, repair and replace at his or her expense all portions of the Property which may be damaged or destroyed by reason of his or her own act or neglect, the act or neglect of any Occupant of his or her Unit, or the willful or uninsured act or neglect of any invitee, licensee or guest of such Unit Owner or Occupant, to the extent such damage or destruction is not covered by insurance maintained by the Association. Notwithstanding the foregoing obligation of the Unit Owner, the Association 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. If the repair or replacement is made by the Association, the cost and expense thereof shall be a lien against the Owner's Unit which the Association may assert and collect in the same manner as the Association may assert and collect a lien against a Unit for non-payment

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.

(f) To 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 or her Unit, unless any or all of such services are provided or paid for by the Association and charged to the Unit Owner as part of the Common Expenses, in which case all or any of such services so provided by the Association shall be paid for by the Unit Owner as part of his or her share of the Common Expenses.

(3) **Rights Against Third Parties.** The obligation of the Association and of Unit Owners to repair, maintain and replace the portions of the Property for which they are respectively responsible shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in material or workmanship in the construction, repair, alteration or improvement of the Property. The undertaking of repair, maintenance or replacement by the Association or Unit Owners shall not constitute a waiver of any rights against any warrantor but such rights shall be specifically reserved.

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

ARTICLE III **PROVISIONS AS TO EASEMENTS, UNITS, AND COMMON ELEMENTS**

Declarant hereby creates by grant or reservation, as the case may be, in perpetuity, for its benefit and for the benefit of each Unit Owner, each mortgagee in whose favor a mortgage shall be granted with respect to any Unit, the Association, and to any other person now having or hereafter having an interest in the Property, and the respective heirs, devisees, executors, administrators, personal representatives, successors and assigns of the foregoing persons, the following non-exclusive rights and easements:

(A) Utility and Service Easements.

(1) The right and easement, solely to the Declarant and the Association, to construct, install, repair, replace, relocate, operate and maintain driveways, sidewalks, water mains with service connections, storm and sanitary sewer lines, storm systems, electric, gas lines, conduits, and transmission and meter devices and other utilities, in, on, under and/or over the Property;

(2) The right and easement to each Unit Owner to construct, install, repair, replace, relocate, operate and maintain that portion of the heating, air-conditioning and other equipment and systems located outside of the bounds of a Unit but which serves only a particular Unit.

(B) **Encroachments.** If by reason of the construction, repair, restoration, partial or total destruction and rebuilding, or settlement or shifting of the Building or improvements constituting a part of the Property, any part of the Common Elements shall encroach upon any part of a Unit, or any part of a Unit shall encroach upon any part of the Common Elements, or any part of a Unit shall encroach upon any part of the other Unit, or if by reason of the design or construction or rebuilding of the utility systems comprised within the Property any pipes, ducts or conduits serving a Unit shall encroach upon the other Unit, easements in favor of the Unit Owner or Association, as the case may be, for the maintenance of any such encroachment 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 or her willful conduct.

(C) **Maintenance Easements.** Easements in favor of the Association over the Units and Limited Common Elements for access as may be necessary for the purpose of maintaining the Common Elements and easements in favor of each Unit Owner over the Common Elements for access to his or her Unit. Easements in favor of each Unit Owner to and through the Common Elements as may be necessary for the use of water, gas, storm and sanitary sewers, electric, telephone, television cable, and other telecommunications lines, and other utilities.

(D) **Easements Through Units and Limited Common Elements.** Easements in favor of the Association through the Units and the Limited Common Elements for the purpose of installing, laying, maintaining, repairing and replacing any pipes, wires, ducts, conduits, public utility lines or structural components.

(E) **Unit Owner's Right to Ingress and Egress and Support.** Each Unit Owner shall have the perpetual right as an appurtenance to such Unit Owner's Unit to ingress and egress over, upon and across the Common Elements necessary for access to his or her Unit, including the exclusive right to use the portion of the driveway area adjacent to the garage appurtenant to each Unit that provides access from the garage to the roadway (the Unit Owner to have the exclusive right to park cars within said driveway area), and to any Limited Common Elements designated for use in connection with his or her Unit, and shall have the right to the horizontal and lateral support of his or her Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

(F) **Association's Right to Use of Common Element.** The Association shall have a nonexclusive easement to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions required or permitted pursuant to this Declaration, including the right to construct and maintain in the Common Elements mechanical, maintenance and storage facilities for use by the Association.

(G) Future Easements to / from Others. Such easements as Declarant, or the Association from time to time may hereafter grant to or accept from others on behalf of the Property for roadway, access, utility, and other purposes, including, but not limited to, the right to install, lay, maintain, repair and replace sidewalks, water mains and pipes, storm and sanitary sewer lines, drainage ditches, gas mains, electrical, telephone, television, and other telecommunications equipment, cables, conduits and wire over, under and along any portion of the Common Elements, provided that it shall be a condition precedent to the use and enjoyment of any such easements that the owner or owners of land benefited by easements granted over the Common Elements thereby shall, at his or her, her, its or their expense, restore the Common Elements to the same condition as existed just prior to the installation of any such utility improvements. Each Unit Owner and his or her respective mortgagee by acceptance of a deed conveying such Condominium Ownership Interest or a mortgage encumbering such Condominium Ownership Interest, as the case may be, hereby irrevocably appoints the Association his or her 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 or her mortgagee such easements or other instruments as may be necessary to effect the foregoing.

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.

(H) Easement Rights. The easements set forth in this Article are to be enjoyed in common with the grantees, their heirs, executors, administrators, successors and assigns, with the right reserved in the Declarant, its successors and assigns, to grant, assign, or convey or assign to public use or dedicate to public use all or a portion of the easement rights herein to one or more assignees or grantees as an appurtenance to the Property, without it being considered by the grantees, their heirs, executors, administrators, successors and assigns, as an additional burden on said easement and/or the Property. Any assignment, conveyance or dedication of said easement rights by the Declarant may be made at the same time or at successive times, and the residuary easement rights of the Declarant shall not cease or determine until the Declarant and/or its successors and assigns, has no remaining interest, of record, in the Property. However, the rights of all assignees or grantees in the reserved easements shall remain in full force and effect.

(I) No Severance of Ownership. No Owner shall execute any deed, mortgage, lease, or other instrument affecting title to his or her Unit without including therein both his or her interest in the Unit and his or her corresponding Undivided Interest in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such 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.

(J) Easements Reserved by Declarant for Warranty Obligations. The Declarant further reserves the right to enter upon the Common Elements or Units to fulfill any warranty obligations to the Association or the Unit Owners.

ARTICLE IV
UNIT OWNERS' ASSOCIATION OF BRENNAMAN CONDOMINIUM

(A) **Membership.** Declarant has formed an Ohio corporation not for profit to be called BRENNAMAN CONDOMINIUM ASSOCIATION, INC. which shall administer the Property. 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 or her Unit ownership, at which time the new Owner of such Unit shall automatically become a member of the Association. The Board shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, by the Bylaws and by this Declaration upon the Association, except as otherwise specifically provided; provided, however, that in the event any such power, duty or right shall be deemed exercisable or dischargeable by, or vested in, an officer or a member of the Board, solely in his or her capacity as an officer or a member of the Board, he or she shall be deemed to act in such capacity to the extent required to authenticate his or her acts and to carry out the purposes of this Declaration and the Bylaws.

(B) **Administration of Property.** The administration of the Property shall be in accordance with the provisions of this Declaration and the Bylaws, and each Unit Owner, tenant or occupant of a Unit shall comply with the provisions of this Declaration, the Bylaws, as lawfully amended from time to time, and failure to comply with any such provisions, shall be grounds for an action to recover sums due for damages, or for injunctive relief.

(C) **Service of Process.** Service of summons or other process upon the Association may be made in accordance with the provisions of Sections 5311.05(B)(8) and 5311.20 of the Condominium Act. A member of the Association shall be designated by the Board as its statutory agent and the statutory agent so designated shall be a resident of the Condominium and an Owner of a Unit. The statutory agent shall be the person to receive service of process, and his or her 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.

ARTICLE V
ASSESSMENTS

(A) **General.** Assessments for the management, maintenance, repair and insurance of the Common Elements and amounts determined by the Board for the establishment and maintenance of the Reserve Fund to meet the cost and expense of repair and replacement of the Common Elements together with the payment of the Common Expenses, shall be made in the manner provided herein, and in the manner provided in the Bylaws.

(B) **Division of Common Expenses, Common Assessments, Common Surplus, Common Profits and Common Losses.** The proportionate shares of the Unit Owners in the Common Expenses, Common Assessments, Common Surplus, Common Profits and Common Losses of the operation of the Property is based upon their Undivided Interest in the Common Elements. The acquisition or occupancy of any Unit shall be conclusive evidence against the Unit Owner thereof that the Undivided Interest set

forth herein is in the proportion that the Undivided Interest attributed to the Unit bears to the aggregate Undivided Interests of both Units on the date this Declaration is filed for record, and the proportionate share of Common Profits and Common Expenses of each Unit Owner shall be in accordance with said Undivided Interest. The obligation of an Owner to pay his or her proportionate share of Common Assessments shall commence upon such Owner's acquisition of his or her Unit.

(C) **Non-Use of Facilities.** No Owner of a Unit may exempt themselves from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of the Common Elements, or by the abandonment of his or her Unit.

(D) **Lien of Association.** The Association shall have the right to place a continuing lien upon the estate or interest in a Unit the Owner's Undivided Interest in the Common Elements for the payment of the portion of the Common Expenses chargeable against such Unit which remains unpaid for thirty (30) days after such portion has become due and payable by filing a certificate therefor with the office of the recorder of the County, pursuant to authorization given by the Board member representing the other Unit. The certificate shall contain a description of the Unit, the name or names of the record Owner, and the amount of the unpaid portion of the Common Expenses. The lien is valid for a period of five (5) years after the date of filing, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of a court in an action brought to discharge the lien as hereinafter provided. In addition, each Owner shall be personally liable for all assessments levied by the Association against his or her Unit during the period he or she has an ownership interest therein, and any Common Assessment not paid within thirty (30) days after the same shall become due and payable, shall bear interest at the maximum rate allowed by law until such time as the Common Assessment has been paid in full and the Association shall be entitled to levy against the delinquent Owner a late fee or service charge of ten percent (10%) of the amount of the delinquent payment or Fifty Dollars (\$50.00), whichever is greater ("**Charge**"), in order to defray the administrative costs of collection, and, in addition, the Association shall be entitled to levy against the delinquent Owner court costs and attorney and paraprofessional (paralegal) fees.

(E) **Priority of Association's Lien.** The lien provided for above is prior to any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments of political subdivisions and liens of first mortgages that have been filed for record. The lien provided for above may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Association. In the foreclosure action, the Association is entitled to become a purchaser at the foreclosure sale. Suit to recover for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing payment of the same.

(F) **Dispute as to Common Expenses.** A Unit Owner who believes that the portion of Common Expenses chargeable to his or her Unit, for which a certificate of lien has been filed by the Association, has been improperly charged against his or her Unit may commence an action for the discharge of the lien in the Court of Common Pleas for the County. In the action, if it is finally determined that the portion of Common Expenses has been improperly charged to the Owner, the court shall make an order as is just, which may provide for a discharge of record of all or a portion of the lien.

(G) Non-Liability of Judicial Sale Purchaser for Past Due Common Expenses. Where the mortgagee of record or other Purchaser of a Unit acquires title to the Unit as a result of a judicial sale resulting from litigation, or where the mortgagee of a first mortgage of record in lieu of the foreclosure of its mortgage acquires title to the Unit by accepting a deed to the Unit, such acquirer of title, its successors and assigns, shall not be liable for the share of the Common Expenses or other assessments by the Association chargeable to such Unit which become due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from the Owners of both Units, including the Unit of such acquirer, his or her heirs, executors, administrators, successors or assigns at the time the first assessment next following the acquisition of title to such Unit by such acquirer.

(H) Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Unit, other than by deed in lieu of foreclosure, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments levied by the Association against the grantor and his or her Unit for his or her share of Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board setting forth the amount of all unpaid assessments against the grantor due the Association, and such grantee shall not be liable for nor shall the Unit conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement.

(I) Right of Holder of a Mortgage to Advance Payments. A mortgage on a Unit may contain a provision that secures the mortgagee's advances for payment of the portion of the Common Expenses chargeable against the Unit upon which the mortgagee holds the mortgage.

(J) Order of Priority of Payments. In accordance with Section 5311.18(A)(2) of the Condominium Act, the Association shall credit payments made by a Unit Owner in the following order of priority:

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

ARTICLE VI **INSURANCE AND RECONSTRUCTION**

(A) Insurance Provided by the Association. The insurance which shall be carried by the Association shall be governed by the following provisions:

(1) **Casualty Insurance.** The Association shall carry casualty insurance on all insurable improvements comprising the Condominium Property, including Common Elements and Units. The Association shall also carry casualty insurance on all personal property owned by the Association and for which the Association is responsible. Such casualty insurance, if the same is carried by the Association, is hereinafter called "**Casualty Insurance**". To the extent commercially available, and subject to reasonable deductibles, the Casualty Insurance shall be in an amount not less than one hundred percent (100%) of the insurable replacement cost of such Condominium Property improvements, with a "Guaranteed Replacement Cost Endorsement" (excluding excavation and foundation costs and other items normally excluded from coverage), amount of insurance shall initially be based on cost of construction and shall be adjusted annually for inflation. The cost of the appraisal shall be a Common Expense. Such Casualty Insurance policy shall also include the following coverages:

(a) Loss or damage by fire and other hazards covered by the standard extended coverage endorsement;

(b) If available at a reasonable cost, a "Construction Code Endorsement" or its equivalent, a "Demolition Cost Endorsement" or its equivalent, an "Increased Cost of Construction Endorsement" or the equivalent, a "Contingent Liability from Operation of Building Laws Endorsement", or its equivalent, and an "Agreed Amount and Inflation Guard Endorsement" or its equivalent, and "Loss Assessment Coverage" or its equivalent;

(c) Insurance coverage against such other risks as from time to time may be customary with respect to improvements similar to the Condominium Property improvements in construction, location and use, including, but not limited to, debris removal, vandalism, malicious mischief, windstorm and water damage, subject to such deductible amounts as the Board shall determine, provided, however, such deductible amounts shall not exceed the lesser of one percent (1%) of the policy amount, except that the deductible amount shall not exceed two percent (2%) of the policy amount for earthquake coverage if a one percent (1%) deductible for earthquake coverage is not available at a reasonable cost. The deductible amounts shall be treated as a Common Expense unless the casualty is the result of the negligence or willful act of an Owner, his or her Occupants, tenants, or the guests or invitees of such parties, in which event the deductible amount shall be paid by the Owner, and such amount shall be a Special Assessment against such Owner's Unit. The Casualty Insurance shall provide that notwithstanding any provision thereof 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 Property from the provisions of the Condominium Act as provided for in this Declaration and shall further provide that the coverage thereof shall not be terminated for non-payment of premiums without at least ten (10) days' written notice to the Owners and to each first mortgagee. All Casualty Insurance policies shall be purchased by the Association for the benefit of the Association, the Owners and their respective mortgagees, as their interests may appear,

and shall provide (i) for the issuance of certificates of insurance with mortgagee endorsements to the holders of mortgages on the Units requiring such endorsements, if any; (ii) to the extent available at a reasonable cost, that the insurer waives its rights of subrogation against Owners, Occupants, and the Association; (iii) that the Casualty Insurance will not be prejudiced by any acts or omissions of Owners that are not under the control of the Association; and (iv) the policy is primary, even if an Owner has other insurance that covers the same loss. All Casualty Insurance policies shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association as exclusive agent for each of the Owners and each holder of a mortgage or other lien on any Unit. For purposes of this Article, the Association shall provide its insurer with the names and notice addresses of each Owner and each first mortgagee.

(d) The Board shall have the sole right and authority to file, or authorize the filing of, and adjust any and all claims for damage or destruction that are or may be covered by the Association's Casualty Insurance policy regardless of the person(s), including mortgagees, who may be named as an additional insured or beneficiary of such policy, as the Board determines is consistent with the intent of this Declaration and in the Association's best interest; provided, however, that a mortgagee having an interest in such losses may participate in the settlement negotiations, if any, related thereto. The failure or refusal of the Association to process or file any claim for damage or destruction to any part of the Property under the Association's Casualty Insurance shall not give rise to any claim against the Association or the Board.

(2) **Liability Insurance.** The Association shall insure itself, the Board Members, the Owners and Occupants against liability for personal injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Common Elements, including, without limitation, water damage, legal liability, hired automobile, non-owner automobile and off-premises employee coverage (if available at a reasonable cost), such insurance to afford protection to a limit of not less than One Million Dollars (\$1,000,000) in respect to personal injury, disease, illness or death suffered by any one person, and to the limit of not less than Two Million Dollars (\$2,000,000) in respect to any one occurrence, and to the limit of not less than One Million Dollars (\$1,000,000) in respect to damage to or destruction of property arising out of any one accident (the "**Association Liability Insurance**"). All Association Liability Insurance policies shall contain cross-liability endorsements to cover liabilities of the Owners as a group to an individual Owner and shall further provide that the coverage thereof shall not be terminated for non-payment of premiums without at least ten (10) days written notice to the Association and to each first mortgagee. If such Association Liability Insurance shall, for any reason, not fully cover any such liability, the amount of any deficit shall be a Common Expense to the Owners, and any Owner who shall have paid all or any portion of such deficiency in an amount exceeding his or her proportionate share thereof based on his or her Undivided Interest shall have a right of contribution from the other Owner according to their respective Undivided Interests. The Association shall also obtain directors and officers liability coverage if reasonably available to the extent available for a reasonable premium.

(3) Fidelity Insurance. The Association shall purchase and maintain blanket fidelity, crime, or dishonesty insurance coverage for any person who controls or disburses association funds. As used in this section, "person who controls or disburses association funds" means any individual with authority or access to sign checks, conduct electronic transfers, or otherwise withdraw funds from any association account or deposit, including the following: (i) A management company's principals and employees; (ii) A bookkeeper; and (iii) The president, secretary, treasurer, any other board member, or employee of the unit owners association. All of the following apply to the insurance coverage required under this section:

(a) Coverage shall be for the maximum amount of funds that will be in the custody of the Association or its designated agent at any one time plus three months of operating expenses.

(b) The insurance shall be the property of and for the sole benefit of the Association and shall protect against theft, embezzlement, misappropriation, or any other unauthorized taking or loss of association funds.

(c) The policy shall include in its definition of "employee" the manager and the managing agent of the Association's funds or provide for this inclusion by an endorsement to the policy.

(d) The policy shall name the Association as the insured party and shall include a provision requiring the issuer of the policy to provide a ten-day written notice to the Association's president or manager in the event of cancellation or substantial modification of the policy. The manager or managing agent, if any, of the Association shall be the designated agent on the policy.

(e) If there is a change in the manager or the managing agent of the Association, then within ten days of the effective start date, the new manager or managing agent shall notify the insurer of such change.

(4) Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association at least thirty (30) days prior to the expiration date of such policies and shall be assessed as Common Expenses.

(B) Responsibility for Reconstruction or Repair. If any portion of the Condominium Property improvements shall be damaged by perils covered by the Casualty Insurance, the Association shall cause such damaged portion to be promptly reconstructed or repaired to the extent of the funds made available to the Association, and any such reconstruction or repair shall be substantially in accordance with the Drawings; provided, however, if such damage also renders a Unit untenable, the Owners may unanimously elect not to reconstruct or repair such damaged Condominium Property improvements within ninety (90) days after the occurrence of the casualty, or, if by such date the insurance loss has not been finally adjusted, then within thirty (30) days after such final adjustment. Upon such election, all of the Property shall be subject to an action for sale as upon partition at the suit of any Owner. In the event of any such sale, or a sale of the Property after such election by agreement

of all Owners, the net proceeds of the sale together with the net proceeds of Casualty Insurance and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Owners in proportion to the respective market value of their Unit (as determined by either tax appraisal, or an appraisal for such purposes, the cost of which shall be a Common Expense). No Owner, however, shall receive any portion of his or her share of such proceeds until all liens and encumbrances on his or her Unit have been paid, released or discharged. Each Owner and his or her respective mortgagee by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Unit, as the case may be, hereby irrevocably appoints the Association his or her attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of the attorney, to carry out the provisions of this Article.

(C) **Negligence of Unit Owner.** Each Owner shall be liable for the expenses of any maintenance, repair or replacement, and insurance deductible rendered necessary to the Property improvements by his or her negligence, or by that of any member of his or her family, or his or her guests, employees, agents or lessees, to An Owner shall pay the amount of any increase in the Casualty Insurance policy premiums occasioned by his or her use, misuse, occupancy or abandonment of his or her Unit or its appurtenances or of the Common Elements or Limited Common Elements. All such amounts shall be a Special Assessment against such Owner's Unit.

ARTICLE VII **COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY**

The Units and Common Elements shall be occupied and used as follows:

(A) Each Owner shall be obligated to maintain and keep in good order and repair his or her own Unit.

(B) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Common Elements without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his or her Unit or in the Common Elements which will result in the cancellation of insurance on the Building, or contents thereof, or which would be in violation of any law. No waste shall be committed in the Common Elements.

(C) An Owner may install a satellite dish (not to exceed one (1) meter in diameter) or television antenna attached to their Unit or within a Limited Common Element.

(D) Exterior decks or ground level patios may be installed by an Owner within the Limited Common Elements appurtenant to that Owner's Unit, with the consent of the Board member representing the other Unit, said approval not to be unreasonably withheld. The installing Owner shall maintain such deck and/or patio in good condition at said Owner's expense.

(E) Nothing shall be done in any Unit or in, on or to the common elements which will impair the structural integrity of the building or which would structurally change the building except as is otherwise provided herein.

(F) No clothes, sheets, blankets and/or other articles shall be hung out or exposed on any part of the Common Elements or Limited Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials.

ARTICLE VIII
SALE OF THE PROPERTY

The Owners by unanimous vote may elect to sell the Property as a whole. Upon such action, it shall become the duty of every Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect such sale. If the Property is sold, the proceeds of sale shall be received and held by the Association in trust for the benefit of the Owners and their respective mortgagees as their respective interests may appear, and such proceeds shall be disbursed as soon as possible to satisfy first mortgage liens, unpaid assessments and other liens and encumbrances, with the balance to be distributed to the Owners in proportion to the respective market value of their Unit (as determined by either tax appraisal, or an appraisal for such purposes, the cost of which shall be a Common Expense).

ARTICLE IX
REMEDIES FOR BREACH OF COVENANTS, RESTRICTIONS AND REGULATIONS

(A) **Abatement and Enjoyment.** If any Owner (either by his or her own conduct or by the conduct of any other Occupant of his or her Unit, or by any guest of any such Owner or Occupant) shall violate any covenant or provision contained in this Declaration or the Bylaws, the Association shall have the right, in addition to the rights hereinafter set forth in this Article and those provided by law:

(1) to the extent permitted by law, enter upon the portion of the Property which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration or of the Bylaws and shall not thereby be deemed guilty in any manner of trespass;

(2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. The Association shall be entitled to be reimbursed for legal fees incurred in connection with any such action; and

(3) to exercise any other remedies and rights available under applicable law.

(B) **Enforcement Assessments.** In accordance with Section 5311.081(B)(12) of the Condominium Act, the Board shall have the authority to impose interest and administrative late fees for the late payment of Assessments; impose returned check charges; and, in accordance with the procedure outlined in Section 5311.081(C)(1) of the Condominium Act, impose reasonable enforcement Assessments for violations of the Declaration, the Bylaws, and reasonable charges for damage to the Common Elements.

ARTICLE X
AMENDMENT OF DECLARATION

The provisions of this Declaration may only be amended by an instrument in writing setting forth specifically the item or items to be amended and/or any new matter to be added, which instrument shall be executed by all Owners and recorded with the County.

ARTICLE XI
CONDEMNATION

(A) Whenever any authority having the power of condemnation or eminent domain takes or proposes to take all or any part of the Property, each Owner shall be entitled to notice thereof. Each Owner hereby designates and appoints the Association by and through its Board, as his or her exclusive agent to handle, negotiate, settle, and conduct all matters, proceedings and litigation incident to such taking or proposed to be taken; and the Association shall have the power and authority to do so. Any award made for such taking shall be payable to the Association. Unless otherwise provided by law at the time of such taking, any award made therefore shall be disbursed by the Association as hereinafter provided in this Article.

(B) If the entire Property is taken by eminent domain or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium shall terminate. The condemnation award shall be apportioned among the Owners in proportion to the respective market value of their Unit (as determined by either tax appraisal, or an appraisal for such purposes, the cost of which shall be a Common Expense). The Board shall as soon as practicable determine the share of the condemnation award to which each Owner is entitled and each such share shall be paid into separate accounts and disbursed as soon as practicable to the Owners entitled to same. No Owner, however, shall receive any portion of his or her share of such award until all liens and encumbrances on his or her Unit have been paid, released or discharged.

(C) If less than the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Property hereunder shall not terminate and this Declaration shall not terminate. As determined by the Board, in its sole discretion, the condemnation award with respect to Common Elements shall be retained as reserves, or the condemnation award shall be apportioned among the Unit Owners in accordance with their respective Undivided Interests in the Common Elements. Each Unit Owner shall be entitled to a share of the condemnation award to be determined in the following manner: As soon as practicable the Association shall, reasonably and in good faith, allocate the condemnation award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the Unit Owners, as follows: (1) the total amount allocated to taking of or injury to the Common Elements shall be apportioned among Unit Owners in proportion to their respective Undivided Interests in the Common Elements; (2) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned; (3) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within his or her own Unit shall be apportioned to the particular Unit involved, and (4) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board determines to be equitable under the circumstances. If an allocation of the

condemnation award is already established in negotiation, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective first mortgagees.

(D) If a partial taking results in the taking of a complete Unit, the Condominium shall terminate and the condemnation award shall be distributed as provided above, depending on the circumstances.

(E) Each Owner and his or her respective Eligible Mortgage Holders, by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering Unit, as the case may be, hereby irrevocably appoints the Association his or her attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of the attorney, to carry out the provisions of this Article.

(F) The holder, insurer or guarantor of a first mortgage on a Unit shall receive timely written notice of any condemnation that affects either a material portion of the Property or the Unit securing its mortgage.

ARTICLE XII **RIGHTS OF FIRST MORTGAGEES**

The following provisions inure to the benefit of each mortgagee holding a first mortgage encumbering a Unit:

(A) **Default By an Owner.** Upon written request to the Association, an Eligible Mortgage Holder shall be provided notice of a default by its respective Owner if said Owner shall be in default for a period of sixty (60) days in the performance of his or her obligations under this Declaration or the Bylaws. An Eligible Mortgage Holder so notified may, within sixty (60) days after receiving such notice from the Association, cure said default, but is not obligated to do so. If, however, the default is not curable within the sixty (60) day period by reason of delay(s) beyond the reasonable control of the Eligible Mortgage Holder then, providing the Eligible Mortgage Holder has commenced to cure the default within the sixty (60) day period and has continued thereafter with due diligence to complete the curing of the default, the time within which the Eligible Mortgage Holder shall be permitted to cure the default shall be extended for a period co-extensive with the delay(s).

(B) **Statement of Default.** A first mortgagee, upon written request to the Board, shall be given a written statement by the Board of the Owners who are more than one (1) month delinquent in the payment of monthly Common Assessments at the time said written request is received by the Board.

(C) **Compliance With Mortgage Insurance Regulations.** In general, and in order to facilitate the marketability of the Units, the Board shall comply, to the best of its ability, with requests by first mortgagees for information required by regulations of the Federal Home Loan Bank Board, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Government National

Mortgage Association, Mortgage Guaranty Insurance Corporation, the Department of Housing and Urban Development, the Federal Housing Corporation and the Veteran's Administration (or other private mortgage insurance company), or required by any other secondary mortgage market lender, or by any governmental insurer or guarantor of the first mortgage of any Unit.

ARTICLE XIII
SALE, LEASING OR OTHER ALIENATION OF UNITS

(A) Unit Owner's Right of Transfer. The Association shall have no right of first refusal with respect to the purchase or lease of a Unit, and an Owner shall be able to transfer his or her Unit freely by sale, gift, devise, lease or otherwise without restriction except as provided below.

(B) Unit Owner's Right to Lease Unit.

(1) An Owner shall have the right to lease all (but not less than all) of his or her Unit upon such terms and conditions as the Owner may deem advisable, except that no Unit shall be leased or sub-leased for less than a twelve (12) month period. Any lease or sublease of a Unit shall be in writing and shall provide that the lease or sublease shall be subject to the terms of the this Declaration, the Bylaws, and that any failure of a lessee to comply with the terms of this Declaration, or the Bylaws shall be in default under the lease or sublease.

(2) Association's Rights with Respect to Leased Units. A tenant shall comply with all covenants, conditions and restrictions set forth in this Declaration and the Bylaws. Violations of those covenants, conditions or restrictions shall be grounds for the Association or any Owner to commence a civil action for damages, injunctive relief, or both, and an award of court costs and reasonable attorneys' fees in both types of action.

(C) Association Making Available Condominium Documents and Financial Information. The Association shall make available to Owners, lenders and holders and insurers of first mortgages on any Unit, current copies of this Declaration, the Bylaws, and other books, records and financial records of the Association. The Association shall also make available to prospective purchasers current copies of the Declaration, Bylaws, and the most recent annual statement, if such is prepared.

(D) No Sale or Lease to, or Occupancy by, Sexually Oriented Offender. No Owner shall lease, convey, or transfer a Unit to any person who is required pursuant to the provisions of §2950.04 of the Ohio Revised Code (or other similar statute from any other jurisdiction), to register as a sexually oriented offender, nor shall any Owner permit a Unit to be occupied by any such sexually oriented offender. Neither the Declarant, nor the Association shall be liable to any Owner, Occupant, or their guests, as a result of the Declarant's, or the Association's alleged failure, whether negligent, intentional or otherwise, to enforce the provisions of this restriction.

ARTICLE XIV
COMPLIANCE AND NON-MONETARY DEFAULT

(A) Enforcement. In the event of a violation by any Owner or any tenant of an Owner (other than the nonpayment of Common Assessments or any other charge, which is governed by this Declaration) of any of the provisions of this Declaration or the Bylaws, the Association shall notify the Owner and tenant or other Occupant of the violation, by written notice. If such violation is not cured as soon as is reasonably practical and in any event within seven (7) days after such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the Owner or tenant or other Occupant fails to commence and diligently proceed to completely cure such violation as soon as is reasonably practical within seven (7) days after written demand by the Association, or if any similar violation is thereafter repeated, the Association may, at its option:

(1) Impose an Enforcement Assessment against the Owner or tenant or other Occupant as provided in Subsection (B) of this Article; and/or

(2) Commence an action to enforce performance on the part of the Owner or tenant or other Occupant, and to require the Owner to correct such failure, or for such other relief as may be necessary under the circumstances, including injunctive relief; and/or

(3) The Association may itself perform any act or work required to correct such failure and, either prior to or after doing so, may charge the Owner with all reasonable costs incurred or to be incurred by the Association in connection therewith, plus a service fee equal to fifteen percent (15%) of such costs. In connection with the foregoing, the Association may perform any maintenance or repairs required to be performed, may remove any change, alteration, addition or improvement which is unauthorized or not maintained in accordance with the provisions of this Declaration, and may take any and all other action reasonably necessary to correct the applicable failure; and/or

(4) Commence an action to recover damages.

(B) Enforcement Assessments.

(1) Prior to imposing a charge for damages or an Enforcement Assessment pursuant to this Article and pursuant to the Bylaws, the Board shall give the Owner a written notice, which may be in the form of electronic mail to an electronic mail address previously provided by the owner in writing, that includes all of the following:

(a) A description of the property damage or violation, including the provision(s) of the Declaration or Bylaws which have allegedly been violated;

(b) The amount of the proposed charge for damages or the Enforcement Assessment;

(c) A statement that the Owner has a right to a meeting to contest the proposed charge for damages or the Enforcement Assessment;

(d) A statement setting forth the procedures to request a meeting pursuant to (B)(2) of this Section;

(e) A reasonable date by which the Unit Owner must cure the violation to avoid the proposed charge for damages or the Enforcement Assessment.

(2) Resolution Meetings.

(a) To request a meeting, the defaulting Owner shall deliver a written notice to the Board Member for the other Unit not later than the tenth (10th) day after receiving the notice required by division (1) of this Section. If the Owner fails to make a timely request for a meeting the right to that meeting is waived, and the Board Member for the other Unit may immediately impose a charge for damages or an Enforcement Assessment pursuant to this Section (B).

(b) If an Owner requests a meeting, at least seven (7) days prior to the meeting the Board Member for the other Unit shall provide the defaulting Owner with a written notice that includes the date, time, and location of the meeting.

(c) The defaulting Owner shall have an opportunity to respond, to present evidence and to provide written and oral argument on all issues involved and shall have an opportunity at the meeting to review, challenge and respond to any material considered by the Board Member for the other Unit.

(3) The Board Member for the other Unit shall not levy a charge for damages or the Enforcement Assessment before holding any meeting requested pursuant to (B)(2) of this Section.

(4) The Board Member for the other Unit may allow a reasonable time to cure a violation before imposing a charge for damages or Enforcement Assessment.

(5) Within seven (7) days following a meeting at which the Board Member for the other Unit imposes a charge or assessment, the Board Member for the other Unit shall deliver a written notice of the charge for damages or Enforcement Assessment to the defaulting Owner, which will be due and payable within ten (10) days after such notice. Any Enforcement Assessment levied against an Owner shall be deemed a Common Assessment and if not paid when due, all of the provisions of this Declaration relating to the late payment of Common Assessments shall be applicable except as otherwise provided by the Condominium Act.

(6) Any written notice that Section (B)(1) requires shall be delivered to the defaulting Owner or any Occupant of the Unit by personal delivery, by certified mail, return

receipt requested, by Federal Express or another recognized overnight courier for delivery on the next business day or by regular mail.

(C) **Negligence.** An Owner shall be liable and may be charged by the Association for the expense of any maintenance, repair or replacement rendered necessary by his or her act, neglect or carelessness, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances or of the Common Elements.

(D) **Responsibility of Unit Owner for Tenants.** Each Owner shall be responsible for the acts and omissions, whether negligent or willful, of any tenant of his or her Unit, and for all employees, agents and invitees of the Unit Owner or any such tenant, and in the event the acts or omissions of any of the foregoing shall result in any damage to the Property, or any liability to the Association, the Owner shall be charged for same, limited where applicable to the extent that the expense or liability is not met by the proceeds of insurance carried by the Association. Furthermore, any violation of any of the provisions of this Declaration or the Bylaws by any tenant of any Unit, or any employees, agents or invitees of an Owner or any tenant of a Unit, shall also be deemed a violation by the Unit Owner, and shall subject the Owner to the same liability as if such violation was that of the Owner.

(E) **Costs and Attorney's and Paralegal's Fees.** In any legal proceedings commenced by the Association to enforce this Declaration or the Bylaws, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorney's and paralegal's fees. Any such cost or attorney's and paralegal's fees awarded to the Association in connection with any action against any Owner shall be charged to the Owner.

(F) **No Waiver of Rights.** The failure of the Association or any Owner to enforce any covenant, restriction or any other provision of this Declaration or the Bylaws shall not constitute a waiver of the right to do so thereafter.

ARTICLE XV REMOVAL FROM CONDOMINIUM OWNERSHIP

The Owners may unanimously elect to remove the Property from the provisions of the Condominium Act. In the event of such election, all liens and encumbrances, except taxes and assessments of political subdivisions not then due and payable, upon all or any part of the Property, shall be paid, released, modified, or discharged, and a certificate setting forth that such election was made shall be filed with the recorder of County, and by him or her recorded. Such certificate shall certify therein under oath that all liens and encumbrances, except taxes and assessments of political subdivisions not then due and payable, upon all or part of the Common Elements 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 or her Unit or Units have been paid, released, modified or discharged. A Property is deemed removed from the provisions of the Condominium Act upon the filing of the Certificate with the recorder of the County, and upon that removal, the Property is owned a tenants-in-common by the Unit Owners, in the proportion of the Undivided Interest in the Common Elements previously owned by each Owner.

ARTICLE XVI
MISCELLANEOUS PROVISIONS

(A) **Right of Declarant to act as Board.** Declarant reserves unto itself the right to manage, control and exercise all of the rights of the Association in accordance with and to the extent permitted by the provisions of Sections 5311.08 and 5311.25 of the Condominium Act.

(B) **Record of Mortgagees of Units.** Any Owner who mortgages his or her Unit shall notify the Association in such manner as the Association may direct, of the name and address of his or her mortgagee and thereafter shall notify the Association of the payment, cancellation or other alteration in the status of such mortgage. The Association shall maintain such information in a record entitled "Mortgagees of Units".

(C) **Rights of Mortgagees of Units to Receive Notices.** Upon written request to the Board, an Eligible Mortgage Holder shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Owner or owners whose Unit ownership is subject to such mortgage or trust deed.

(D) **Notices to Association.** Notices required to be given to the Board or the Association may be delivered to any Board Member either personally or by mail to such member at his or her Unit.

(E) **Title to Units Subject to Declaration.** Each grantee of the Declarant, by the acceptance of a deed of conveyance, accepts the same subject to all easements, restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights, and powers created or reserved by this Declaration and in the documents referred to in this Declaration, and all rights, benefits and privileges of every nature 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 the Property, and shall inure to the benefit of such Owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.

(F) **Non-Liability of Declarant.** Except as otherwise provided in the Condominium Act, Declarant nor their representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authorities granted or delegated to it by or pursuant to this Declaration or the Bylaws in Declarant's (or their representative's) capacity as Owner, manager or seller of the Property whether or not such claim (1) shall be asserted by any Owner, an Occupant, the Association, or by any person or entity claiming through any of them; or (2) shall be on account of injury to person or damage to or loss of property wherever located and however caused; or (3) shall arise ex contractu or (except in the case of gross negligence) ex delictu. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Owner, an Occupant, the Association, and their respective agents, employees, guests and invitees, or by reason of any neighboring property or personal property located on or about the Property, or by reason of the failure to function or disrepair of any utility services (heat, air-conditioning, electricity, gas, telephone, water or sewage).

(G) Declarant Assessments. Except as otherwise provided in the Condominium Act, the Declarant shall not be required to pay any assessments or monies to finance any claim or litigation against the Declarant.

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

(I) Saving Clause. 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.

(J) Rule Against Perpetuities. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) 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 last survivor of the now living descendants of Joseph Biden, President of the United States of America, or Kamala Harris, Vice President of the United States of America.

(K) Headings. The heading of each Article and of each such paragraph in this Declaration and in the Bylaws is inserted only as a matter of convenience and for reference and in no way defines, limits or describes the scope or intent of this Declaration or the Bylaws nor in any way affects this Declaration or the Bylaws.

(L) Gender. The use of the masculine gender herein or in the Bylaws shall be deemed to include the feminine and the neuter genders, as the case may be, and the use of the singular shall be deemed to include the plural, whenever the context so requires.

(M) Rights of Action. The Association and any aggrieved Unit Owner shall have a right of action against Unit Owners for failure to comply with the provisions of this Declaration, Bylaws, or other Condominium Instruments, or with decisions of the Association which are made pursuant to authority granted the Association in such documents. Unit Owners shall have similar rights of action against the Association.

(N) Liberal Interpretation. The provisions of this Declaration shall be liberally interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a Condominium Development.

(O) Successors and Assigns. The provisions of this Declaration shall be binding upon and shall inure to the benefit of the Declarant and its successors and assigns.

(P) Non-Retention of Property Interest in Common Elements by Declarant. The Declarant shall not retain a property interest in any of the Common Elements after control of the Condominium Development is assumed by the Association except in the Declarant's capacity as a Unit Owner of unsold

Condominium Ownership Interests and except as permitted by Section 5311.25(B) of the Condominium Act.

(Q) Declarant's Obligation with Respect to Unsold Units. The Declarant shall assume the rights and obligations of a Unit Owner in its capacity as Owner of unsold Units in the Condominium, including, without limitation, the obligation to pay Common Expenses attributable to such Units, from the date the Declaration is filed for record.

(R) Signature Requirements. Pursuant to the Board's decision, any requirement for a signature under the Declaration or Bylaws may be satisfied by a digital signature meeting the requirements of Ohio and Federal law.

(S) Use of New Technology. Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by Ohio and Federal law, as well as by the Board, now or in the future: (1) any notice required to be sent or received; (2) any signature, vote, consent or approval required to be obtained or (3) any payment required to be made, under the Declaration or Bylaws may be accomplished under the most advanced technology available at that time provided such use is generally accepted business practice.

IN WITNESS WHEREOF, the Declarant has caused its name to be signed to these presents as of this 11 day of January, 2023.

S.A. SMITH, LLC
an Ohio limited liability company

By: Daniel E. Kipfer
Daniel E. Kipfer, President

STATE OF OHIO)
) SS:
COUNTY OF WAYNE)

Acknowledged before me, a Notary Public in and for said County and State aforesaid, personally appeared **S.A. SMITH, LLC**, an Ohio limited liability company, by Daniel E. Kipfer, its President, who acknowledged that he did sign the foregoing instrument and that the same was his free act and deed individually and as such officer, and the free act and deed of said limited liability company. This is an acknowledgment clause. No oath or affirmation was administered to the signer.

GIVEN, under my hand and Notarial Seal this 11 day of January, 2023.

Stacy Sawick
NOTARY PUBLIC
My Commission Expires: 11-16-25

EXHIBIT "A"

Legal Description of the Property

Situated in the City of Orrville, County of Wayne, and State of Ohio:

Known as being Lot Number 3847 in Brennaman Allotment 2023 as recorded in Plat Volume 33, Page 491 of the Wayne County Plat Records.

PPN: 58-00110.000

Prior Instrument Number: OR Vol. 940, Page 4094, Wayne County Records.

EXHIBIT B

BYLAWS OF
BRENNAMAN CONDOMINIUM ASSOCIATION, INC.

The within Bylaws are executed and incorporated in the Declaration pursuant to the Condominium Act. Certain of the terms used in these Bylaws have been defined in the Declaration and, when used herein, shall have the same meaning as set forth in the Declaration, unless the context clearly indicates a different meaning therefore. The purpose of the within Bylaws is to provide for the establishment of the Association for the government of the Property in the manner provided by the Declaration and by these Bylaws. This purpose shall be accomplished on a non-profit basis, and no part of the earnings of the Association shall inure to the benefit of any private person, firm, corporation, association or organization. All present or future Owners or tenants or their employees, or any other person who might use the facilities of the Property in any manner shall be subject to the covenants, provisions or regulations contained in the Declaration and these Bylaws and shall be subject to any restriction, condition or regulation hereafter adopted by the Association. The mere acquisition or rental of any of the Units located within the Property described in the Declaration, or the mere act of occupancy of any of the Units will constitute acceptance and ratification of the Declaration and of these Bylaws.

ARTICLE I
THE ASSOCIATION

(A) **Name and Nature of Association.** The Association shall be an Ohio not-for-profit corporation and shall be called the Brennaman Condominium Association, Inc.

(B) **Membership.** 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 this Unit ownership, at which time the new Owner of such Unit shall automatically become a member of the Association. Membership in the Association shall be limited to Unit Owners. In addition to any other rights the Declarant may have pursuant to the Declaration, the Declarant shall be a member of the Association with respect to all Units owned by Declarant and shall have the right, without limitation, to exercise the voting power appurtenant to such Units and the power to vote the same.

(C) **Voting Rights.** On any question on which the vote of Unit Owners is permitted or required, there shall be one voting member for each of the Units, whom shall be the Board Member appointed by the Owner of such Unit. The Owner or Owners of each Unit shall be entitled to exercise one (1) vote for each such Unit.

(D) **Unanimity.** Except as otherwise provided in the Condominium Act, the Declaration or these Bylaws, all actions taken by the Unit Owners shall require the affirmative vote of both Board Members. In the event of a deadlock, the Board Members shall take a fourteen (14) day cooling off period, and then shall then again attempt to resolve the issue. If a deadlock still occurs with respect to any vote, the Board Members shall exercise their respective best efforts to resolve the deadlock. In the

event said deadlock cannot be resolved by and between the Board Members s, either Board Member may notify the other, in writing (the “**Resolution Notice**”), of their intent to select a neutral third party to resolve the dispute (the “**Mediator**”). The Resolution Notice shall include the name of a proposed Mediator. Within ten (10) days after delivery of the Resolution Notice, the receiving Board Member shall either concur with the proposed Mediator or shall propose the name of an alternate Mediator. In the event the receiving Board Member does not concur with the initiating Board Member’s selection and the initiating Board Members does not concur with the selection of the alternate Mediator within ten (10) days, the two proposed Mediators shall select a third Mediator, which selection shall be binding on the Board Members. All costs attendant to the deadlock resolution process shall be shared equally by the Owners. The Mediator is directed to conduct such investigations, inquiries and/or conferences as he or she shall deem reasonably necessary to resolve the deadlock within sixty (60) days after delivery of the Resolution Notice. The Board Members shall reasonably cooperate with the Mediator to effectuate such a resolution.

(E) **Proxies.** Board Members may vote, execute consent, waiver, release, or otherwise act in person or by proxy. The person appointed as proxy need not be a member of the Association. Designation by a Board Member of a proxy to vote or act on his or her or their behalf shall be made in writing and signed by such Board Member, and shall be submitted to the other Board Member in writing at or before a meeting of Board Members, and shall be revocable at any time by actual notice to the other Board Member by the member making such designation. Notice to the other Board Member in writing or in a meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized. The presence at a meeting of the person appointing a proxy does not revoke the appointment.

(F) **Establishment of Association and First Meeting of Board.**

(a) **Establishment of Unit Owners’ Association.** The Association shall be established not later than the date the deed or other evidence of ownership is filed for record following the first sale of a Unit. Until the Association is established, the Declarant shall act in all instances where action of the Association or its officers is authorized or required by law or in the Declaration.

(b) **First Meeting of Board.** The first meeting of the Board Members shall be held such place as agreed to by the Board not later than sixty (60) days after the date that the first Unit has been sold and conveyed by the Declarant.

ARTICLE II
BOARD OF DIRECTORS

(A) **Qualifications.** Except as otherwise provided herein, all Board Members shall be Unit Owners; spouses of Unit Owners; mortgagees of Units; partners, agents or employees of partnerships owning a Unit, members or officers of limited liability companies owning a Unit; officers, directors, agents or employees of corporations or associations owning a Unit; or fiduciaries, officers, agents or employees of fiduciaries owning a Unit. Board Members elected or designated by the Declarant need not fulfill the qualifications imposed by this Section or any other qualifications imposed on Board

Members designated by Owners other than the Declarant, and Board Members designated by the Declarant may be removed only by the Declarant

(B) Number of Board Members. There shall be one Board Member appointed by each Unit Owner. A meeting of the Owners and/or the Association shall be the same as a meeting of the Board Members. An Owner may appoint themselves as their representative Board Member.

(C) Designation of Board Members by Declarant and Unit Owners. Until such time as the first Unit has been sold and conveyed by the Declarant, the Declarant shall have the right to elect or designate all Board Members. Within sixty (60) days after the earlier of either: (a) three (3) following the date of the establishment of the Association (or such earlier period of time as Declarant, at its option, may designate); or (b) the date of sale of both Units to purchasers in good faith for value, the Board shall meet. Except as otherwise provided herein, each Board Member shall hold office until his or her successor is designated by their respective Unit Owner, or until his or her earlier resignation, removal from office or death. Any Board Member may resign at any time by oral statement to that effect made at a meeting of the Board or by a writing to that effect delivered to the other Board Member; such resignation shall take effect immediately or at such other time as the Board Member may specify.

(D) Regular Meetings. Regular meetings of the Board shall be held no less than quarterly, on such date and at such place and hour as may be agreed to by the Board Members.

(E) Special Meetings / Notice. Special meetings of the Board shall be held when called by any Board Member after not less than five (5) business days' notice to the other Board Member (unless the other Board Member agrees to meet earlier).

(F) Quorum; Adjournment. Both Board Members shall be present to constitute a quorum. Any notice of a proposed meeting of the Board from one Board Member to another shall be in accordance with Paragraph (E) above and shall include an exact and express recitation of the topic proposed to be discussed at that meeting. If a Board Member fails to attend three (3) proposed meetings in a row on the same topic, provided the calling Board Member does not have reasonable notice that such other Board Member cannot attend at the time so called, then the calling Board Member may send a fourth notice stating that if the other fails to attend, the calling Board Member will take action unilaterally and the non-attending Board Member shall have no vote in the matter (unless the non-attending Board Member provides written notice that they cannot attend within said five business day period). Written correspondence between Board Members (including by e-mail) with unanimous consent may constitute a meeting.

(G) 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 the Board. In carrying out the purposes of the Property and subject to the limitations prescribed by law, the Declaration or these Bylaws, the Board, for and on behalf of the Association, may do the following:

(1) Maintenance, repair, replacement and surveillance of the Property and the Common Elements, as provided in the Declaration.

- (2) Levy of Assessments against the Owners and the collection of same.
- (3) Designation and dismissal of the personnel necessary for the maintenance and operation of the Property and the Common Elements.
- (4) In carrying out the purposes of the Association 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.
 - (c) Effect insurance.
- (5) Subject to Section 5311.25(D) of the Condominium Act, employ a managing agent to perform such duties and services as the Board may authorize.
- (6) Employ lawyers and accountants to perform such legal and accounting services as the Board may authorize.
- (7) Annually, adopt and amend an estimated budget for revenues and expenditures. The budget shall include reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of Special Assessments unless all Unit Owners waive the reserve requirement in writing annually.
- (8) Collect Assessments for Common Expenses.
- (9) Hire and fire managing agents, attorneys, accountants, and other independent contractors and employees that the Board determines are necessary or desirable in the management of the Property and the Association and to perform such services as the Board may authorize.
- (10) Enter into contracts and incur liabilities relating to the operation of the Property.
- (11) Regulate the use, maintenance, repair, replacement, modification and appearance of the Property.
- (12) Adopt and amend rules and regulate the use or occupancy of Units in the maintenance, repair, replacement, modification and appearance of Units, Common Elements

and Limited Common Elements when the actions required by those rules affect Common Elements or other Units, and establish Enforcement Assessments for the infraction thereof.

(13) Purchase, or otherwise acquire, lease as lessee, use, lease as lessor, sell, exchange, transfer, hold title to, operate, manage, and dispose of real property that is not declared to be part of the Property.

(14) Acquire, encumber, convey and otherwise transfer personal property.

(15) Hold in the name of the Association the real property and personal property.

(16) Grant easements, leases, licenses and concessions through or over the Common Elements.

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

(18) Impose interest and late charges for the late payment of Assessments, impose returned check charges.

(19) Pursuant to the Declaration impose reasonable Enforcement Assessments for violations to the Declaration and these Bylaws, and reasonable charges for damages to the Common Elements or other property.

(20) Adopt and amend rules that regulate the collection of delinquent Assessments and the application of payments of delinquent Assessments.

(21) Impose reasonable charges for preparing, recording or copying amendments to the Declaration, resale certificates, or statements of unpaid Assessments.

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

(23) Borrow money and issue, sell or pledge notes and other evidence of indebtedness of the Association and give security for such borrowings, including assigning the Association's right to Common Assessments or other future income to lenders as security for loans to the Association.

(23) Invest excess funds in investments that meet the standards for fiduciary investments under Ohio law.

(24) Exercise all powers that are:

(a) Conferred by the Declaration, these Bylaws or the Board;

(b) Permitted to be exercised by an Ohio not-for-profit corporation; and

(c) Necessary and proper for the government and operation of the Association.

(H) **Removal of Board Members.** Except as otherwise provided herein and in the Condominium Act, the Board may remove any Board Member and thereby create a vacancy in the Board if by order of court such Board Member has been found to be of unsound mind, or if he or she is physically incapacitated.

(I) **Compensation.** The Board shall not receive any salary or compensation for their services, as such, provided nothing herein contained shall be construed to preclude any director from having dealings with the Association in any other capacity and receiving compensation therefore, or from receiving reimbursement for actual expenses incurred in the performance of his/her duties.

ARTICLE III OFFICERS

(A) **Enumeration of Offices.** The officers of the Association shall be a president and a secretary-treasurer and such other officers as the Board may from time to time determine. The same person may hold more than one office.

(B) **Selection and Term.** Except as otherwise specifically provided in the Declaration or by law, the officers of the Association shall be selected by the Board, from time to time, to serve until the Board selects their successors.

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

(D) **Resignation.** Any officer may resign at any time by giving written notice to the other Board Member. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

(E) **Duties.** The duties of the officers shall be as the Board may from time to time determine. Unless the Board otherwise determines, the duties of the officers shall be as follows:

(1) **President.** The president shall have the authority to see that orders and resolutions of the Board are carried out, and shall sign all legal instruments on behalf of the Association.

(2) **Secretary-Treasurer.** The secretary-treasurer shall record the votes and keep the minutes and proceedings of meetings of the Board, keep appropriate current records

showing the names of Unit Owners of the Association together with their addresses, and shall act in the place and stead of the president in the event of the president's absence or refusal to act. The secretary-treasurer shall also assume responsibility for the receipt and deposit in such bank accounts and investment of funds in such vehicles, as the Board directs, the disbursement of such funds as directed by the Board, the keeping of proper books of account, the preparation of an annual budget and a statement of income and expenditures to be presented to the Unit Owners at annual meetings, and the delivery or mailing of a copy of each to each of the Owners.

ARTICLE IV
GENERAL POWERS OF THE ASSOCIATION

(A) Payments from Operating Funds. The Association, for the benefit of all the Owners, shall acquire, and shall pay for out of the Operating Fund hereinafter provided for all Common Expenses arising with respect to, or in connection with, the Property, including, without limitation, the following:

(1) Utility Service for Common Elements. Water, electricity, natural gas and any other necessary utility service for the Common Elements; and the expense of maintaining, repairing and replacing storm and sanitary sewers, water lines and other utilities situated on the Property or servicing the same;

(2) Property Insurance. A policy or policies of Property Insurance, as provided in the Declaration, the amount of which insurance shall be reviewed annually;

(3) Liability Insurance. A policy or policies insuring the Association, the members of the Board and the Owners against any liability to the public or to the Owners incident to the ownership and/or use of the Common Elements and Units, as provided in the Declaration, the limits of which policy shall be reviewed annually;

(4) Workmen's Compensation. Workmen's compensation insurance to the extent necessary to comply with any applicable laws;

(5) Wages and Fees for Services. The 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 Property, the services of any person or persons required for the maintenance of or operation of the Property and legal and/or accounting services necessary or proper in the operation of the Property or the enforcement of the Declaration and these Bylaws and for the organization, operation and enforcement of the rights of the Association.

(6) Care of Common Elements. Maintenance, repair and replacements of the Common Elements as provided in the Declaration, as the Association shall determine are necessary and proper;

(7) Additional Expenses. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and these Bylaws or by

law of which in its opinion shall be necessary or proper for the maintenance and operation of the Property;

(8) **Discharge of Mechanic's Liens.** Any amount necessary to discharge any mechanic's lien or other encumbrances levied against the entire Property or any part thereof which may in the opinion of the Association constitute a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Owners; it being understood, however, that the foregoing authority shall not be in limitation of any statutory provisions relating to the same subject matter. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens shall be specially assessed to said Owners;

(9) **Certain Maintenance of Units.** In addition to the provisions and requirements contained in the Declaration, the Association shall pay, from the Operating Fund, the cost of the maintenance, repair, or replacement of any Unit, item of Owner responsibility, or Limited Common Elements for which the Unit Owner is responsible as defined in the Declaration, if such maintenance, repair, or replacement is necessary, in the Board's sole discretion, for safety, aesthetics, uniformity, or to protect the Common Elements, or any other portion of a building or any other Unit, and the Owner of such Unit or Limited Common Element having the exclusive right to use such has failed or refused to perform such maintenance, repair, or replacement within a reasonable amount of time, as determined by the Board, after written notice of the necessity thereof has been delivered or mailed to such Owner; provided that the Board shall levy a Special Assessment against such Owner for the cost of such maintenance, repair, or replacement;

(10) **Association's Right to Enter Units.** The Association, through its duly authorized agent(s), may enter any Unit or portion of the Limited Common Elements, when necessary, in connection with any construction, maintenance, repair, or replacement for which the Association is responsible or for inspection of the same. The Association or its agent(s) may likewise enter any deck or patio for the purposes of construction, maintenance, repair, or painting. Except in the event of an emergency, the Association shall, to the extent reasonably possible, provide the Owner with prior written notice of any intended entry into the Unit, including the reason(s) therefor. If prior notice is not possible in any given situation, whether due to an emergency or other circumstance(s), the Association shall either send by U.S. regular mail or post on the Unit door, a notice to the Owner to advise of the date, time and purpose for which entry was made. Any damage to the Owner's personal property or the Unit as it existed at time the Property was originally established that arises during the Association's entry into the Unit or during the performance of the needed maintenance, repair, and replacement work shall be repaired by the Association to the extent of its depreciated value and the cost thereof paid from the Association's insurance proceeds or charged as a Common Expense from the Operating Fund unless the Owner has failed or refused to provide a pass key upon request from the Association. In no event shall the Association be responsible for any damage to, or the cost to remove or relocate any betterments or improvements to any Unit or Limited Common

Elements, including, without limitation, any deck or patio enclosure or safety or night latches or other security devices, made to the Unit by any current or past Owner;

(11) **Miscellaneous.** The Association shall pay such other costs and expenses designated as "Common Expenses" in the Declaration and in these Bylaws.

(B) **Rules.** The Board may adopt such reasonable rules and from time to time amend the same as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and Occupants. Written notice of such Rules shall be given to all Owners and Occupants and the Property shall at all times be maintained subject to such Rules. In an action or proceeding brought by the Association against an Owner and/or Occupant to enforce Rules, the Association shall be entitled to collect costs of suit and reasonable attorneys' fees from such Owner and/or Occupant. In the event such supplemental Rules shall conflict with any provisions of the Declaration or of these Bylaws, the provisions of the Declaration and of these Bylaws shall govern.

(C) **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 Owners or any of them.

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

(E) **Applicable Laws.** The Association shall be subject to and governed by the provisions of any statute adopted at any time and applicable to property submitted to the Condominium form of ownership (including without limitation, Chapter 5311, Ohio Revised Code); provided, however, that all inconsistencies between or among the permissive provisions of any statute and any provision of the Declaration and these Bylaws, shall be resolved in favor of the Declaration and these Bylaws, and any inconsistencies between any statute applicable to associations formed to administer property submitted to the Condominium form of ownership, and the Articles or Bylaws of the Association shall be resolved in favor of the statute. In the event of any conflict or inconsistency between the provisions of the Declaration and the Articles or Bylaws of the Association, the terms and provisions of the Declaration shall prevail, and the Owners and all persons claiming under them covenant to vote in favor of such amendments in the Articles or Bylaws as will remove such conflicts or inconsistencies.

ARTICLE V

DETERMINATION AND PAYMENT OF ASSESSMENTS

(A) **Payment of Assessments.** Assessments shall be paid by Owners, including Declarant in its capacity as Owner of any unsold Units, in an amount estimated by the Board as being sufficient to cover the initial working capital requirements for the Association and if such Assessments shall be less than required to meet current Common Expenses (other than Capital Expenses, as defined in Section 3

below), all Owners, including the Declarant in its capacity as Owner of any unsold Units, shall make up any deficiency on a pro rata basis in accordance with their respective Undivided Interest. All such Assessments and payments shall be deposited into the "Operating Fund" of the Association. Said Assessments shall be deposited when received by the Association in an account established in the name of the Association at a bank or savings and loan association in the County. Owners (including Declarant as to unsold units) shall continue to pay such Assessments as aforesaid until revised Assessments are made by the Board.

(B) Reserve for Contingencies and Replacements. In addition to the Operating Fund, the Association shall be obligated to build up and maintain a reasonable reserve fund in conformance with the requirements of the Condominium Act to finance the cost of repair or replacement of the major capital components of the Common Elements that the Association is charged with repairing and replacing (such expenses being "Capital Expenses", and such fund being the "Reserve Fund"). Such Reserve Fund shall be funded by Assessments paid by Owners, including Declarant in its capacity as Owner of any unsold Units, and shall be deposited in a segregated account.

(C) 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 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 of the Owners in proportion to their respective Undivided Interest in the Common Elements as set forth in the Declaration.

(D) Remedies for Failure to Pay Assessments. If an Owner is in default in the monthly payment of the aforesaid charges or Assessments for thirty (30) days, the Board may bring suit for and on behalf of themselves and as representatives of all Owners, to enforce collection thereof or to foreclose the lien therefore as provided in the Declaration. To the extent permitted by the Declaration, any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or Assessments, and interest, costs and fees as above provided shall be and become a lien or charge against the Unit of the Owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate, as provided in the Declaration. Any mortgagee shall be entitled to written notice of such failure to pay such Assessment.

Any encumbrancer may from time to time request in writing a written statement from the Board setting forth the unpaid Common Expenses with respect to the Unit covered by his or her or its encumbrance and unless the request shall be complied with within twenty (20) days, all unpaid Common Expenses which become due prior to the date of the making of such request shall be subordinate to the lien of such encumbrance. Any encumbrancer holding a lien on a Unit may pay any unpaid Common Expenses payable with respect to such Unit and upon such payment such encumbrancer shall have a lien on such Unit for the amounts paid at the same rank as the lien of his or her encumbrance.

ARTICLE VI
BOOKS AND RECORDS

(A) The Association shall keep all of the following:

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

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

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

(4) Records of the names and addresses of the Unit Owners and their respective Undivided Interests in the Common Elements.

(B) Within thirty (30) days after an Owner obtains a Condominium Ownership Interest, the Owner shall provide the following information in writing to the Association through the Board:

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

(2) The name, business address and business telephone number of any person who manages the Owner's Unit as an agent of the Owner.

(C) Within thirty (30) days after a change of any information that this Article requires, an Owner shall notify the Association, through the Board, in writing, of the change. When the Board requests, an Owner shall verify and update the information.

(D) Upon ten (10) days' notice to the Board, and upon payment of a reasonable fee, any Owner shall be furnished a statement of his or her account setting forth the amount of any unpaid Assessments or other charges due and owing from said Owner.

(E) Except as prohibited below, any Member of the Association may examine the books, records and minutes of the Association pursuant to reasonable standards as may be set forth in the Declaration, these Bylaws, or Rules promulgated by the Board, which standards may include, but are not limited to, standards governing the type of documents that are subject to examination, the times and locations of which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents. The Association shall not permit examining and/or copying of any of the following from books, records or minutes unless expressly approved by the Board if the same date back more than five years prior to the date of the request, or if the same contain any of the following:

(1) information that pertains to Property, related personnel matters;

(2) communications with legal counsel or attorney work product pertaining to pending litigation or other condominium related matters;

(3) information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;

(4) information that relates to the enforcement of the Declaration, Bylaws or Rules of the Association against Unit Owners; or

(5) information, the disclosure of which is prohibited by state or federal law.

ARTICLE VII INDEMNIFICATION

(A) **In General.** The Association shall indemnify any member of the Board, officer, employee, or agent of the Association or any former member of the Board, officer, employee or agent of the Association and/or its or their respective heirs, executors and administrators, against reasonable expenses, including attorneys' fees, judgments, decrees, fines, penalties or amounts paid in settlement actually and necessarily incurred by him or her in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, to which he or she is or may be made a party by reason of being or having been such member of the Board, officer, employee or agent of the Association, provided it is determined in the manner hereinafter set forth (a) that such member of the Board, officer, employee or agent of the Association was not, and is not, adjudicated to have been grossly negligent or guilty of willful misconduct in the performance of his or her duty to the Association, (b) that such member of the Board acted in good faith in what he or she reasonably believed to be in the best interest of the Association, (c) that, in any matter the subject of a criminal action, suit or proceeding, such Board member had no reasonable cause to believe that this conduct was unlawful, and (d) in case of settlement, that the amount paid in the settlement was reasonable. Such determination shall be made either by the members of the Board of the Association acting at a meeting at which a quorum consisting of members of the Board who are not parties to or threatened with any such action, suit or proceeding is present, or, in the event of settlement, by a written opinion of independent legal counsel selected by the members of the Board.

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

(C) **Indemnification Not Exclusive; Insurance.** The indemnification provided for in this Article shall not be exclusive, but shall be in addition to any other rights to which any person may be entitled under the Articles of Incorporation, Rules of the Association, any agreement, any insurance provided by the Association, the provisions of Section 1702.12(E) of the Ohio Revised Code, or otherwise. The Association may purchase and maintain insurance on behalf of any person who is or was

a member of the Board, officer, agent or employee of the Association against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

(D) Indemnification by Unit Owners. The members of the Board and officers of the Association shall not be liable to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board and officers of the Association against all contractual liability to third parties arising out of contracts made on behalf of the Association except with respect to any such contracts made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board and officers of the Association shall have no personal liability with respect to contracts entered into on behalf of the Association. Every agreement made by any members of the Board, officer, employee or agent of the Association or by a management company, if any, on behalf of the Association, shall provide that such members of the Board, officer, employee or agent of the Association, or the management company, as the case may be, is acting only as agent for the Association and shall have no personal liability thereunder (except as a Unit Owner), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his or her Undivided Interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements.

(E) Cost of Indemnification. Any sum paid or advanced by the Association under this Article shall constitute a Common Expense and the Association and the Board shall have the power to raise and the responsibility for raising, by special Assessment or otherwise, any sums required to discharge its obligations under this Article; provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of any member of the Board, officer, employee or agent of the Association, or out of the aforesaid indemnity in favor of such member of the Board, officer, employee or agent of the Association, shall be limited to such proportion of the total liability hereunder as said Unit Owner's Undivided Interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements.

ARTICLE VIII GENERAL PROVISIONS

(A) Copies of Notice to Mortgage Lenders; Rights of First Mortgagees.

(1) Upon written request to the Board by any Eligible Mortgage Holder, the Board shall give such mortgage holder a copy of any and all notices permitted or required by the Declaration or these Bylaws to be given to the Owner or Owners whose Unit ownership is subject to such mortgage or trust deed.

(2) An Eligible Mortgage Holder shall be entitled to written notice from the Association of any default by its mortgagor Owner which is not cured within sixty (60) days. Any Eligible Mortgage Holder may from time to time request in writing a written statement from the Board setting forth any and all unpaid Assessments due and owing from its mortgagor Owner

with respect to the Unit subject to the lien of its mortgage and such request shall be complied with within fifteen (15) days from receipt thereof. Any first mortgagee holding a mortgage on a Unit may pay any unpaid Common Expenses assessed with respect to such Unit and upon such payment, such first mortgagee shall have a lien on such Unit for the amounts so paid at the same rank as the lien of its mortgage.

(B) **Service of Notices on the Board of Directors.** Notices required to be given to the Board or to the Association may be delivered to any member of the Board or officer of the Association either personally or by mail addressed to such member or officer at his or her Unit.

(C) **Service of Notices on Deisees and Personal Representatives.** Notices required to be given any devisees or personal representatives of a deceased Owner may be delivered either personally or by mail to such party at his or her, her or its address appearing on the records of the court wherein the estate of such deceased Owner is being administered.

(D) **Non-Waiver of Covenants.** No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these Bylaws 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.

(E) **Agreements Binding.** All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Declaration and these Bylaws shall be deemed to be binding on all Owners, and their respective heirs, executors, administrators, successors and assigns.

(F) **Notices of Mortgages.** Any Owner who mortgages his or her Unit shall notify the Association, in such manner as the Association may direct, of the name and address of his or her mortgagee and thereafter shall notify the Association of the payment, cancellation or other alteration in the status of such mortgage. The Association shall maintain such information in a book entitled "Mortgagees of Units".

(G) **Severability.** The invalidity of any covenant, restriction, condition, limitation or any other provision of these Bylaws, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect the rest of this Declaration.

(H) **Perpetuities and Restraints on Alienation.** If any of the options, privileges, covenants or rights created by these Bylaws shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints or alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of Donald J. Trump, President of the United States of America, or Michael Pence, Vice President of the United States of America.

(I) **Definitions.** The terms used in these Bylaws (except as herein otherwise expressly provided or unless the context otherwise required) for all purposes of these Bylaws and of any amendment hereto shall have the respective meanings specified in Article I of the Declaration.

(J) **Amendments.** Provisions of these Bylaws may be amended by the unanimous vote of all Unit Owners at a meeting held for such purpose.

(K) **Captions.** The captions used in these Bylaws are inserted solely as a matter of convenience and shall not be relied upon and/or used in construing the effect or meaning of any of the text hereof.