

**DECLARATION AND BYLAWS**  
**CREATING AND ESTABLISHING A PLAN FOR**  
**CONDOMINIUM OWNERSHIP**  
**UNDER OHIO REVISED CODE CHAPTER 5311**

**FOR**

**SORRENTO AT HIGHLAND LAKES CONDOMINIUM**

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**CERTIFICATE OF THE DELAWARE COUNTY, OHIO AUDITOR**

September 17, 2013

I certify that of a copy of the Declaration, Bylaws, and Drawings of Sorrento at Highland Lakes Condominium have been filed with the Delaware County, Ohio Auditor.

George Kaitza *TKH*  
Delaware County Auditor

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EXHIBIT I-1

**DECLARATION CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM  
OWNERSHIP UNDER OHIO REVISED CODE CHAPTER 5311 FOR  
SORRENTO AT HIGHLAND LAKES CONDOMINIUM**

**TABLE OF CONTENTS**

<b>ARTICLE I. CONDOMINIUM PROPERTY .....</b>	<b>3</b>
<b>ARTICLE II. NAME.....</b>	<b>4</b>
<b>ARTICLE III. PURPOSES OF THE CONDOMINIUM PROPERTY .....</b>	<b>4</b>
<b>ARTICLE IV. RESTRICTIONS ON USES OF CONDOMINIUM PROPERTY.....</b>	<b>4</b>
1. <u>Rules and Regulations</u> .....	4
2. <u>Structural Integrity</u> .....	4
3. <u>Offensive and Illegal Activities</u> .....	4
4. <u>Discrimination/Handicapped Accommodation</u> .....	4
5. <u>Animals</u> .....	5
6. <u>Signs</u> .....	5
7. <u>Exterior Areas of Units</u> .....	5
8. <u>Unit Uses</u> .....	5
9. <u>Architectural Control</u> .....	6
10. <u>Conveyances</u> .....	6
11. <u>Renting and Leasing</u> .....	6
12. <u>Common Element Uses</u> .....	7
13. <u>Limited Common Elements Uses</u> .....	7
14. <u>Construction in Easements</u> .....	8
15. <u>Vehicles</u> .....	8
16. <u>Replacements</u> .....	8
<b>ARTICLE V. IMPROVEMENT DESCRIPTIONS .....</b>	<b>8</b>
1. <u>Residential Buildings</u> .....	8
2. <u>Other Improvements</u> .....	9
<b>ARTICLE VI. UNITS.....</b>	<b>9</b>
1. <u>Unit Designations</u> .....	9
2. <u>Unit Compositions</u> .....	9
3. <u>Units Are Not Convertible</u> .....	10
<b>ARTICLE VII. COMMON ELEMENTS .....</b>	<b>10</b>
1. <u>Common Elements Description</u> .....	10
2. <u>Limited Common Elements Description</u> .....	10

{00135256-3}

3. <u>Undivided Interests</u> .....	10
<b>ARTICLE VIII. UNIT OWNERS' ASSOCIATION</b> .....	<b>11</b>
1. <u>Establishment of Unit Owners' Association</u> .....	11
2. <u>Membership</u> .....	11
3. <u>Voting Rights</u> .....	11
4. <u>Board of Directors</u> .....	11
5. <u>Association Activities</u> .....	11
6. <u>Other Associations</u> .....	11
<b>ARTICLE IX. AGENT FOR SERVICE</b> .....	<b>12</b>
<b>ARTICLE X. MAINTENANCE AND REPAIR</b> .....	<b>12</b>
1. <u>Association Opportunities/Responsibilities</u> .....	12
2. <u>Unit Owner Responsibility</u> .....	13
<b>ARTICLE XI. UTILITY SERVICES</b> .....	<b>13</b>
<b>ARTICLE XII. INSURANCE AND LOSSES</b> .....	<b>13</b>
1. <u>Unit Owner's Fire and Extended Coverage Insurance</u> .....	13
2. <u>Association's Fire and Extended Coverage Insurance</u> .....	16
3. <u>Association's Liability Insurance</u> .....	18
4. <u>Fidelity Insurance</u> .....	18
5. <u>Other Association Insurance</u> .....	19
6. <u>Insurance Representative: Power of Attorney</u> .....	19
7. <u>Unit Owners' Insurance</u> .....	19
8. <u>Sufficient Insurance</u> .....	19
9. <u>Insufficient Insurance</u> .....	20
10. <u>Lender Requirements</u> .....	20
<b>ARTICLE XIII. DAMAGE; RESTORATION; REHABILITATION AND RENEWAL</b> .....	<b>20</b>
1. <u>Repair or Restoration of Damage to Units</u> .....	20
2. <u>Repair or Restoration of Damage to Common Elements</u> .....	21
<b>ARTICLE XIV. CONDEMNATION</b> .....	<b>21</b>
1. <u>Standing</u> .....	21
2. <u>Payment Use of Proceeds</u> .....	22
3. <u>Power of Attorney</u> .....	23
<b>ARTICLE XV. GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS</b> .....	<b>23</b>
1. <u>Easements of Enjoyment; Limitations</u> .....	24
2. <u>Easements for Encroachments</u> .....	24
3. <u>Easements Reserved to Declarant</u> .....	24

{00135256-3}

4. <u>Easements for Proper Operations</u> .....	25
5. <u>Easement for Support</u> .....	25
6. <u>Easement for Services</u> .....	26
7. <u>Entry for Repair, Maintenance, and Restoration</u> .....	26
8. <u>Power of Attorney</u> .....	26
9. <u>Access Easement</u> .....	26
<b>ARTICLE XVI. ASSESSMENTS AND ASSESSMENT LIENS; RESERVE FUNDS</b> .....	<b>26</b>
1. <u>Types of Assessment</u> .....	26
2. <u>Purpose of Assessments</u> .....	27
3. <u>Assessment Apportionment and Due Dates</u> .....	27
4. <u>Effective Date of Assessment</u> .....	30
5. <u>Effect of Nonpayment of Assessment; Remedies of the Association</u> .....	30
6. <u>Subordination of the Lien to First Mortgages</u> .....	32
7. <u>Certificate Regarding Assessments</u> .....	33
<b>ARTICLE XVII. EXPANSIONS</b> .....	<b>33</b>
1. <u>Reservation of Option to Expand</u> .....	33
2. <u>Limitations on Option to Expand</u> .....	33
3. <u>Maximum Expansion Time</u> .....	33
4. <u>Description of the Additional Property</u> .....	33
5. <u>Composition of Additional Property Portions Added</u> .....	33
6. <u>Time for Adding Portions</u> .....	34
7. <u>Improvement Location Limitations</u> .....	34
8. <u>Maximum Number of Units</u> .....	34
9. <u>Non-Residential Use</u> .....	34
10. <u>Compatibility of Structures</u> .....	34
11. <u>Improvements Other than Structures</u> .....	34
12. <u>Types of Units</u> .....	35
13. <u>Limited Common Elements</u> .....	35
14. <u>Supplementary Drawings</u> .....	35
15. <u>Procedures for Expansion</u> .....	35
16. <u>Effects of Expansion</u> .....	35
17. <u>New Taxes, Assessments, etc.</u> .....	36
18. <u>Successor Owners Not Liable for Actions of Declarant</u> .....	36
<b>ARTICLE XVIII. NOTICES TO AND VOTING RIGHTS OF ELIGIBLE MORTGAGEES</b> .....	<b>36</b>

{00135256-3}

1. <u>Notices</u> .....	36
2. <u>Voting Rights</u> .....	38
3. <u>Approval Rights</u> .....	38
4. <u>Approval by Veterans Administration During Developer Control</u> .....	38
<b>ARTICLE XIX. AMENDMENTS</b> .....	<b>38</b>
1. <u>Power to Amend</u> .....	38
2. <u>Limitation on Right to Amend</u> .....	40
3. <u>Method to Amend</u> .....	40
<b>ARTICLE XX. MISCELLANEOUS PROVISIONS</b> .....	<b>41</b>
1. <u>Covenants Run with the Land</u> .....	41
2. <u>Enforcement</u> .....	41
3. <u>Severability</u> .....	42
4. <u>Limited Warranties</u> .....	42
5. <u>Numbers and Grammar</u> .....	42
6. <u>Captions</u> .....	42

{00135256-3}

**DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SORRENTO AT HIGHLAND LAKES CONDOMINIUM**

This is the Declaration of the Sorrento at Highland Lakes Condominium made as of the 17<sup>th</sup> day of September, 2013, which submits property to the provisions of Ohio Revised Code Chapter 5311 (the "Condominium Act").

**RECITALS**

A. Romanelli and Hughes Building Company, an Ohio corporation ("Declarant"), is the owner in fee simple all of the real property hereinafter described, its improvements, and its appurtenances.

B. Declarant hereby submits this property to condominium ownership under the Condominium Act to establish a site of individually-owned residential units and commonly-owned areas and facilities.

**DEFINITIONS**

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

1. "Additional Property" means the land, its improvements, and appurtenances that may, at a subsequent time, be added to the Condominium Property and become a part of the Condominium. A legal description of the "Additional Property" is attached as Exhibit B and made a part of this definition.

2. "Articles" and "Articles of Incorporation" mean the articles of incorporation, filed with the Secretary of State of Ohio, incorporating the Sorrento at Highland Lakes Condominium Association, Inc. as a not-for-profit corporation pursuant to the provisions of Ohio Revised Code Chapter 1702, as the same may be lawfully amended from time to time (the State of Ohio's not-for-profit corporation statutory act).

3. "Association" and "Sorrento at Highland Lakes Condominium Association, Inc." mean the nonprofit corporation created by the filing of the Articles, which are one and the same as the association created for the Condominium under the provisions of the Condominium Act.

4. "Board" and "Board of Directors" mean those Persons who, as a group, serve as the Board of Directors of the Association.

5. "Bylaws" mean the bylaws of the Association, as the same may be lawfully {00135256-3}

amended from time to time, created for the Condominium pursuant to the provisions of the Condominium Act, and which also serve as the code of regulations of the Association pursuant to the provisions of Ohio Revised Code Chapter 1702. A true copy of the Bylaws is attached as Exhibit G, made a part of this definition, and made part of this Declaration.

6. "Common Elements" means all of the Condominium Property, except that portion thereof described in this Declaration as constituting a Unit or Units, and is that portion of the Condominium Property constituting "Common Elements" of the Condominium under the Condominium Act.

7. "Condominium" and "Sorrento at Highland Lakes Condominium" mean the entire condominium regime for the Condominium Property created under and pursuant to the Condominium Act.

8. "Condominium Act" means the statutory law of the State of Ohio regulating the creation and operations of condominiums and is presently Ohio Revised Code Chapter 5311.

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

10. "Condominium Organizational Documents" means the Articles, the Bylaws, this Declaration, and the Drawings, as the same may be lawfully amended from time to time.

11. "Condominium Property" means the tract of land hereinafter described as being submitted to the Condominium Act, all buildings, structures, and improvements situated thereon, and all easements, rights, and appurtenances belonging thereto. A legal description of "Condominium Property" is attached as Exhibit A.

12. "Declarant" means Romanelli and Hughes Building Company, an Ohio corporation, and its successors, and its assigns, provided the rights specifically reserved to Declarant under the Condominium Organizational Documents shall accrue only to such successors and assigns as are designated in writing by Declarant as successors and assigns of such rights.

13. "Declaration" means this instrument and all of its attachments, through which the Condominium Property is submitted to the provisions of the Condominium Act, as this instrument may be lawfully amended from time to time.

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

{00135256-3}

15. "Drawings" means the drawings for the Condominium, as defined in and required by the Condominium Act, filed simultaneously herewith, as the same may be lawfully amended from time to time.

16. "Eligible Mortgagee" means any mortgagee holding a valid first mortgage on a Unit that delivers written notice to the Association setting forth the name and address of such mortgagee and the Unit on which such mortgagee holds a first mortgage.

17. "Limited Common Elements" means those Common Elements serving exclusively a particular Unit or particular Units, but less than all Units, the enjoyment, benefit or use of which are reserved to the lawful occupants of that Unit or Units either in this Declaration, by the Board, or by any other allowed means, and is that portion of the Condominium Property constituting "Limited Common Elements" of the Condominium under the provisions of the Condominium Act. The reservation or allocation of enjoyment, use, or benefit of "Limited Common Elements" shall not be distinguished by whether the enjoyment, use, or benefit of the "Limited Common Elements" were allocated or granted through this Declaration, by the Board, or by any other allowed means.

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

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

20. "Unit" and "Units" mean (a) that portion or portions of the Condominium Property described as a Unit or Units in this Declaration and designated by Unit designation on the Drawings and (b) that portion of the Condominium constituting a "unit" or "units" of the Condominium under the provisions of the Condominium Act.

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

#### **THE PLAN**

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

#### **ARTICLE I. CONDOMINIUM PROPERTY**

A legal description of the land constituting the Condominium Property, located in the Township of Genoa, Delaware County, Ohio, is attached hereto as Exhibit A and incorporated {00135256-3}

herein by this reference.

## ARTICLE II. NAME

The name by which the Condominium shall be known is "Sorrento at Highland Lakes Condominium."

## ARTICLE III. PURPOSES OF THE CONDOMINIUM PROPERTY

The Condominium is created (a) to establish separate individual parcels from the Condominium Property to which fee simple interests may be conveyed; (b) to establish an Association to administer the Condominium; (c) to create restrictions, covenants, and easements providing for, promoting, and preserving the values of Units and the Common Elements as well as the well-being of Unit Owners and Occupants; (d) to administer and enforce the covenants, easements, charges, and restrictions hereinafter set forth in this Declaration; and (e) to raise funds through assessments to accomplish these purposes.

## ARTICLE IV. RESTRICTIONS ON USES OF CONDOMINIUM PROPERTY

The Condominium and the Condominium Property shall be benefited by and subject to the following restrictions, which shall run with the land as provided under the Condominium Act:

1. Rules and Regulations. In addition to adopting and enforcing rules and regulations in the instances specifically mentioned, the Board may, from time to time, adopt and enforce such further reasonable rules and regulations as it deems necessary or desirable to promote harmony, to serve the best interests of the Unit Owners and the Association, and to protect and preserve the nature of the Condominium and the Condominium Property. In so adopting and enforcing, the Board shall furnish copies of all rules and regulations to all Unit Owners before any rules or regulations shall become effective.

2. Structural Integrity. Nothing shall be done in any Unit, or in, on or to the Common Elements (including the Limited Common Elements), that might impair the structural integrity of any improvement.

3. Offensive and Illegal Activities. No noxious, offensive, or illegal activity shall be carried on in any Unit or upon the Common Elements (including Limited Common Elements). No Unit or Common Element (including Limited Common Elements) may be used in any way or for any purpose that might unreasonably disturb or endanger the health of any Occupant or Unit Owner.

4. Discrimination/Handicapped Accommodation. The Association and Board may not take any action that would discriminate against any Unit Owner in favor of another. Additionally, notwithstanding any provision of this Declaration or any rule or regulation of the {00135256-3}

Board, reasonable accommodation, if necessary to afford a handicapped Person equal opportunity to use and enjoy the Condominium Property shall be allowed, provided, that nothing contained in this Declaration shall be construed to mean or imply that any such accommodation must be at Association cost.

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

6. Signs. No sign of any kind shall be displayed to the public view on the Condominium Property except: (a) on the Common Elements, signs regarding and regulating the use of the Common Elements, provided those signs are approved by the Board; (b) on the interior side of a window of a Unit, one professionally prepared sign not in excess of nine square feet in size, advertising the Unit for sale or rent; and (c) on the Common Elements and model Units, signs advertising the sale and/or rental of Units by Declarant during the period of its sale and rental of Units. If these limitations on use and nature of signs, or any part of them, are determined to be unlawful, only the signs described in clause (a) immediately above shall be permitted after Declarant's period of sales and rental of Units.

7. Exterior Areas of Units. Except for signs allowed immediately above, nothing (a) shall be hung or displayed on windows (except inoffensive interior drapes, curtains, or louvered blinds), (b) placed on the outside walls of a Unit or its building, or (c) otherwise attached the outside of a Unit, or any part thereof unless authorized by the Board or required by law to be permitted, but then subject to the Board's rules and regulations. Further, no awning, canopy, dish, antenna (television, radio, satellite, citizens' band, short wave, or any other type of antenna or transmitter), or any other similar device or ornament, shall be affixed to or placed upon an exterior wall, roof, door, window, patio, porch, balcony, or any part of the same.

8. Unit Uses. Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care, or treatment facility. Notwithstanding the foregoing, (a) an Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees, or invitees personally coming to the Unit),

{00135256-3}

making professional telephone calls or corresponding, in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions; (b) it shall be permissible for Declarant to maintain, during the period of its sale or rental of Units, one or more Units, whether made a part of the Condominium within this Declaration, or added later, as sales and rental models and offices, for storage purposes, and for maintenance purposes.

9. Architectural Control. Except for improvements constructed by Declarant or its designee during the initial construction, no building, fence, wall, other structure, other improvement, or change to an exterior of an existing building, fence, wall, or other structure shall be made or begun until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same are submitted to and approved in writing by the Board or its designated representative or representatives, in its or their sole discretion.

10. Conveyances. Each Unit shall be conveyed or transferred (voluntarily or involuntarily) as a separately designated and legally described freehold estate subject to the terms, conditions, and provisions of the Condominium. The undivided interest of a Unit in the Common Elements shall be conveyed or encumbered with the Unit, even though that interest may not be expressly mentioned or described in the deed, mortgage, or other instrument of conveyance or encumbrance. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an interest in the Common Elements will be void unless the Unit to which that interest is allocated is also transferred to the same transferee in the same transaction. In any instrument conveying an interest in a Unit, creating an encumbrance to a Unit, or in any other document legally describing a Unit, it shall be sufficient to lawfully describe a Unit and its interest in the Common Elements by referring to the Unit's designation in the Condominium and by referring to the appropriate recording references of this Declaration and the Drawings. The right of a Unit Owner to sell, transfer, or otherwise convey that Owner's Unit is not subject to any right of first refusal; any Unit Owner may transfer that Owner's Unit free of that limitation.

To enable the Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Association, in writing, within five days after an interest in that Unit Owner's Unit has been transferred to another Person. Additionally, each Unit Owner agrees to provide a copy of the Condominium Organizational Documents along with all effective rules and regulations to any purchaser of that Unit Owner's Unit.

11. Renting and Leasing. No Unit or part thereof, unless the same is owned by the Association, shall be rented or used for transient or hotel purposes, which is defined as: (a) rental under which Occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; or (b) rental to roomers or boarders, namely, rental to one or more persons of only a portion of a Unit. No lease may be of less than an entire Unit.

Any lease agreement shall be in writing, shall provide that the lease shall be subject in all

{00135256-3}

respects to the provisions of this Declaration and to the rules and regulations promulgated by the Board, and shall provide that the failure by the tenant to comply with the terms of the Condominium Instruments, all rules and regulations promulgated by the Board, and all other lawful rules and regulations shall be a default under the lease. Prior to the commencement of the term of a lease, the Unit Owner shall notify the Board, in writing, of the names of all Occupants as well as the lease duration.

The Board may restrict or limit the number of Units in the Condominium that may be rented out, provided that no such rule shall limit or restrict the right of: (a) an institutional first mortgagee, insurer, or guarantor which takes title to a Unit by deed in lieu of foreclosure, a purchaser at a foreclosure sale, the immediate successor in title to the Unit of an institutional first mortgagee, insurer, guarantor, or purchaser, to rent the Unit(s) so acquired; or (b) Declarant to rent a Unit or Units owned by Declarant.

Any Unit Owner who is renting out that Unit Owner's Unit when the Board decides to limit or restrict renting may continue to rent out that Unit for the remainder of the term of the current lease, up to one year beyond the Board's decision. However, if the Board's restriction or limitation on renting is for purpose (a) below, then the Board need not grandfather any Units under its restriction. Any restriction or limitation on the right to rent out Units shall not discriminate against any Unit Owner over any other. The Board's right to restrict or limit the ability to rent out Units shall be limited to the purpose of either: (a) assuring that the Condominium meets the requirements of institutional first mortgagees and institutional and governmental agency guarantors and mortgage insurers necessary to qualify buyers and owners and/or the Condominium for owner-occupant residential financing; or (b) to maintain the character of the Condominium as primarily being a housing community for owner-occupants.

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

13. Limited Common Elements Uses. Except as specifically provide otherwise herein, those portions of the Common Elements described in this Declaration or shown on the Drawings as Limited Common Elements shall be used and possessed exclusively by the Unit Owners and Occupants of the Unit or Units served by the same, subject to the restrictions on use of Common Elements and Limited Common Elements set forth in this Declaration and such rules and regulations as may from time to time be promulgated by the Board.

{00135256-3}

Non-original items may be hung, placed, displayed, or maintained in Limited Common Elements only when either (a) approved, in writing, by the Board or its designated representative or representatives, in its or their sole discretion or unless (b) that action is authorized by existing rule or regulation adopted by the Board. Notwithstanding any repair or maintenance provision contained in this Declaration to the contrary, the Board may require, as a condition to approval, that the responsibility for repairing and maintaining any addition or improvement shall be the responsibility of the requesting Unit Owner and all future owners of that Unit.

Subject to the rules and regulations adopted by the Board of Directors pursuant to the Condominium Act, the Board may authorize the use of Limited Common Elements for the construction of open, unenclosed patios, hedges, decks, fences, or similar improvements, provided that the improvements are maintained and insured by the Unit Owner of the Unit to which the Limited Common Elements are appurtenant.

14. Construction in Easements. No structure, planting, or other material shall be placed or permitted to remain within the easements for the installation and maintenance of utilities and drainage facilities which may: (a) damage or interfere with the installation and maintenance of utility lines; (b) change the direction of the flow of drainage channels in the easements; or (c) obstruct or retard the flow of water through drainage channels in the easement areas. The Association may maintain utility facilities within the easement areas and delegate that right of maintenance to a public authority or utility.

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

16. Replacements. Any building erected to replace an existing building containing Units shall be newly constructed, be of comparable structure type, size, design, and construction to that replaced, and shall contain a similar number of Units of comparable size to the Units in the building replaced.

#### ARTICLE V. IMPROVEMENT DESCRIPTIONS

1. Residential Buildings. At present there is one (1) residential building. Each residential building constitutes a Unit, and consists of a custom built, single family, ranch-style, stand-alone Unit with a basement, constructed of wood frame construction on poured concrete foundations, with exteriors of a combination of cultured stone, stucco and (sometimes) brick accents, and dimensional asphalt shingle roof. Each Unit has an attached two or three-car garage, an exterior porch or stoop, a basement (some with walk-out access, and either full or partial views), an exterior patio area or deck (or space reserved for the same), some Units may have a loft area which may or may not contain an additional bedroom and bathroom. The residential buildings are located as shown on the Drawings.

{00135256-3}

2. Other Improvements. In addition, the Condominium contains private roadways, driveways, exterior parking areas, drainage retention areas, green and landscaped areas and possibly other ancillary amenities, together with an adjoining private drive leading directly to Highland Lakes Avenue.

## ARTICLE VI. UNITS

1. Unit Designations. Each Unit is legally designated on the Drawings by a number corresponding with the numerical portion of the Unit's street mailing address. The Drawings show the location and designation of each Unit within the Condominium Property. Information concerning the Units, with a listing of proper Unit designations, is shown on the attached Exhibit D. A general description of the composition and approximate interior area of each Unit is set forth on the attached Exhibit E. The location, dimensions, and composition of each Unit are also shown on the Drawings. Each Unit has direct access to the Common Elements, which lead directly to perpetual non-exclusive easements over Sorrento Boulevard, Via Alvito Drive, and Sorrento Court, private streets owned by the Association, which in turn lead directly to Highland Lakes Avenue, a public roadway.

2. Unit Compositions. Each Unit consists of the building, (including, without limitation, all interior space and exterior surfaces) designated by that Unit's designation on the Drawings and all improvements therein, as constructed or as reconstructed in substantial accordance with the original Drawings.

Without limiting the generality of the foregoing, or, as appropriate, in addition to the foregoing, each Unit includes:

(a) all walls (including doors, windows and skylights) the roof, foundation and structural and mechanical components of the Unit (including, without limitation, the exterior porch or stoop and any exterior patio area or deck, and improvements constructed within the patio area or deck, attached garage, and basement) and all interior and exterior surfaces thereof;

(b) all fixtures, equipment and appliances installed for the exclusive use of that Unit, or Limited Common Elements appurtenant to that Unit, whether located inside or outside of the Unit, and all control knobs, switches, thermostats, and electrical outlets exclusively serving the Unit or the foregoing fixtures, equipment and appliances, or installed for the exclusive use of the Limited Common Elements appurtenant to the Unit; and

(c) all plumbing, electrical, heating, cooling, and other utility or service lines, pipes, wires, ducts, conduits, or other systems, which serve that Unit or the fixtures, equipment and appliances which are a part of that Unit, or install for the

{00135256-3}

exclusive use of the Limited Common Elements appurtenant to the Unit; all from the point of connection with service lines serving other Units;

excluding therefrom, however, all of the following items, whether or not located within the bounds of that Unit, (i) all plumbing, (ii) electric, heating, cooling and other utility or service lines, (iii) pipes and accessories thereto, and (iv) wires, ducts and conduits which are not located immediately adjacent to the Unit, or which serve any other Unit.

3. Units Are Not Convertible. No Units are convertible units, as defined and provided in Section 5311.01(Q) of the Condominium Act, and no Unit may be converted into one or more Units or Common Elements, as provided in Section 5311.033 of the Condominium Act.

## ARTICLE VII. COMMON ELEMENTS

1. Common Elements Description. Common Elements include all of the Condominium Property, including all of the land, its improvements, and its appurtenances, except those portions labeled or described herein or on the Drawings as a part of a Unit. Except for easements and rights for maintaining sales and marketing facilities, for repairing and completing improvements in the Condominium, and for access and utility service to the Additional Property, and except in its capacity as a Unit Owner of unsold Units, the Declarant shall not retain any interest in, or have any other right to, any portion of the Common Elements.

2. Limited Common Elements Description. Limited Common Elements include those portions of the Common Elements that are labeled or designated "limited common elements", "limited common areas", or "limited common areas and facilities" on the Drawings or so described in this Declaration, generally including, but not limited to: yard areas adjacent to that Unit and the improvements within those areas, a driveway area in front of each Unit's garage, a sidewalk leading from the driveway or the street to the front door of each Unit, all as further depicted in the Drawings.

Each Limited Common Element is reserved for the exclusive use of the Owners and Occupants of the Unit or Units it is described, designed, or designated herein, or on the Drawings, or on Exhibits hereto, to serve.

3. Undivided Interests. The undivided interest in the Common Elements of each Unit is shown on the attached Exhibit D and, in each case, is based on each Unit having an equal par value of one (1.00) and thus results in each Unit having an equal undivided interest in the Common Elements. The undivided interest in the Common Elements of each Unit shall at all times be calculated by using a fraction, the numerator of which shall be 1, and the denominator of which shall be the total number of Units from time to time in the Condominium. As Additional Property is added to the Condominium as contemplated herein, the undivided interest in the Common Elements for each Unit shall be uniformly reallocated as above provided.

{00135256-3}

The Unit Owners shall own the Common Elements as tenants in common, and that ownership shall remain undivided. No Unit Owner may waive or release any rights in the Common Elements. Further, the undivided interest in the Common Elements of a Unit shall not be separated from the Unit to which it appertains. Any attempted conveyance, encumbrance, judicial sale or other transfer of a Unit Owner's fee interest in Common Elements will be void unless the Unit to which such interest is allocated is also transferred.

The equal nature of the interests in the Common Elements shall not be altered. However, the exact percentage of voting power of any particular Unit may change in conjunction with and as the result of the adding of any or all of the Additional Property to the Condominium if, at a later time, the Condominium is expanded, as hereinafter provided.

#### ARTICLE VIII. UNIT OWNERS' ASSOCIATION

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

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

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

4. Board of Directors. The number, composition, authority, rights, and responsibilities of the Board shall be as provided in the Bylaws. Any rights of Declarant related to the Board's composition are governed by the Bylaws, and those rights are integrated herein by virtue of this reference to the Bylaws, which are attached hereto as Exhibit G.

5. Association Activities. The Association may, at any time, engage in other activities designed to maintain or improve the Condominium. However, the Association is not and shall not have any specific responsibility unless provided by law, in this Declaration, in the Bylaws, or in the Articles. Specifically, the Association shall not be held liable for any loss, cost, or damage arising by failure of the Association to provide security or the effectiveness of security measures it undertakes, if any. The obligation to provide security lies solely with each Unit Owner and Occupant individually.

6. Other Associations. In addition to being a member of the Association, each Unit owner, by virtue of his or her acceptance of a deed for a Unit, will also automatically become a member of the Highland Lakes Association, an Ohio not-for-profit corporation ("Highland Lakes") whose members are the owners of homes and condominium units contained in the {00135256-3}

various residential developments and condominium communities located directly to the south and west of the Condominium and that make up what is known generally as the Highland Lakes development. Each Unit Owner will be bound by the formative documents of Highland Lakes, which generally consist of the deed restrictions, articles of incorporation, a code of regulations and bylaws which is of record at Volume 1036, Page 2202, Recorder's Office, Delaware County, Ohio (the "Highland Lakes Declaration"), as well as any and all procedures, rules, regulations or policies that are, or may be, adopted by Highland Lakes from time to time, including, without limitation, the obligation to pay an annual assessment to Highland Lakes. The Highland Lakes annual assessment is currently \$200 per year, payable every January 1 (the "Highland Lakes Annual Assessment").

#### **ARTICLE IX. AGENT FOR SERVICE**

The name of the Person to receive service of process for the Association is the Association's "Statutory Agent", and that Person's place of business is:

Vincent Romanelli  
148 West Schrock Road  
Westerville, Ohio 43081

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

#### **ARTICLE X. MAINTENANCE AND REPAIR**

1. Association Opportunities/Responsibilities. The Association, in the Board's sole discretion, may allocate funds to maintain, repair, and replace all improvements constituting a part of the Common Elements, including, without limitation, the Limited Common Elements, and including, but not limited to, walkways and utility facilities serving more than one Unit, utility lines which serve one Unit but which are not within that Unit or the Limited Common Elements appurtenant to that Unit, lawns, shrubs, trees, drives and parking areas, entry features, the pond, gazebo and walking path, the irrigation system, and all improvements which are a part of the Common Elements, including the Limited Common Elements, and that do not constitute part of a Unit, provided that the Association shall not be responsible for the cleaning, housekeeping, or irrigation of Limited Common Elements or components thereof, nor for the care or replacement of plantings or other improvements installed by Unit Owners within Limited Common Elements, all of which shall be at the sole cost of the Unit Owner or Owners to which the improvement is appurtenant. To the extent funds are so allocated, the Association shall repair and maintain the Common Elements to the extent not prohibited by Ohio law. The Association shall not be responsible for the cleaning and housekeeping of any Limited Common Elements or components thereof.

The Association shall maintain an adequate reserve fund for the periodic maintenance,  
{00135256-3}

repair, and replacement of improvements to the Common Elements, including the Limited Common Elements. Except to the extent, if any, that a loss is covered by insurance maintained by the Association, and then only to the extent the net proceeds after deductibles are available for that purpose, the Association shall not have any responsibility to pay the cost of repair or maintenance of any Unit or its components, or the cost of repairs, maintenance or replacement of personal property within a Unit, or improvements made by Unit Owners hereafter.

2. Unit Owner Responsibility. Each Unit Owner shall repair and maintain each respective Unit, all its components, any exterior lights directed toward or attached to Limited Common Elements appurtenant to that particular Unit, and improvements made by the Unit Owner. Each Unit Owner shall perform all cleaning and housekeeping on all Limited Common Elements appurtenant to that Unit Owner's Unit. Without limiting the generality of the foregoing, the repair and maintenance responsibility of a Unit Owner shall include repair and maintenance of all structural (foundation, roof, exteriors, etc.) mechanical and electrical systems, and replacement of all windows, screens, and doors, including the frames, sashes, jambs, thresholds, and the hardware therefore.

In the event (a) a Unit Owner shall fail to repair or perform maintenance as required of that Unit Owner, (b) the need for maintenance or repair of any part of any Unit or part of any of the Common Elements or Limited Common Elements is caused by the negligent or intentional act of any Unit Owner or Occupant, (c) the need for maintenance or repair of any part of the Condominium Property results from the failure of any Unit Owner or his, her, or its predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law, the Association may perform the same. If the cost of any such repair or maintenance is not covered by insurance, whether because of a deductible or otherwise, its cost, plus any other fees and penalties assessed pursuant to the rules and regulations of the Board in connection therewith, shall constitute a special individual Unit assessment on the Unit owned by that Unit Owner and on that Unit Owner. The determination that a particular maintenance or repair is necessary or has been caused in the prescribed manner, shall be made by the Board in its sole discretion.

#### **ARTICLE XI. UTILITY SERVICES**

Each Unit Owner, by acceptance of a deed to a Unit, agrees to pay for utility services separately metered, sub-metered or separately charged by the utility company or the Association to that Unit, and to reimburse the Association for that Unit's share of any utility cost that the Association initially pays for or provides. All other utility costs shall be common expenses and paid by the Association. In the event any utility service is not separately metered, the cost thereof shall be a common expense and paid by the Association.

#### **ARTICLE XII. INSURANCE AND LOSSES**

1. Unit Owner's Fire and Extended Coverage Insurance. The Unit Owners shall bear the risk of loss of, and shall obtain and continuously maintain (and shall be responsible for {00135256-3})

providing the Association with evidence of currently effective) fire and extended coverage insurance with respect to, their respective Units and appurtenant Limited Common Elements. Such insurance shall cover all portions of the Units except personal property located therein, all against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard extended coverage endorsements, and all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "Special Form" (formerly known as "all risk") endorsement, where such is available in the locale of the Condominium Property. Such policies shall be written in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable co-insurance clause or provision and not less than one hundred percent (100%) of the current replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage), as determined from time to time by the insurer with guaranteed replacement cost endorsement, and if there is a coinsurance provision, with agreed amount endorsement, and with a deductible not greater than the lesser of \$10,000 or 1% of the face amount of the policy. Unless the Board determines that any of the following is not available at reasonable rates, this insurance shall also:

- (a) provide for coverage for improvements, alterations, fixtures and equipment located within Units; interior walls, windows and doors, and the frames, sashes, jambs and hardware therefore, and any other items of personal property for which coverage is required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium;
- (b) provide that no assessment may be made against a first mortgage lender, or its insurer or guarantor, or against any designee of the foregoing, and that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a first mortgage. The carrier's charter, by-laws or policy may not make loss payments contingent upon action by the carrier's board of directors, policyholders or members, nor may the policy include any limiting clause (other than insurance conditions) which could prevent any unit owner or holder, insurer or guarantor of a first mortgage on a unit, from collecting insurance proceeds.
- (c) be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a current rating of Class A/VIII, or better, as determined by the then latest edition of *Best's Insurance Reports*, or its successor guide, or comparable rating by a nationally recognized rating agency, or such higher rating as may, from time to time, be required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administrator, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium; or, if the

{00135256-3}

insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has an A/VIII or comparable rating, or better rating;

(d) provide that its coverage is primary, and include the Association as a loss payee (as trustee for the use and benefit of the individual Unit Owners and their mortgage holders) or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit Owners and their mortgage holders as their interests may appear.

(e) contain or have attached the standard mortgagee clause commonly accepted by institutional mortgage investors in the area in which the Condominium Property is located, naming the holder, insurer, guarantor or servicer (or their respective successors or assigns) of first mortgages on Units, which must provide that the insurance carrier shall notify the Association and all holders of first mortgages named at least ten (10) days in advance of the effective date of any reduction in, cancellation or lapse of, or substantial change in the policy, and which standard mortgagee clause must further be endorsed to include the Association as a loss payee (as trustee for the use and benefit of the individual Unit Owners and their mortgage holders) or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit Owners and their mortgage holders as their interests may appear;

(f) contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Directors, and all Unit Owners, and the rights of the various parties to collect pursuant to such insurance shall not be prejudiced by the acts or failure to act of any Unit Owner, Director or Officer of the Association, or any person under the control of the Association; and

(g) contain such other endorsements and meet such other requirements as are standard for similar projects in the area, including, without limitation and where available without excessive cost, inflation guard endorsement, building ordinance and law endorsement, and boiler and machinery endorsement where applicable, and such other endorsements as are from time to time, required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium.

The cost of this insurance shall be paid by the respective Unit Owners. In the event that the Owners of a Unit fail to obtain such insurance, or fail to provide the Association with evidence of such continuing insurance prior to the expiration of any previous policy on their

{00135256-3}

Unit, the Association may, but shall not be obligated to, obtain such insurance and charge the costs thereof (plus 10\$ as an administrative fee) against the individual Unit and the Owners of such Unit as a Special Individual Unit Assessment.

2. Association's Fire and Extended Coverage Insurance. The Board shall have the authority to and shall obtain insurance for all buildings and structures and all supplies, machinery, fixtures and equipment and common personal property and supplies now or at any time hereafter constituting a part of the Common Elements or common property of the Association, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard extended coverage endorsements and all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "Special Form" (formerly known as "all risk") endorsement, where such is available in the locate of the Condominium Property, in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable co-insurance clause or provision and not less than one hundred percent (100%) of the current replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage), as determined from time to time by the insurer, with guaranteed replacement cost endorsement or replacement cost endorsement and, if there is a co-insurance provision, with agreed amount endorsement, and with a deductible not greater than the lesser of \$10,000 or 1% of the face amount of the policy. Unless the Board determines that any of the following is not available at reasonable rates, this insurance:

(a) shall provide coverage for improvements, alterations, fixtures and equipment located within Common Elements including any items for which coverage is required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium, which items are not required to be covered by the Unit Owner's policies pursuant to Section 1 of this Article XII;

(b) shall provide that no assessment may be against a first mortgage lender, or its insurer or guarantor, or against any designee of the foregoing, and that any assessment under such policy made against others may not become a lien on a unit and its appurtenant interest superior to a first mortgage. The carrier's charter, by-laws or policy may not make loss payments contingent upon action by the carrier's board of directors, policyholders or members, nor may the policy include any limiting clause (other than insurance conditions) which could prevent any Unit Owner or holder, insurer or guarantor of a first mortgage on a Unit, from collecting insurance proceeds;

(c) shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a current rating of Class A/VII or better,

{00135256-3}

as determined by the then latest edition of *Best's Insurance Reports*, or its successor guide, or comparable rating by a nationally recognized rating agency, or such higher rating as may, from time to time, be required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium; or, if the insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has an A/VIII or comparable rating, or better rating;

(d) shall provide that its coverage is primary (even if a Unit Owner has other insurance that covers the same loss) and be written in the name of the Association (with the Association being a named insured and loss payee) for the use and benefit of the individual Unit Owners and their mortgage holders, or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit Owners and their mortgage holders, as their interest may appear. Each Unit Owner and each Unit Owner's mortgagee, if any, shall be the beneficiaries of the policy in proportion to the undivided interest in Common Elements appurtenant to each respective Unit.

(e) shall contain or have attached the insurance industry's standard mortgagee clause (without contribution) commonly accepted by institutional mortgage investors in the area in which the Condominium Property is located, naming the holder, insurer, guarantor or servicer (or their respective successors or assigns) of first mortgages on Units, which must provide that the insurance carrier shall notify the Association and all holders of first mortgages named at least ten (10) days in advance of the effective date of any reduction in, cancellation or lapse of, or substantial change in the policy, and which standard mortgagee clause must further be endorsed to provide that any loss shall be paid to the Association (or its insurance trustee), as a trustee for each Unit Owner and each such Unit Owner's mortgagee, as their interests may appear;

(f) shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Directors, and all Unit Owners, and the rights of the various parties to collect pursuant to such insurance shall not be prejudiced by the acts or failure to act of any Unit Owner, Director or Officer of the Association, or any person under the control of the Association; and

(g) shall contain provisions recognizing any Insurance Trust Agreement and such other endorsements and meet such other requirements as are standard for similar projects in the area, including, without limitation and where available without excessive cost, inflation guard endorsement, building ordinance and law endorsement, and boiler and machinery endorsement where applicable, and such

{00135256-3}

other endorsements as are, from time to time, required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium.

The cost of this insurance shall be a common expense, payable by the Association. Certificates of Insurance shall be issued to each Unit Owner and mortgagee upon request.

3. Association's Liability Insurance. The Association shall obtain and maintain a comprehensive commercial general liability insurance policy, written on a per-occurrence basis, covering all of the Common Elements and any other areas under the Association's supervision, insuring the Association, the Directors, and the Unit Owners and Occupants, with such limits as the Board may determine, but no less than the greater of (a) the amounts generally required by private institutional mortgage investors for projects similar in construction, location and use, and (b) One Million Dollars (\$1,000,000), for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence.

This insurance shall have the insurance industry's standard mortgagee clause, shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association, the Board, or other Unit Owners and shall include such additional coverages commonly required by private mortgage investors for developments similar in construction, location, and uses including, without limitation, contractual liability, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements and arising out of lawsuits related to employment contracts of the Association, and such additional coverages as are required by The Mortgage Corporation, Federal National Mortgage Association, Department of Housing and Urban Development, Veterans' Administration, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium. Each such policy must provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days prior written notice to the Association, and any named mortgagee, and to each holder of a first mortgage lien upon any Unit.

4. Fidelity Insurance. After such time as Declarant no longer controls the Association, the Board may obtain and maintain, at the Association's cost and as a common expense, a fidelity bond or policy providing coverage for the Association against dishonest acts on the part of Directors, managers, trustees, employees, agents, and volunteers responsible for or handling funds belonging to or administered by the Association. The fidelity bond or policy shall name the Association as the named insured and shall be written in an amount sufficient to provide protection, which is in no event shall be less than the greater of (a) an amount equal to the Association's reserve funds plus three months' assessments on all Units or (b) the maximum amount that will be in the custody of the Association or its managing agent at any time while the bond or policy is in force. In connection with such coverage, an appropriate endorsement to the

{00135256-3}

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

5. Other Association Insurance. In addition, the Board may purchase and maintain, at the Association's cost and as a common expense, contractual liability insurance, directors' and officers' liability insurance, and other insurance as the Board may, in its sole discretion, determine to purchase or maintain.

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

7. Unit Owners' Insurance. Any Unit Owner or Occupant may carry such insurance in addition to that provided by the Association pursuant hereto as that Unit Owner or Occupant may determine, subject to the provisions hereof, and provided that no Unit Owner or Occupant may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried by the Association. In the event any Unit Owner or Occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit Owner who acquired, or whose Occupant acquired, such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss of proceeds. All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and Directors, and all other Unit Owners and Occupants.

8. Sufficient Insurance. In the event the improvements forming a part of the  
{00135256-3}

Common Elements or any portion of the same shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and therefore payable shall be sufficient to pay the cost of repair, restoration, or reconstruction; then such repair, restoration, or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied by the Board in payment therefor.

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

10. Lender Requirements. Notwithstanding any provision to the contrary contained herein, the Association shall maintain such insurance coverage as is required to be obtained by any national, institutional holder, purchaser, guarantor, insurer or servicer of a first mortgage secured by a Unit in the Condominium.

#### **ARTICLE XIII. DAMAGE; RESTORATION; REHABILITATION AND RENEWAL**

1. Repair or Restoration of Damage to Units. In the event of damage or destruction to a Unit, the Owner of such Unit shall be solely responsible for the prompt repair and restoration of such Unit to a condition comparable to that which existed prior to such damage or destruction. Any insurance proceeds in excess of Ten Thousand Dollars (\$10,000) which come into the hands of the Unit Owners or their mortgagees shall be held in trust for, and promptly turned over to, the Association. The Association, or an insurance trustee selected by the Association, shall make any insurance proceeds which come into its possession, available for disbursement in connection with the repair and restoration of the Unit. Such funds shall be disbursed in proportion to the percentage of work completed in such repair and restoration. To the extent that such repair and restoration affects the exterior appearance of a Unit, all plans and specifications for the repair must be approved in accordance with the procedures established by Section 9 of Article IV, and all contractors selected for such repair and restoration are subject to the reasonable approval of the party (either the Declarant or the Board or its designated representative) exercising the right of architectural control.

{00135256-3}

In the event that the Owners of a damaged or destroyed Unit do not promptly commence and diligently pursue the repair and restoration of the Unit to completion, the Association may do so and all costs incurred by the Association, after application of any insurance funds which come into its possession (including, without limitation, attorneys' fees to the extent not prohibited by Ohio law) shall be charged as an Special Individual Unit Assessment against the unrestored Unit and its Owners. Such Special Individual Unit Assessment may be based upon the Association's estimate of all costs which may be incurred by the Association in performing such repair and restoration, which estimate may be made and assessment levied prior to the commencement of any work, and if unpaid within thirty (30) days after assessment, may be secured by a lien against the Unit prior to the commencement of any repairs.

Notwithstanding any provision in this Section to the contrary, the foregoing requirements shall not apply to Units owned by the Declarant, which Units shall be restored by the Declarant without the necessity of depositing funds with the Association nor obtaining any approvals from any other party.

2. Repair or Restoration of Damage to Common Elements. In the event of damage to or destruction of Common Elements (excluding the Limited Common Elements) the Association may, with the prior written consent of Unit Owners entitled to exercise not less than eighty percent (80%) of the voting power of Unit Owners, including the consent of Owners other than the Declarant who hold a majority of the voting power of Units owned by Owners other than the Declarant (for the purposes of the foregoing, such consent with respect to a Unit owned by the Declarant shall not be valid unless prior written consent is obtained from the Eligible Mortgagee of such Unit), and the consent of Eligible Mortgagees of such Units to which at least seventy-five percent (75%) of the votes of Units subject to mortgages held by Eligible Mortgagees appertain, determine not to repair or restore such damage or destruction.

Notwithstanding any such election, and notwithstanding the provisions of Section 5311.14(b) of the Ohio Revised Code (the provisions of this Section being intended to provide otherwise than as provided in the Condominium Act), there shall be no dissolution of the Condominium unless the same is approved by all Unit Owners.

#### ARTICLE XIV. CONDEMNATION

1. Standing. Except as hereinafter provided, the Association (or its designated representative or authorized successor, as trustee) shall represent the Unit Owners in any condemnation or eminent domain proceedings and in negotiations, settlements, and agreements with the condemning authority for acquisition of all or any part of the Condominium Property.

Notwithstanding the foregoing, the Association shall not settle any loss with regard to the taking of a Unit or the Limited Common Elements appurtenant to a Unit, without the consent of the Owners of such Unit. With regard to the settlement of any loss of Common Elements outside {00135256-3}

of Limited Common Elements, the Association shall have the sole and exclusive right to settle the loss with the condemning authority.

2. Payment Use of Proceeds. The Association shall receive all proceeds from condemnation proceedings and settlements, and shall hold the same, after reduction for costs, if any, incurred in obtaining the same, for the use and benefit of the Unit Owners and their respective Eligible Mortgagees in accordance with the following provisions:

(a) Common Elements (excluding Limited Common Elements Yard Areas). Where Common Elements (except for Limited Common Elements yard areas) have been taken, the award or proceeds shall, to the extent feasible, be applied first to the cost of restoring or replacing all damaged or taken improvements in accordance with the Drawings, or in accordance with any new plans and specifications therefor approved by Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Unit Owners, and the Eligible Mortgagees of Units to which at least fifty-one percent (51%) of the votes of Units subject to the Eligible Mortgagees appertain. If the award or proceeds are insufficient for such purpose, the excess cost shall be paid by the Association and, to the extent funds of the Association are insufficient therefor, in the judgment of the Board, such excess cost shall be a common expense and assessed among the Units in the same manner as special assessments for capital improvements are assessed. Except as hereinafter provided, the balance of any such award or proceeds of settlement, if there is an excess, shall be allocated and distributed to the Unit Owners, and their Eligible Mortgagees, as their interests may appear, in proportion to the relative undivided interests of the Units in the Common Elements.

(b) Units or Limited Common Elements Yard Areas. Where Units or Limited Common Elements yard areas have been taken, the Board shall determine that amount of the award which is applicable to the Owners of each Unit suffering loss to such Unit or to the Limited Common Elements yard area appurtenant thereto. If said amount has been determined by the condemning or taking authority, and has been approved by the Owners of the Unit, then such amount shall be presumptively determined to be the amount of damage suffered by such Unit. In the event that the parties fail to agree, such amount shall be determined by arbitration following the rules of the American Arbitration Association. The award or proceeds shall be held by the Association in trust for the benefit of the respective Owners affected. The respective Owners shall be solely responsible for the restoring and replacing of all damaged or taken improvements or areas in accordance with the Drawings, or in accordance with any new plans and specifications approved by the Declarant or the Board in accordance with the procedures established in Section 9 Article IV, and all contractors selected for such repair and restoration are subject to the reasonable approval of the party

{00135256-3}

(either the Declarant or the Board or its designated representative) exercising the right of architectural control. The funds held by the Association with respect to each Unit damages (and the Limited Common Elements yard area appurtenant thereto) shall be released to the Owners of each respective Unit as restoration proceeds, in proportion to the percentage of work completed in such repair and restoration, and the Owners shall pay any additional funds required for the restoration of their respective Units and Limited Common Elements yard areas. Any excess funds shall be distributed to the respective Unit Owners and their Eligible Mortgagees, as their interest may appear.

Notwithstanding the foregoing, in the event that as a result of any such taking, and consequent restoration or replacement, any Unit could not reasonably be restored to a condition comparable to that which existed prior to the taking, or could not be replaced, there shall be allocated and disbursed from such award or proceeds, to each Unit Owner whose Unit cannot be so restored or replaced, and his, her or its respective Eligible Mortgagee, as their interests may appear, such amount as it determined pursuant to the preceding paragraph, to be the portion of the award that is applicable to such Unit and its Limited Common Elements yard area. Thereupon, such Unit or Units, and the Owners thereof, shall be immediately and automatically divested of any interest in the Condominium, the Condominium Property, and the Association, including, without limiting the generality of the foregoing, divestment of an undivided interest, vote, membership in the Association, and liability for common expenses. All such rights and interests shall be reallocated among all other Units and Unit Owners in the same relative proportions as those rights and interests were prior to such taking. To illustrate, upon a Unit being divested from the Condominium, (a) the voting right of that Unit will be equally allocated among all other Units, since each Unit prior thereto had an equal vote, and (b) the undivided interest of that Unit will be reallocated among all other Units in the proportions of their relative undivided interests prior to such taking.

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

#### **ARTICLE XV. GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS**

Unless specifically limited otherwise, the following easements shall run with the land, pass with the title to the benefited properties, shall be appurtenant to the properties benefited, shall be enforceable by the owners of the properties benefited, and shall be perpetual. The easements and grants provided shall in no way affect any other recorded grant or easement.

{00135256-3}

Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed of conveyance, in any mortgage, or in any other evidence of obligation shall not defeat or constitute an intention not to reserve said rights or easements, but the same shall be deemed conveyed or encumbered, as the case may be, along with the Unit.

1. Easements of Enjoyment; Limitations. Every Unit Owner shall have a right and easement of enjoyment in, over, and upon the Common Elements; an unrestricted right and easement for access to and from that Unit Owner's Unit, a right and easement for utilities serving that Unit; and a right and easement across the adjoining Owners yard area for the cleaning and maintenance of his, her or its windows and exterior portions of the Owner's Unit; which rights and easement shall be appurtenant to and shall pass with the title to a Unit, subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Elements and the Limited Common Elements, provided that no such rule or regulation shall limit or prohibit the right to maintain such Owner's Unit, the right to utility services or the right of ingress and egress to a Unit, or any part thereof, or to that Unit's Limited Common Elements. Any Unit Owner may delegate that Unit Owner's right of enjoyment to the Common Elements and to ingress to and egress to the members of the Unit Owner's family and to Occupants.

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

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

(a) for two-years from the date of the closing of the first sale of a Unit to a bona fide purchaser, to access any part of the Condominium Property for the purpose of completing improvements for which provision is made in this Declaration, provided that such right of access shall be to the extent, but only to the extent, that other access is not otherwise reasonably available;

(b) for the periods provided for warranties in this Declaration or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with Unit Owners;

(c) for the initial sales and rental period, to maintain and utilize one or more Units along with its appurtenances, for sales offices, management offices, storage,

{00135256-3}

maintenance, model Units, parking areas for sales and rental purposes, and advertising signs;

(d) for the maximum length of time allowed by law, no shorter time than the length of time that the Declarant, its successors and assigns, have the right to expand the Condominium, to extend and otherwise make available utilities from the Common Elements onto the Additional Property, and thereafter to service the same; and

(e) unless and until, if ever, the Condominium has been expanded to encompass any of the Additional Property, to Unit Owners and Occupants of all or any added part of the Additional Property, for pedestrian and vehicular access over the streets and walkways that may from time to time be a part of the Condominium Property, for ingress to and egress from the added Additional Property, and each added part. Additionally, the Association, at all times, shall maintain an unimpeded route of vehicular and pedestrian ingress and egress over and upon the Condominium Property to and from the added Additional Property and a public street.

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

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

5. Easement for Support. Every portion of a building, utility line, or any  
{00135256-3}

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

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

7. Entry for Repair, Maintenance, and Restoration. The Association shall have a right of necessary entry and access to, over, upon, and through all of the Condominium Property, including each Unit and the Limited Common Elements, to enable the Association to perform its obligations, rights, and duties with regard to maintenance, repair, restoration, and/or servicing of any items or areas of or in the Condominium Property. In the event of an emergency, the Association's right of entry to a Unit and its appurtenant Limited Common Elements may be exercised without notice; otherwise, the Association shall give the Unit Owner or Occupants of a Unit no less than twenty-four (24) hours advance notice prior to entering a Unit or its appurtenant Limited Common Elements for the purpose of maintenance, repair, restoration, or service.

8. Power of Attorney. Each Unit Owner, by acceptance of a deed to a Unit, appoints the Association (or its designated representative) as that Unit Owner's attorney-in-fact, to execute, deliver, acknowledge, and record, for and in the name of such Unit Owner, such deeds of easement, licenses, permits, and other instruments as may be necessary or desirable, in the sole discretion of the Board (or its authorized representative) to further establish or effectuate the foregoing easements and rights. This power is for the benefit of every Unit Owner, the Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

9. Access Easement. A non-exclusive perpetual easement over and upon any property added from the Additional Property is reserved to each Unit Owner, their respective invitees and licensees, and the Occupants of each Unit for the purpose of effective Association management, if, only to the extent of, and only if the Declarant adds that property to the Condominium.

#### **ARTICLE XVI. ASSESSMENTS AND ASSESSMENT LIENS; RESERVE FUNDS**

1. Types of Assessment. The Declarant covenants and agrees, and each Unit Owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association: (a) operating assessments, (b) special assessments for capital improvements, and (c) special individual Unit assessments, all of which {00135256-3}

are established and collected as hereinafter provided.

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

3. Assessment Apportionment and Due Dates.

(a) Operating Assessments.

(i) The Board shall establish an estimate for the remainder of the Association's first fiscal year (and before the beginning of each subsequent fiscal year for that upcoming fiscal year) the common expenses of the Association consisting of the following:

- (1) that period's estimated cost of the maintenance, repair, and other services to be provided by the Association;
- (2) that period's estimated costs for insurance premiums to be provided and paid for by the Association;
- (3) that period's estimated costs for utility services not separately metered or charged to Unit Owners;
- (4) the estimated amount required to be collected to maintain a working capital reserve fund, to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Board, but in no event less than an amount equal to two months currently estimated assessments on all Units;
- (5) an amount deemed adequate by the Board, in its sole discretion and without a vote of the Unit Owners, to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained; and
- (6) that period's estimated costs for the operation, management, and administration of the Association, including, but not limited to fees for property management; fees for legal and accounting services; costs of mailing, postage, supplies, and materials for operating the

{00135256-3}

Association; the salaries, wages, payroll charges and other costs to perform these services; and any other costs constituting common expenses not otherwise specifically excluded.

- (7) the Highland Lakes Annual Assessment as set forth herein in Section 6, Article VIII (which is subject to change by Highland Lakes from time to time).
- (ii) The Board shall then allocate to each Unit that Unit's share of all of these items, prorated in accordance with each respective Unit's undivided interest in the Common Elements, establishing the operating assessment for each separate Unit. For administrative convenience, any such assessment may be rounded so that monthly installments will be in whole dollars.
- (iii) Operating assessments shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying assessments in annual, semiannual, quarterly, or monthly increments. The due dates of any such installments shall be established by the Board, or, if it fails to do so, an equal monthly prorata share of the annual operating assessment for a Unit shall be due the first day of each month. The Association will not pay interest for pre-payment of assessments.
- (iv) If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units and their Owners on the same basis as heretofore set forth.
- (v) If operating assessments collected during any period are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves or reductions in future assessments, as determined by the Board, in its sole discretion, and shall in no event be deemed profits nor available for distribution to Unit Owners, except upon dissolution of the Association.
- (vi) As long as the Declarant controls the Association, Declarant shall not use any part of the working capital reserve fund to defray Declarant's expenses, reserve contributions, or construction costs, or to make up any budget deficits, and shall maintain the working capital reserve fund in a segregated account and transfer the same

{00135256-3}

to the Association for deposit into a segregated account at or prior to the time Unit Owners other than Declarant control the Association. The Association may not have a deficiency in funds when the Unit Owners take control of the Association.

Each Unit's share of the working capital reserve fund shall be collected at the time the sale of the Unit is closed, without prejudice to Declarant's right to recover its contribution from purchasers of Units.

(b) Special Assessments for Capital Improvements.

- (i) In addition to the operating assessments, the Board may at any time, levy special assessments to construct, reconstruct, or replace capital improvements on the Common Elements to the extent that reserves are insufficient, provided that new capital improvements not replacing existing improvements (except new capital improvements required to comply with applicable law or governmental regulation, or to correct any deficiency or defect creating a safety or health hazard to Occupants) shall not be constructed nor funds assessed if their cost in any fiscal year would exceed an amount equal to five percent (5%) or more of that fiscal year's budget, without the prior consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners and the consent of Eligible Mortgagees.
- (ii) Any special assessment for capital improvements shall be prorated among all Units and their Owners in proportion to the respective undivided interests of the Units in the Common Elements, and shall become due and payable on the date or dates the Board determines following written notice to all Unit Owners.

(c) Special Individual Unit Assessments. The Board may levy special assessments against an individual Unit, or Units, and its Unit Owner or Unit Owners, to reimburse the Association for those costs incurred in connection with that Unit or Units properly chargeable to a particular Unit (including, but not limited to, the cost of making repairs that were the responsibility of a Unit Owner, the cost of insurance premiums separately billed to a Unit Owner; the cost of cleaning debris from and the housekeeping of a Unit or that Unit's Limited Common Elements where, in the opinion of the Board, the Owner has allowed the same to become unsightly; costs incurred by the Association in repairing Units or Limited Common Elements where the Unit Owners fail to do so as required hereunder (less any insurance proceeds received by the Association in connection

{00135256-3}

therewith); penalties and charges imposed pursuant to Rules and Regulations of the Board for violations of the Declaration, By-Laws and Rules and Regulations; and a Unit Owner's enforcement and arbitration charges including, without limitation, the costs and attorneys' fees involved in bringing actions to enforce the terms of the Declaration, By-Laws, Rules and Regulations. Any special individual unit assessment shall be due and payable on the date as the Board determines, as long as written notice from the Board precedes the due date.

Additionally, during the first five (5) years of the Condominium's existence or until such time as real estate taxes and assessments are split into separate tax bills for each Unit, whichever is earlier, the Association shall have the right to pay the real estate taxes and assessments attributable to the Condominium Property in the event the same have not been paid when due, and assess respective Unit Owners that Unit's share of such real estate taxes and assessments as a special individual Unit assessment. The share of those particular taxes and assessments attributable to a Unit shall be computed by multiplying the total taxes and assessments for all of the Condominium Property by the undivided interest in Common Elements attributable to that Unit. The calculation by the Association of the Units' and its Unit Owners' shares of taxes and assessments shall be binding upon all Unit Owners.

4. Effective Date of Assessment. Any properly administered assessment shall be effective if written notice of its amount is sent by the Board to the Unit Owner subject to the assessment at least ten (10) days prior to the assessments due date, or if to be paid in installments, the due date of the first installment. Written notice mailed or delivered to a Unit Owner's or Unit Owners' Unit shall constitute notice to that or those Unit Owners, unless a Unit Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address of a particular Unit Owner shall constitute notice to that Unit Owner.

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

(a) If any installment or portion of any installment of an assessment is not paid within at least ten (10) days after the same is due, the entire unpaid balance of the assessment shall immediately become due and payable, without demand or notice, unless the Board, in its sole discretion, determines not to accelerate the installment. The Association shall credit all payments received from a Unit Owner in the following priority: (1) to interest; (2) to administrative late fees; (3) to collection costs, attorney fees, and paralegal fees; and (4) to the principal amounts owed to the Association for common assessments, enforcement assessments, penalty assessments or any other charges owed to the Association.

(b) If any installment or portion of any installment of an assessment is not paid within at least ten (10) days after the same is due, the Board, at its option, and without demand or notice, may (1) charge interest on the entire unpaid

{00135256-3}

balance (including the accelerated portion thereof) at such rate as the Board, from time to time, establishes by rule; or if the Board fails to establish a rate by rule, at the rate of eight percent (8%) per annum, (2) charge a reasonable, uniform late fee, as established from time to time by the Board, by rule, and (3) charge the cost of collection, including attorney fees and other out-of-pocket expenses.

(c) All assessments, together with interest, late fees, and costs, including attorney fees, shall be a charge in favor of the Association upon the Unit against which each such assessment is made.

(d) At any time after any assessment, installment of an assessment, or portion of any installment of an assessment remains unpaid for thirty (30) or more days after the same has become due and payable, a certificate of lien for the unpaid balance of that assessment, including all future installments, interest, late fees, and costs, including attorney fees, may be filed with the Delaware County, Ohio Recorder, pursuant to authorization given by the Board. The certificate shall contain a description or other sufficient legal identification of the Unit against which the lien exists, the name or names of the record Unit Owner or Unit Owners, and the amount of the unpaid portion of the assessments and charges. The same shall be signed by the president or other designated representative of the Association. The lien amount may include all assessments chargeable against the Unit, interest, administrative late fees, enforcement assessments, collection costs, attorney fees, and paralegal fees.

(e) The aforementioned lien shall become effective from the time a certificate of lien or renewal certificate is duly filed, and shall continue for a period of five (5) years unless sooner released or satisfied in the manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of a court in an action brought to discharge the lien.

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

(g) Each assessment, together with interest, late fees and costs, including attorney fees, shall also be the joint and several personal obligation of the Unit Owner(s) who owned the Unit at the time when the assessment fell due. The

{00135256-3}

obligation for delinquent assessments, interest, late charges, and costs shall not be the personal obligation of that or those Unit Owner(s)' successors in title unless expressly assumed by the successors, or required by applicable law, provided, however, that the right of the Association to a lien against that Unit, or to foreclose any lien thereon for these delinquent assessments, interest, late charges, and costs shall not be impaired or abridged by reason of the transfer, but shall continue unaffected, except as provided in Paragraph 6 of this Article.

(h) The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees and costs, including attorney fees; bring or join in an action at law against the Unit Owner or Owners personally obligated to pay the same, and an action to foreclose a lien; or effect any one or more of these.

In any foreclosure action, the Unit Owner(s) affected shall be required to pay a reasonable rental for that Unit during the pendency of such action. In any foreclosure action involving Units, the Association shall be entitled to become a purchaser at the foreclosure sale. In any such foreclosure action, interest and costs of such action (including attorney fees) shall be added to the amount of any such assessment, to the extent permitted by Ohio law.

(i) No claim of the Association for assessments and charges shall be subject to setoffs, offsets, counterclaims or cross-claims, including, without limitation, that the Association has failed to provide the Unit Owner with any service, goods, work or materials, or failed in any other duty.

(j) No Unit Owner(s) may waive or otherwise escape liability for the assessments provided for in this Declaration by not using the Common Elements or any part of the same or by abandoning that Owner's Unit.

(k) Regardless of their procedural character, assessments run with the land and are necessary to continue the care, repair, and maintenance of Units and their undivided interests in the Condominium Property. Accordingly, assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

6. Subordination of the Lien to First Mortgages. The lien of the assessments and charges provided for in this Declaration shall be subject to and subordinate to the lien of any duly executed first mortgage on a Unit recorded prior to the date on which such lien of the Association arises, and any holder of such first mortgage that comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid installments of assessments and charges against the mortgaged Unit which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all {00135256-3}

other cases, to the date legal title vested in the successor owner. The foregoing will not relieve any successor Unit Owner from the obligation to pay assessments accruing after gaining ownership.

7. Certificate Regarding Assessments. The Board shall, upon request, for a reasonable charge, furnish a certificate signed by the president, treasurer, secretary, or other designated representative of the Association, stating the payment status of assessments on a particular Unit. This certificate shall be conclusive evidence of payment of any assessment that the Certificate states to have been paid.

## ARTICLE XVII. EXPANSIONS

1. Reservation of Option to Expand. Notwithstanding any provision in this Declaration to the contrary, the Declarant expressly reserves the option to expand the Condominium Property by amendment(s) to include all or part of the Additional Property (without any consent to such amendment being required by any other party) as provided in this Article.

2. Limitations on Option to Expand. There are no limitations on Declarant's option to expand the Condominium Property except as provided in this Article or elsewhere in this Declaration. Except as otherwise so expressly limited, Declarant has the exclusive right, power, and authority to expand the Condominium Property. Specifically, the consent of any Unit Owners or Owners is not required for Declarant to exercise its option to expand.

3. Maximum Expansion Time. Declarant's option to expand the Condominium Property shall expire and terminate at the end of seven (7) years from the date this Declaration is filed for record. Notwithstanding the foregoing, Declarant may extend its option to expand the Condominium Property for an additional seven (7) years if it exercises that right to extend within six months prior to the expiration of that initial seven (7) year period, with the consent of the majority of the Unit Owners other than Declarant. Declarant exercises its right to extend through a writing addressed to the Association.

Declarant shall have the right to waive its option to expand at any time in an unequivocal writing addressed to the Association dedicated solely to that waiver. There are no other circumstances that will terminate the option to expand prior to the expiration of the seven years.

4. Description of the Additional Property. A legal description, by metes and bounds, of all of the land that is part of the Additional Property, and that, through exercise of Declarant's option, may be submitted to the Condominium Act and thereby added to the Condominium Property is attached as Exhibit B hereto.

5. Composition of Additional Property Portions Added. Neither all nor any portion of the Additional Property must be added to the Condominium Property, nor, if any of the Additional Property is added, shall it be required that a particular portion of the Additional  
{00135256-3}

Property must be added. This Article provides the exclusive method of adding any part or all of the Additional Property to the Condominium. All improvements to the Additional Property shall be added to the Condominium Property shall be substantially completed prior to the addition. There are no limitations fixing the boundaries of portions added or regulating the order in which portions are added.

6. Time for Adding Portions. Portions of the Additional Property may be added to the Condominium Property from time to time, and at different times, in any order selected by the Declarant. There are no limitations on the addition of Additional Property.

7. Improvement Location Limitations. There are no established or defined limits on the location of any improvements that may be made on any portion of the Additional Property added to the Condominium Property, outside those imposed by law.

8. Maximum Number of Units. The maximum, total number of Units that may be created on the Additional Property and added to the Condominium Property is forty-one (41), thereby permitting the Condominium to be expanded to include a maximum of forty-two (42) Units. The foregoing shall neither limit nor restrict the number of dwelling units or other improvements that may be constructed on all or any portion of the Additional Property that is not added to the Condominium Property.

There is no limit as to the maximum number of Units per acre that may be created on any portion of the Additional Property added to the Condominium Property, except that the total number of Units that may be constructed on the Additional Property and added to the Condominium may not exceed forty-one (41).

9. Non-Residential Use. All Units added to the Condominium on the Additional Property shall be residential.

10. Compatibility of Structures. All structures erected on all or any portion of the Additional Property and added to the Condominium Property will be consistent and reasonably compatible with, but need not be substantially identical to, the Units that are initially a part of the Condominium Property in terms of quality of construction, principal materials used, architectural style, and design and must meet the basic criteria for all Units set forth on Exhibit E attached hereto. Declarant has reserved the right to change the sizes, layouts and composition of all future Units, provided that architectural style and quality of all such future Units must be compatible to that in the initial phase. In addition, it is anticipated that subsequent phases will add additional private roadways, driveways, exterior parking areas, drainage retention areas, green and landscaped areas and possibly other amenities.

11. Improvements Other than Structures. If all or a portion of the Additional Property is added to the Condominium Property, no particular non-structural improvements need be included. However, if non-structural improvements are included, they shall be of substantially the same kind, style, design, and quality as those improvements then on the {00135256-3}

Condominium Property.

12. Types of Units. With respect to those Units that may be constructed on the Additional Property and added to the Condominium Property after the Units then on the Condominium Property there are no limitations as to what types of Units may be created on the Additional Property, provided that the architectural style, design and quality are reasonably compatible to that of the Units then on the Condominium Property.

13. Limited Common Elements. Declarant reserves the right with respect to all or any portion of the Additional Property added to the Condominium Property to create Limited Common Elements of substantially the same type and size as those areas now so designated as Limited Common Elements. The Declarant may designate any areas in the Additional Property as Common Elements that may later be designated Limited Common Elements.

14. Supplementary Drawings. Attached as Exhibit F is a sketch drawing showing the general location and physical relationship between the Condominium Property and the Additional Property. When Declarant adds all or any portion of the Additional Property to the Condominium Property, Declarant shall file drawings with respect to the Additional Property as required by the Condominium Act.

15. Procedures for Expansion. Adding all or any part of the Additional Property shall be accomplished by the Declarant's filing of amendment(s) to the Declaration that contains the information and drawings with respect to the Additional Property and its improvements added, along with any other requirements provided by the Condominium Act.

16. Effects of Expansion. Upon the filing, consistent with the Condominium Act, of any amendment to the Declaration adding all or any portion of the Additional Property to the Condominium Property:

(a) the added portion shall be subject to and benefited by all of the terms and provisions of this Declaration, to the same extent and with the same effect as if that added portion had previously constituted part of the Condominium Property. Specifically, the rights, easements, covenants, restrictions, and assessment plan set forth in this Declaration shall run with, bind, and benefit the added portion in the same manner, to the same extent, and with the same force and effect as the terms of this Declaration apply to the Condominium Property. Additionally, non-exclusive easements are reserved to Declarant over and upon the Common Elements and Limited Common Elements in property added to the Condominium (1) for a two year period of time from the date of the closing by Declarant of the first sale of a Unit in that property added to a bona fide purchaser, for access to and for the purpose of completing any improvements in that portion added, (2) for the periods provided for warranties, or by law, for purposes of making repairs required pursuant to warranties, and (3) for the initial sales and rental period for Units in that property added, to maintain and utilize one or more of those Units

{00135256-3}

and its appurtenances for sales offices, management offices, storage, maintenance, model Units, parking areas for sales and rental purposes, and advertising signs;

(b) the Unit Owners in the added portion shall become members, to the same extent, with the same effect, subject to the same obligations, and imbued with the same rights, as all other Unit Owners, including, without limiting the generality of the foregoing, one vote for each Unit owned by that Unit Owner or those Unit Owners in the Association;

(c) the undivided interests of Units in the Common Elements, as so expanded, shall be reallocated on the basis of one Unit equals one vote among all Units in the Condominium, including those added by any expansion;

(d) with respect to Units added, annual operating assessments shall commence the later of (1) the first day of the calendar month immediately after the date the documents adding the Units were duly recorded or (2) the date established by the Association for the commencement of any operating assessment, with proration based on the number of full calendar months remaining in the year for which the operating assessments were levied; and

(e) in all other respects, all of the provisions of this Declaration shall include and apply to the added portions, and to the Unit Owners, mortgagees, and lessees of those added portions, with equal meaning and of identical force and effect.

17. New Taxes, Assessments, etc. Declarant shall pay or otherwise satisfactorily provide for all taxes and assessments then due and owing, mechanics' liens, and other charges affecting the Additional Property before the same is made a part of the Condominium.

18. Successor Owners Not Liable for Actions of Declarant. A successor owner of the Condominium Property and/or Additional Property who is not an affiliate of Declarant or "developer," as defined in the Condominium Act, and who is a bona fide purchaser of any portion of the Condominium Property for value, or a purchaser who acquires any portion of the Condominium Property at a sheriff's sale or by deed in a lieu of a foreclosure, is not liable in damages for harm caused by an act or omission of the Declarant or developer or a breach of an obligation by the Declarant or developer, all as further provided in Section 5311.05(C)(15) of the Condominium Act.

#### **ARTICLE XVIII: NOTICES TO AND VOTING RIGHTS OF ELIGIBLE MORTGAGEES**

1. Notices. Any Eligible Mortgagee, upon written request to the Association, (which request states the name and address of such Eligible Mortgagee and sufficiently designate and describe the applicable Unit) shall be entitled to timely written notice by the Association of:

(a) any proposed addition to, change in, or amendment of the Condominium  
{00135256-3}

Organizational Documents of a material nature, including any addition to, change in, or amendment of any provision establishing, providing for, governing, or regulating: (1) voting rights; (2) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or priority of assessment liens; (3) reductions in reserves for maintenance, repair, and replacement of Common Elements; (4) responsibility for maintenance and repairs; (5) reallocation of interests in the Common Elements (specifically including the Limited Common Elements), or rights to their use; (6) redefinition of boundaries of any Unit; (7) convertibility of Units into Common Elements or vice versa; (8) expansion or contraction of the Condominium or the addition, annexation, or withdrawal of property to or from the Condominium; (9) hazard or fidelity insurance requirements or coverage; (10) imposition of any restrictions on the leasing of Units, (11) imposition of any restrictions on a Unit Owner's right to sell or transfer that Unit Owner's Unit; (12) a decision by the Association to establish self-management if professional management had been required previously by the Condominium Organizational Documents or by an Eligible Mortgagee; (13) restoration or repair of the Condominium Property after damage or partial condemnation in a manner other than specified in the Condominium Organizational Documents; (14) termination of the legal status of the Condominium after substantial destruction or condemnation; or (15) benefits to mortgage holders, insurers, or guarantors. No addition to, change in, or amendment of the Condominium Organizational Documents shall be considered material if it is for the purpose of correcting technical errors or for clarification only;

(b) any proposed decision or action that: (1) terminates professional management and establishes self-management when professional management has been required previously by an Eligible Mortgagee; (2) causes restoration or repair of the Condominium Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Organizational Documents; (3) substantial damage or destruction not be restored; (4) the Condominium Property be renewed or rehabilitated; (5) significant new capital improvements not replacing existing improvements be constructed; or (6) would, without addition to, change in, or amendment of the Condominium Organizational Documents, make any change with respect to the items described in subparagraph (a) of Section 1 of this Article; and

(c) (1) any condemnation or casualty loss that affects either a material portion of the Condominium Property or the Unit securing its mortgage; (2) any delinquency for sixty (60) days in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage; (3) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and (4) any proposed action that requires the consent of a specified percentage of

{00135256-3}

Eligible Mortgagees. A holder, insurer, or guarantor of a first mortgage lien on a Unit which has sent a written request to the Association stating both its name and address and the Unit Designation or address of the Unit on which it holds, insures, or guarantees the mortgage shall be entitled to timely written notices of the events described in this subsection (c) for the particular Unit so designated.

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

3. Approval Rights. Notwithstanding any other provision, if a federal or other nationally broad-based institutional mortgagee, guarantor, or insurer of residential home loans:

- (a) holds, insures, or guarantees payment of all or part of a mortgage secured loan on one or more Units in the Condominium;
- (b) has not approved a particular plan of expansion of the Condominium to which a proposed addition to the Condominium conforms; and
- (c) requires approval of proposed additions to the Condominium;

neither the Additional Property, nor any part thereof, may be added to the Condominium without the prior written consent of such holder, insurer, or guarantor.

4. Approval by Veterans Administration During Developer Control. Notwithstanding any other provision in this Declaration, if the Condominium has been approved by the Department of Veterans Affairs, and while the Declarant is in control of the Association, any amendment (except those aiding the expanding of the condominium in accordance with the provisions of Article XVII of this Declaration) must be approved by the Secretary of the Department of Veterans Affairs.

#### ARTICLE XIX. AMENDMENTS

1. Power to Amend. Except as otherwise specifically provided in this Article, additions to, changes in, or amendment of this Declaration (or the other Condominium Organizational Documents) or the taking of any of the actions which require the consent of Eligible Mortgagees exercising not less than fifty-one percent (51%) of the Voting Power of Units subject to mortgages held by Eligible Mortgagees, as provided elsewhere herein, shall, in

{00135256-3}

addition to such consents of Eligible Mortgagees, require the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners.

Notwithstanding the foregoing:

(a) the consent of all Unit Owners shall be required for any amendment effecting a change in:

- (i) the boundaries of any Unit;
- (ii) the undivided interest in the Common Elements appertaining to a Unit or the liability for common expenses appertaining thereto;
- (iii) the number of votes in the Association appertaining to any Unit; or
- (iv) the fundamental purposes to which any Unit or the Common Elements are restricted;

(b) the consent of Unit Owners exercising not less than one hundred percent (100%) of the voting power of Unit Owners shall be required to terminate the Condominium;

(c) in any event, subject to the provisions of Section 5311.05(E) of the Condominium Act granting the Board of Directors certain rights to amend the Declaration, each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant a power of attorney, which right and power is coupled with an interest and runs with the title to the respective Unit and is irrevocable:

- (i) to Declarant, for so long as Declarant owns any Unit, to amend the Condominium Organizational Documents, to the extent necessary to (i) conform to the requirements then governing the making of a mortgage loan or the purchase, guaranty, or insurance of mortgages by an institutional lender or an institutional guarantor or insurer of a mortgage on a Unit, provided that the appropriate percentage (as described elsewhere) of Eligible Mortgagees is obtained (if required) or (ii) correct typographical, factual, or obvious errors or omissions, the correction of which would not impair the interest of any Unit Owner, mortgagee, insurer, or guarantor, provided, further, that if there is a Unit Owner other than the Declarant, the Declaration shall not be amended to increase the scope or the period of control of the Declarant and
- (ii) the Association, through its Board, from and after such time as Declarant no longer owns any Unit, the right and power, and each

{00135256-3}

Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant to the Association, through the Board, a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable (except by the Board), to amend the Condominium Organizational Documents to the extent necessary to correct typographical, errors, factual errors, or omissions, the correction of which would not impair the interest of any Unit Owner, mortgagee, insurer, or guarantor.

- (iii) In addition to the foregoing, the Board, without a vote of the Unit Owners, may amend the Declaration in any manner necessary for any of the following purposes: (i) to meet the requirements of institutional mortgagees, guarantors and insurers of first mortgage loans, or the requirements of insurance underwriters; (ii) to bring the Declaration into compliance with requirements of the Condominium Act; (iii) to correct clerical or typographical errors or obvious factual errors in this Declaration or an exhibit or amendment hereto; and (iv) to designate a successor to the Person name to receive service of process for the Association, provided, that the naming of a successor need not be by amendment hereto if the change of statutory agent is appropriately filed with the Ohio Secretary of State.

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

2. Limitation on Right to Amend. Any provision of this Declaration granting any rights, duties, obligations, opportunities, or otherwise affecting Declarant shall not be amended without written consent of Declarant unless Declarant no longer retains any right to expand the Condominium.

3. Method to Amend. An amendment to this Declaration (or the Drawings or the Bylaws), adopted with the consents of Unit Owners and Eligible Mortgagees as may be required, shall be duly executed by the Secretary (or the Secretary's proxy as assigned by the Board) and one other officer of the Association and shall contain their certification that such amendment was duly adopted in accordance with the appropriate provisions. Any amendment adopted by the Declarant or a duly empowered successor Declarant shall be duly executed with the same formalities as were required for this Declaration and shall certify that the amendment is made pursuant to authority vested in Declarant or a duly empowered successor Declarant. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the Delaware County, Ohio Auditor and Recorder.

{00135256-3}

## ARTICLE XX. MISCELLANEOUS PROVISIONS

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

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

The Association and each Unit Owner shall have rights of action against each other for failure to comply with the provisions of the Condominium Organizational Documents, rules and regulations, and applicable law, and with respect to decisions made pursuant to authority granted under the same; provided, the Association shall have the right to assess reasonable charges against a Unit Owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration, including, without limitation, attorneys' fees and costs; and provided, further, that neither the Association nor its Directors, officers, or other representatives, shall be liable to any Unit Owner or Occupant, or their invitees, for damage to any Unit or any part thereof, or any personal property of such Unit Owner, Occupant, or invitee, or for injury to such person, unless the damage or injury was proximately caused by the gross negligence or intentional tortious act of the Association, Director, officer, or other representative. In addition to all other remedies available by law, the Association may use summary abatement or similar means to enforce any provisions in this Declaration or restrictions against the Unit or its use, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished by summary means.

The foregoing notwithstanding, the Association may not commence a legal proceeding or action without the affirmative vote of Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners. This limitation shall not apply, however, to (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens and the collection of Assessments), the Bylaws, and reasonable rules and regulations adopted by the Board; (ii) the imposition and collection of Assessments; (iii) proceedings involving challenges to ad valorem taxation; (iv) counterclaims or

{00135256-3}

cross-claims brought by the Association in proceedings instituted against it; or (v) actions to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Unit Owners in order to preserve the status quo. The Board, on behalf of the Association and without the consent of Unit Owners, is hereby authorized to negotiate settlement agreements and a waiver or release of claims.

3. Severability. Invalidity of any one or more of these covenants, conditions, restrictions, or easements by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect. In the event any language of this Declaration conflicts with mandatory provisions of the Condominium Act or any other Ohio or federal law; the Condominium Act, Ohio law, or federal law shall prevail; and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall not affect any other provisions of this Declaration, provisions shall otherwise remain in full force and effect.

4. Limited Warranties. Declarant provides to each purchaser of a Unit from Declarant certain limited warranties which are described in a condominium development disclosure statement provided to each of those purchasers at or prior to the time the purchaser enters into a contract to purchase a Unit from Declarant. Declarant specifically disclaims any and all warranties, express or implied, other than as set forth in Declarant's limited warranty and as required by Chapter 5311 of the Ohio Revised Code and specifically disclaims any implied warranty of habitability, fitness for a particular purpose, or construction in a workmanlike manner. The Declarant hereby assigns to the Association all warranties received by the Declarant with regard to the Common Elements. In addition, all warranties received by the Declarant with regard to the Common Elements added by any expansion shall automatically be assigned to the Association upon the recording of an amendment to the Declaration expanding the Condominium to include those Common Elements.

5. Numbers and Grammar. The singular used in this Declaration shall be construed to mean the plural when applicable and vice versa. The grammatical changes required to make the provisions of this Declaration apply either to corporations, partnerships, trusts, limited liability companies, other entities, men, or women, shall in all cases be assumed as though in such case fully expressed.

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

**NOTICE TO UNIT OWNERS: THIS DECLARATION PROVIDES FOR MANDATORY MEMBERSHIP IN SORRENTO AT HIGHLAND LAKES CONDOMINIUM ASSOCIATION, INC., AN OHIO NOT-FOR-PROFIT CORPORATION WHICH ADMINISTERS THE CONDOMINIUM, AND INCLUDES THE OBLIGATION TO PAY VARIOUS ASSESSMENTS TO SUCH ASSOCIATION. THE FAILURE TO ABIDE BY THE CONDITIONS AND RESTRICTIONS CONTAINED HEREIN, INCLUDING THE**

{00135256-3}

**PAYMENT OF ASSESSMENTS, MAY RESULT IN LEGAL ACTION, FINES,  
PENALTIES, INTEREST AND INCREASED COSTS, INCLUDING THE OBLIGATION  
TO PAY THE ASSOCIATION'S LEGAL FEES AND COSTS.**

[Remainder of Page Intentionally Left Blank]  
*Signature Page Follows*

{00135256-3}

17<sup>th</sup> The undersigned has executed and delivered this Declaration on behalf of Declarant this day of September, 2013.

ROMANELLI AND HUGHES BUILDING  
COMPANY, an Ohio Corporation

By:   
Vincent Romanelli  
Vice President

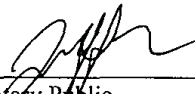
STATE OF OHIO

COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me by Vincent Romanelli, the Vice President of Romanelli and Hughes Building Company, an Ohio corporation, on behalf of the corporation, this 17<sup>th</sup> day of September, 2013.



Jeffrey Rush  
Notary Public, State of Ohio  
My Commission Expires 08-22-16

  
Notary Public

{00135256-3}

S-1

EXHIBIT A

DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR

SORRENTO AT HIGHLAND LAKES CONDOMINIUM

[Legal Description by metes and bounds of Condominium Property]

{00135256-3}A-1

**Sorrento at Highland Lakes  
Condominium  
0.779 Acre**

Situated in the State of Ohio, County of Delaware, Township of Genoa, located in Quarter Township 3, Township 3, Range 17, United States Military Lands and being 0.779 acres, being out of a 30.207 acre tract conveyed to Romanelli and Hughes Building Company in Volume 805, page 920 and being more particularly described as follows;

Commencing, for reference, at a railroad spike found in the centerline of Worthington Road (County Road 13) at the southwesterly corner of said 30.207 acre tract;

Thence, North 34° 15' 00" East, along the centerline of said Worthington Road and the westerly line of said 30.207 acre tract, a distance of 496.27 feet to a P.K. nail found at the southwesterly corner of a 1.101 acre tract conveyed to James M. Hassey in Official Record 859, page 316;

Thence, South 86° 22' 35" East, along the southerly line of said 1.101 acre tract, a distance of 409.09 feet to an iron pin found at the southeasterly corner of said 1.101 acre tract;

Thence, North 03° 37' 25" East, along the easterly line of said 1.101 acre tract, a distance of 129.27 feet to an iron pin found at the northeasterly corner of said 1.101 acre tract, being the southerly line of a 0.783 acre tract conveyed to Sarah E. Butterfield in Official Record 13, page 2194;

Thence, South 86° 22' 35" East, along the southerly line of said 0.783 acre tract and the northerly line of said 30.207 acre tract, a distance of 491.89 feet to a point, said point being THE TRUE PLACE OF BEGINNING of the here described 0.779 acre tract;

Thence, from said TRUE PLACE OF BEGINNING, South 86° 22' 35" East, continuing along the northerly line of said 30.207 acre tract and the southerly line of said 0.783 acre tract, a distance of 184.87 feet to a point;

Thence, South 03° 37' 25" West, through said 30.207 acre tract, a distance of 212.19 feet to a point;

Thence, South 52° 55' 52" West, continuing through said 30.207 acre tract, a distance of 58.70 feet to a point;

Thence, North 37° 04' 08" West, continuing through said 30.207 acre tract, a distance of 213.04 feet to a point;

Thence, North 02° 40' 50" East, continuing through said 30.207 acre tract, a distance of 88.95 feet to THE PLACE OF BEGINNING.

Containing 0.779 acres of land, more or less.

Subject to all easements, restrictions and rights-of-way of record.

This description is based on a field survey performed by Pomeroy & Associates, Ltd. in September of 2013.

Bearings are based on the bearing of S 86°22'35" E. for the northerly line of a 30.207 acre tract conveyed to Romanelli and Hughes Building Company of record in Volume 805, page 920, Recorder's Office, Delaware County, Ohio.

All references are to records of the Delaware County Recorder's Office, Delaware County, Ohio.



*David B. McCoy* 9/16/2013  
David B. McCoy  
Registered Professional Surveyor No. 7632

**EXHIBIT B**

**DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SORRENTO AT HIGHLAND LAKES CONDOMINIUM**

[Legal Description of Additional Property]

{00135256-3}B-1

**Sorrento at Highland Lakes  
Condominium  
Additional Property  
29.428 Acre**

Situated in the State of Ohio, County of Delaware, Township of Genoa, located in Quarter Township 3, Township 3, Range 17, United States Military Lands and being 29.428 acres, being out of a 30.207 acre tract conveyed to Romanelli and Hughes Building Company in Volume 805, page 920 and being more particularly described as follows;

Beginning at a railroad spike found in the centerline of Worthington Road (County Road 13) at the southwesterly corner of said 30.207 acre tract;

Thence, North 34° 15' 00" East, along the centerline of said Worthington Road and the westerly line of said 30.207 acre tract, a distance of 496.27 feet to a P.K. nail found at the southwesterly corner of a 1.101 acre tract conveyed to James M. Hassey in Official Record 859, page 316;

Thence, South 86° 22' 35" East, along the southerly line of said 1.101 acre tract, a distance of 409.09 feet to an iron pin found at the southeasterly corner of said 1.101 acre tract;

Thence, North 03° 37' 25" East, along the easterly line of said 1.101 acre tract, a distance of 129.27 feet to an iron pin found at the northeasterly corner of said 1.101 acre tract, being the southerly line of a 0.783 acre tract conveyed to Sarah E. Butterfield in Official Record 13, page 2194;

Thence, South 86° 22' 35" East, along the southerly line of said 0.783 acre tract and the northerly line of said 30.207 acre tract, a distance of 491.89 feet to a point;

Thence, South 02° 40' 50" West, through said 30.207 acre tract, a distance of 88.95 feet to a point;

Thence, South 37° 04' 08" East, continuing through said 30.207 acre tract, a distance of 213.04 feet to a point;

Thence, North 52° 55' 52" east, continuing through said 30.207 acre tract, a distance of 58.70 feet to a point;

Thence, North 03° 37' 25" East, continuing through said 30.207 acre tract, a distance of 212.19 feet to a point in the northerly line of said 30.207 acre tract and the southerly line of said 0.783 acre tract;

Thence, South 86° 22' 35" East, continuing along the northerly line of said 30.207 acre tract, the southerly line of said 0.783 acre tract and the southerly line of a 17.720 acre tract conveyed to Sarah E. Butterfield in Deed Book 647, page 810, a distance of 1315.96 feet to an iron pin found at the northeasterly corner of said 30.207 acre tract, the southeasterly corner of said 17.720 acre tract, in the westerly line of Maple Run Section 1 of record in Plat Book 24, page 71 and in the line common to Farm Lots 17 and 32;

Thence, South 03° 15' 08" West, along said common Farm Lot line, the westerly line of said Maple Run Section 1 and the westerly line of Highland Lakes East, Section 10, Part 1 of record in Plat Cabinet 1, slide 777, a distance of 539.43 feet to an iron pin found at the southeasterly corner of said 30.207 acre tract, the northeasterly corner of a 0.145 acre tract conveyed to Highland Lakes Homeowners Association in Official Record 517, page 1 and the southeasterly corner of said Farm Lot 32, being the northeasterly corner of Farm Lot 31;

Thence, North 86° 44' 26" West, along the line common to said Farm Lots 31 and 32, the northerly line of said 0.145 acre tract, the northerly line of a 88.32 acre tract conveyed to the City of Westerville in Deed Book 287, page 566 and the northerly line of Highland Lakes, Section 1 of record in Plat Book 23, page 37, a distance of 2658.19 feet to THE PLACE OF BEGINNING.

Containing 29.428 acres of land, more or less.

Subject to all easements, restrictions and rights-of-way of record.

This description is based on instruments of record.

Bearings are based on the bearing of S 86°22'35" E. for the northerly line of a 30.207 acre tract conveyed to Romanelli and Hughes Building Company of record in Volume 805, page 920, Recorder's Office, Delaware County, Ohio.

All references are to records of the Delaware County Recorder's Office, Delaware County, Ohio.



*David B. McCoy* 9/17/2013  
David B. McCoy  
Registered Professional Surveyor No. 7632

EXHIBIT C

DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR

SORRENTO AT HIGHLAND LAKES CONDOMINIUM

[Drawings - See recording information on initial page hereof.]

{00135256-3}C-1

**EXHIBIT D**

**DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SORRENTO AT HIGHLAND LAKES CONDOMINIUM**

**Unit Information**

<b><u>Unit Designation</u></b>	<b><u>Unit Address</u></b>	<b><u>Unit Value</u></b>	<b><u>Undivided Interest</u></b>
5443	5443 Via Alvito Drive	1	1/1 <sup>st</sup>
		<u>1</u>	<u>100%</u>

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**EXHIBIT E**

**DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SORRENTO AT HIGHLAND LAKES CONDOMINIUM**

**Basic Criteria for All Units**

**Description**

Ranch-style Units ranging from 2 to 4 bedrooms, with 2 to 3.5 bathrooms, and ranging in size from approximately 1,800 to 3,000 first floor interior square feet of space

Wood frame construction

Built on 8" poured concrete wall foundations

With a combination of stucco, cultured stone and (sometimes) brick accented exteriors and having dimensional asphalt shingle roofs

Each Unit will have a basement (some with walk-out access, and some with full or partial views) and an attached two or three car garage

Some Units will have an second floor loft area ranging in size from approximately 335 to 630 square feet of space, and some such lofts may contain the option of an additional bedroom and bathroom in the loft

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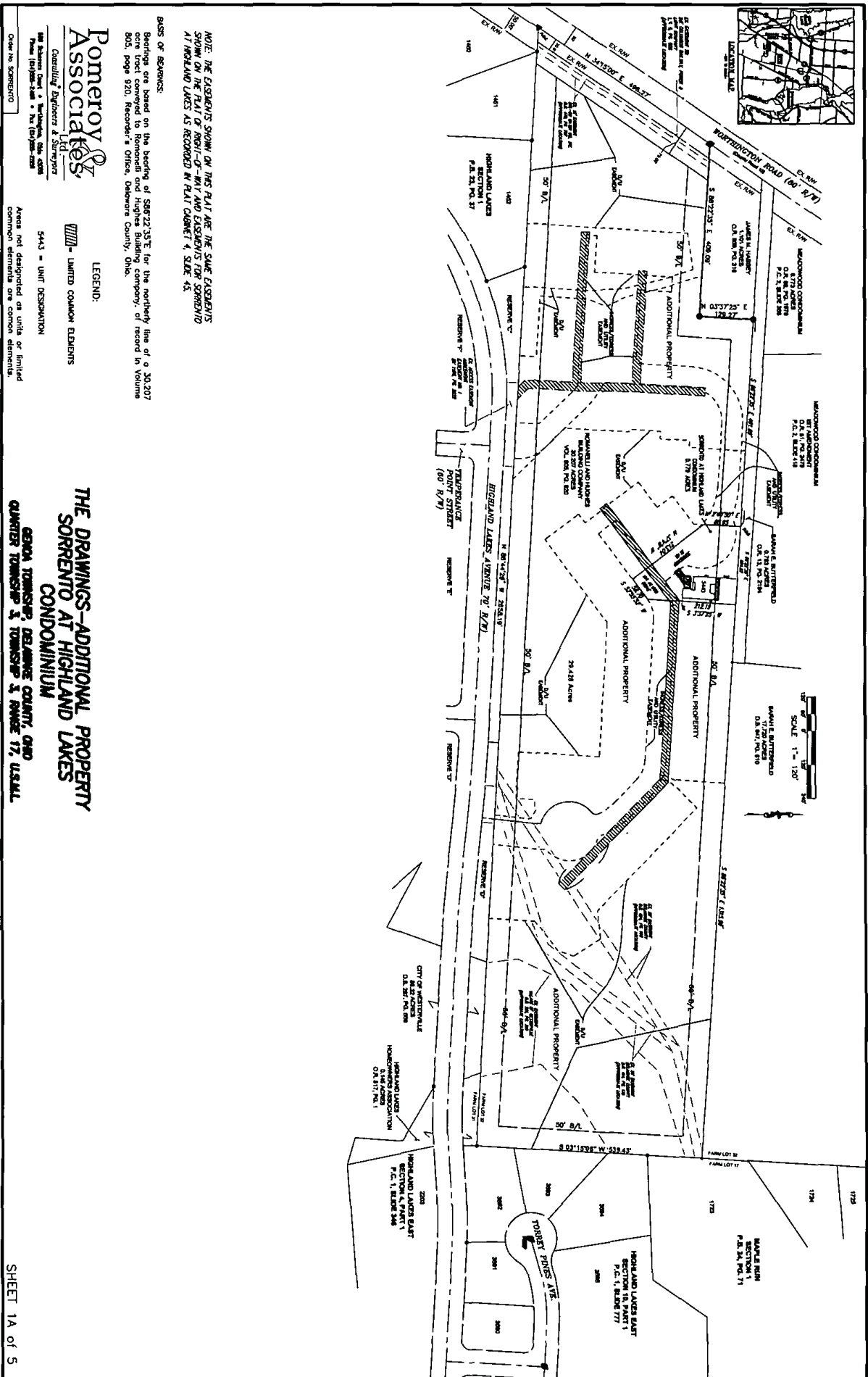
**EXHIBIT F**

**DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SORRENTO AT HIGHLAND LAKES CONDOMINIUM**

[Sketch of Condominium Property and Additional Property  
showing physical relationship between the two]

{00135256-3}F-1



**EXHIBIT G**  
**BYLAWS**  
**(CODE OF REGULATIONS)**  
**OF**  
**SORRENTO AT HIGHLAND LAKES CONDOMINIUM ASSOCIATION, INC.**

{00135256-3}Exhibit G

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## BYLAWS INDEX

<b>SECTION I: NAME AND LOCATION</b>	<b>1</b>
<b>SECTION II: DEFINITIONS</b>	<b>1</b>
<b>SECTION III: UNIT OWNERS (MEMBERS)</b>	<b>1</b>
1. <u>Composition</u>	1
2. <u>Annual Meetings of the Unit Owners</u>	1
3. <u>Special Meetings of the Unit Owners</u>	1
4. <u>Notice of Meeting of Unit Owners</u>	1
5. <u>Conduct of Meetings of Unit Owners</u>	2
6. <u>Quorum</u>	2
7. <u>Voting Rights</u>	2
8. <u>Voting Power</u>	2
9. <u>Proxies</u>	2
10. <u>Participation at Meetings</u>	2
11. <u>Unit Owner Action In Writing Without Meeting</u>	3
<b>SECTION IV: BOARD OF DIRECTORS</b>	<b>3</b>
1. <u>Initial Directors</u>	3
2. <u>Successor Directors</u>	3
3. <u>Removal</u>	4
4. <u>Qualification</u>	4
5. <u>Nomination</u>	4
6. <u>Election</u>	4
7. <u>Compensation</u>	5
8. <u>Regular Meetings</u>	5
9. <u>Special Meetings</u>	5
10. <u>Quorum</u>	5
11. <u>Voting Power</u>	5
12. <u>Action in Writing Without Meeting</u>	5
13. <u>Powers and Authority</u>	5
14. <u>Duties</u>	6
15. <u>Delegation of Authority; Management; Contracts</u>	8
<b>SECTION V: OFFICERS</b>	<b>8</b>
1. <u>Enumeration of Officers</u>	8
2. <u>Selection and Term</u>	9
3. <u>Special Appointments</u>	9
4. <u>Resignation and Removal</u>	9
5. <u>Duties</u>	9
<b>SECTION VI: COMMITTEES</b>	<b>9</b>

{00135256-3}Exhibit G - i

<b>SECTION VII: BOOKS AND RECORDS.....</b>	<b>9</b>
<b>SECTION VIII: AUDITS.....</b>	<b>10</b>
<b>SECTION IX: FISCAL YEAR.....</b>	<b>10</b>
<b>SECTION X: COMMON EXPENSES.....</b>	<b>10</b>
<b>SECTION XI: COMMON PROFITS.....</b>	<b>11</b>
<b>SECTION XII: INDEMNIFICATION.....</b>	<b>11</b>
1. <u>Third Party Actions</u> .....	11
2. <u>Derivative Actions</u> .....	11
3. <u>Other Determinations of Rights</u> .....	11
4. <u>Indemnification of Agents and Others</u> .....	12
5. <u>Advances of Expenses</u> .....	12
6. <u>Nonexclusiveness; Heirs</u> .....	12
7. <u>Purchase of Insurance</u> .....	12
<b>SECTION XIII: AMENDMENTS.....</b>	<b>12</b>

{00135256-3}Exhibit G - ii

**BYLAWS**  
**(CODE OF REGULATIONS)**  
**OF**  
**SORRENTO AT HIGHLAND LAKES CONDOMINIUM ASSOCIATION, INC.**

**SECTION I: NAME AND LOCATION**

The name of the Association is Sorrento at Highland Lakes Condominium Association, Inc. (the "Association"), which as a nonprofit corporation, is created pursuant to the provisions of Ohio Revised Code Chapter 1702 and is also created pursuant to the provisions of Ohio Revised Code Chapter 5311 as the unit owners' association for Sorrento at Highland Lakes Condominium.

The principal office of the Association shall be as set forth in its Articles of Incorporation (the "Articles") filed with the Secretary of State of Ohio, and the place of meetings of Unit Owners (members) and of the Directors (Board of Directors) of the Association shall be anywhere in Ohio as the Board of Directors (the "Board") may designate.

**SECTION II: DEFINITIONS**

All of the terms used herein that are not otherwise defined shall have the same meanings as set forth in the Declaration Establishing A Plan For Condominium Ownership Under Ohio Revised Code Chapter 5311 for Sorrento at Highland Lakes Condominium (the "Declaration"), recorded simultaneously with these Bylaws with the Recorder of Delaware County, Ohio.

**SECTION III: UNIT OWNERS (MEMBERS)**

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

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

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

4. **Notice of Meeting of Unit Owners.** The secretary or person authorized to call the meeting will provide for written notice of each meeting of Unit Owners by mailing a copy of such notice, postage prepaid, at least five (5) days before such meeting, to each Unit Owner entitled to vote at such meeting. Alternatively, personal delivery of a copy of that notice to the appropriate address at least five (5) days before the meeting is acceptable service of the notice. The notice shall be addressed to the Unit Owner's address either (a) last appearing on the books of the Association or (b) last supplied by that Unit Owner to the Association for the purpose of

{00135256-3}Exhibit G - 1

notice, whichever is most recent. The notice shall specify the date, place, and hour of the meeting. Additionally, for special meetings, the notice shall indicate the specific purposes of the meeting, and, in the case of special meetings called by the petition and written request of Unit Owners, the specific motion or motions (other than procedural) to be voted upon must be indicated in the notice.

5. Conduct of Meetings of Unit Owners. The Board shall conduct all meetings of the Unit Owners, and the president of the Association shall preside over the same, unless otherwise directed by the Board.

6. Quorum. The Unit Owners present, in person or by proxy, at any duly called and noticed meeting of the Association, shall constitute a sufficient quorum for that meeting.

7. Voting Rights. One vote on matters upon which Unit Owners are entitled to vote shall be allocated to each Unit, exercisable as the Unit Owners of the undivided fee simple interest in that Unit determine. Any owner of a fee simple interest of a Unit may cast the entire vote with respect to that Unit on any given matter, unless that vote is contested by a co-owner of that Unit. If the Owners of the fee simple interest in a Unit are unable to agree among themselves as to the vote to be cast with respect to that Unit on a particular matter, no vote shall be cast with respect to that Unit on that particular matter. The Board may temporarily suspend a Unit's vote if any assessment, assessment installment, or portion of the same is overdue. Likewise, the Board may temporarily suspend a Unit's vote if that Unit's Occupants or Unit Owners have failed to observe any term of the Declaration, these Bylaws, or rules and regulations duly adopted by the Board, subject to the parameters set forth herein.

8. Voting Power. Except as otherwise provided in the Condominium Organizational Documents or by law, a simple majority of the voting power of Unit Owners entitled to vote on any matter that may be determined by the Unit Owners at any duly noticed and conducted meeting shall be sufficient to determine the matter voted upon.

9. Proxies. At any meeting of Unit Owners, a Unit Owner may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary prior to the meeting. A telegram or facsimile appearing to have been transmitted by a Unit Owner or a photographic, photocopy, or equivalent reproduction of a writing is sufficient to appoint a proxy. An electronic mail notice of proxy appointment, delivered to the secretary, shall be sufficient notice of proxy if that Unit Owner previously provided the Association a personally-signed document verifying that the electronic mail address from which the proxy notice was received is, in fact, the Unit Owner's. Every proxy shall be revocable and shall automatically cease upon conveyance of that Unit Owner's fee simple interest in that Unit. Every proxy shall cease to be valid after the expiration of eleven months after its making unless the proxy specifies a specific date on which it is to expire or a specific length of time it is to continue in force.

10. Participation at Meetings. Meetings of the Unit Owners shall be open to all Unit Owners unless specified by direction of the Board otherwise in the notice of meeting. The Board, in its sole discretion, may exclude from attendance at a meeting of the Unit Owners, Unit Owners and their agents and representatives (other than Declarant and its successors and assigns

{00135256-3}Exhibit G - 2

so long as Declarant owns a Unit or Units in the Condominium or has the right to expand the Condominium) in these instances:

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

for any other reason deemed by the Board, from the standpoint of the Association's best interests, to be of sufficient merit that attendance and participation at a meeting by such Unit Owner would not be in the Association's best interests; provided, that nothing contained in this Section shall preclude or exclude a Unit Owner from voting by proxy, on any matter properly voted upon at that meeting by Unit Owners.

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

#### **SECTION IV: BOARD OF DIRECTORS**

1. Initial Directors and Replacements. The initial Directors shall be three (3) persons named by the Declarant as the initial Directors in a separate action. The Declarant reserves the right, at any time, to have the Unit Owners elect any or all Directors and for Declarant to turn over the functions or operation of the Association to the elected Directors.

2. Successor Directors. No later than sixty (60) days after the sale and conveyance by the Declarant of Units to which twenty-five percent (25%) of the undivided interests in the Common Elements appertain, the Unit Owners shall meet, and the Unit Owners other than the Declarant shall elect one Director at that meeting to replace one Director Declarant designates to be replaced. The term of such Director shall be three (3) years. Within sixty (60) days after the earlier of (a) five (5) years from the date of the establishment of the Association, and (b) the sale and conveyance, to purchasers in good faith and for value, of Units to which seventy-five percent (75%) of the undivided interests in the Common Elements appertain, the Association shall meet and all Unit Owners, including the Declarant, shall elect the three (3) new Directors (at which time control of the Association shall be considered to be "turned over to the Unit Owners"). The persons so elected shall take office at the end of the meeting during which they are elected and shall, as soon as reasonably possible, appoint officers. The terms of the new Directors shall be staggered so that the terms of at least one-third (1/3) (one in number) of the Directors will expire and successors be elected at each annual meeting of the Association. Thereafter, at such annual meetings, successors to the Directors whose terms then expire shall be elected to serve three-year terms. (By way of example, at this meeting one Director could be given a one-year term, one (1) Director a two-year term, and one (1) Director a three-year term. As a result, at every annual meeting only one new Director will be elected.)

{00135256-3}Exhibit G - 3

For purposes of computing undivided interests pursuant to the foregoing, those interests shall be computed by comparing the number of Units sold and conveyed to the maximum number of Units (forty-two (42)) that may be in the Condominium. Notwithstanding the foregoing, Declarant shall have the right at any time to waive its right to select one or more Directors or to vote in an election of Directors.

3. Removal. Excepting only Directors named in the Articles or selected or designated by Declarant, any Director may be removed from the Board with or without cause, by the holders of not less than seventy-five percent (75%) of the voting power of Unit Owners. In the event of the death, resignation, or removal of a Director other than one named in the Articles or a substitute to the same selected by the Declarant, that Director's successor shall be selected by the remaining members of the Board and shall serve until the next annual meeting of Unit Owners, when a Director shall be elected to complete the term of such deceased, resigned, or removed Director.

In the event all Directors are removed, the Unit Owners shall, at the meeting at which all Directors are removed, elect Directors to complete the terms of the removed Directors. As long as Declarant controls the Condominium, Declarant shall have the sole right to remove, with or without cause, any Director designated in the Articles, or a substitute selected by the Declarant. Likewise, the Declarant may select the successor of any Declarant-selected Director who dies, resigns, is removed, or leaves office for any reason before the election of Directors by all of the Unit Owners, as provided in the Declaration.

4. Qualification. To qualify for nomination, election, or appointment as a Director (other than being selected by the Declarant), the prospect must be an individual who is a Unit Owner or co-owner of a Unit, the spouse of a Unit Owner or co-owner of a Unit, or a designated officer or principal of an entity that is a Unit Owner. Further, that Unit Owner or co-owner of a Unit or the Unit Owner of such spouse must not then be delinquent in the payment of any obligation to the Association or be an adverse party to the Association, its Board, or any member of the Board (in that member's capacity as a Board member) in any litigation.

5. Nomination. Nominations for the election of Directors to be elected by the Unit Owners shall be made by a nominating committee appointed by the Board, or, if the Board fails to appoint a nominating committee, by the Board itself. Nominations may also be made from the floor at a meeting. The nominating committee, or Board, shall make as many nominations for election to the Board as it shall, in its sole discretion, determine, but no fewer than the number of vacancies that are to be filled.

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

{00135256-3}Exhibit G - 4

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

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

9. Special Meetings. Special meetings of the Board shall be held when called by the president of the Board, or by a majority of the Directors, after not less than three (3) days notice to each Director.

10. Quorum. The presence at any duly called and noticed meeting of Directors of Directors consisting of a simple majority, in person, by proxy, and/or by participation by any method of communication, including electronic, telephonic, by computer, or otherwise, as long as each member of the Board can hear, participate, and respond, shall constitute a quorum for such meeting.

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

12. Action in Writing Without Meeting. Any action that could be taken by the Board at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of all of the Directors.

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

- (a) take all actions deemed necessary or desirable to comply with or to cause compliance with all requirements of law and the Condominium Organizational Documents;
- (b) obtain insurance coverage and bonds in amounts no less than that required pursuant to the Declaration;
- (c) enforce the covenants, conditions, and restrictions set forth in the Declaration;
- (d) repair, maintain, and improve the Common Elements;
- (e) establish, enforce, levy, and collect: assessments, late fees, delinquent

{00135256-3}Exhibit G - 5

interest and such other charges as are provided for in the Declaration and adopt, publish, and enforce rules and regulations concerning the same;

(f) adopt and publish rules and regulations governing the use of the Common Elements and the personal conduct of Unit Owners, Occupants, and their guests on the same;

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

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

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

(j) cause excess funds of the Association to be invested in such reasonable investments as the Board may from time to time determine;

(k) borrow funds, as needed, and pledge such security and rights of the Association as might be necessary or desirable to obtain any such loan; and

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

14. Duties. It shall be the duty of the Board to:

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

(b) present the latest available financial statement of the Association to the Unit Owners at each annual meeting of Unit Owners, or at any special meeting when requested in writing by Unit Owners representing a majority of the voting

{00135256-3}Exhibit G - 6

power of Unit Owners;

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

- (i) the home address, home and business mailing addresses, and the home and business telephone numbers of the Unit Owner and all Occupants of the Unit; and
- (ii) the name, business address, and business telephone number of any Person who manages the Owner's Unit as an agent of that Owner;

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

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

(e) prepare or cause an annual budget to be prepared;

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

(g) issue, or to cause an appropriate representative to issue, upon demand by any person, a certificate of assessment payment status;

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

(i) maintain the Condominium Property, subject to the Association's jurisdiction, within the scope of authority provided in the Declaration;

(j) cause the restrictions created by the Declaration to be enforced;

(k) take all other actions required to comply with all requirements of law and the Condominium Organizational Documents; and

(l) Prior to imposing a charge for damages or an enforcement assessment as permitted by the Act, as amended, the Board of Directors shall give the Unit Owner or Owners written notice that includes:

(i) a statement of the facts giving rise to the proposed charge or enforcement assessments, including, if applicable, a description of the property, damage, or the violation of the restriction, rule or regulation allegedly violated;

(ii) the amount of the proposed charge or enforcement assessment;

{00135256-3}Exhibit G - 7

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

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

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

15. Delegation of Authority; Management; Contracts. The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense; provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty (30) days written notice; shall be terminable by either party without cause and without penalty, on written notice of ninety (90) days or less; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing, provided that, in the case of any professional management contract entered into before control of the Association is vested in Unit Owners other than Declarant, the contract must give the Association the right to terminate it without cause and without penalty at any time after control of the Association has been transferred to or assumed by Unit Owners other than Declarant.

Subject to the foregoing, nothing contained in these Bylaws shall preclude Declarant or any, other entity designated by Declarant, from being employed as managing agent. The managing agent, or the Board if there is no managing agent, shall have the authority to enter into contracts with Declarant or an affiliate of Declarant, as defined by an institutional first mortgagee or an agency or organization which purchases, insures, or guarantees first mortgages for goods, services, or for any other thing, including, but not limited to contracts for maintenance and repair services, provided the same are bona fide and commercially reasonable to the Unit Owners. In any case, no management contract or agreement by the Association executed prior to the assumption of control of the Association by Unit Owners other than Declarant shall extend subsequent to that assumption of control unless renewed by the Board pursuant to the provisions of these Bylaws.

## **SECTION V: OFFICERS**

1. Enumeration of Officers. The officers of this Association shall be a president, a vice president, a secretary, a treasurer, and any other officers as the Board may from time to time

{00135256-3}Exhibit G - 8

determine. No officer need be a Unit Owner or Director of the Association. The same person may hold more than one office.

2. Selection and Term. Except as otherwise specifically provided in the Declaration or by law, the officers of the Association shall be appointed by the Board to serve until the Board appoints their successors. There is no set term for any officer.

3. Special Appointments. The Board may appoint any other officers as the affairs of the Association may require; each of whom shall hold office for the period, have the authority, and perform the duties determined by the Board.

4. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Such resignation shall take effect when the notice is received or at any later time specified in the notice. The acceptance of a resignation shall not be necessary to make it effective.

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

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

b. Secretary. The secretary shall record the votes and keep the minutes and proceedings of meetings of the Board and of the Unit Owners. Further, the secretary shall serve notice of meetings of the Board and of the Unit Owners and keep appropriate current records showing the names of Unit Owners of the Association together with their addresses.

c. Treasurer. The treasurer shall receive, deposit (in bank accounts and investment of funds in other vehicles as the Board directs), and disburse funds as directed by the Board. Further, the treasurer shall keep proper books of account, prepare a proposed annual budget, and finalize statements of income and expenditures to be presented to the Unit Owners at annual meetings.

#### **SECTION VI: COMMITTEES**

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

#### **SECTION VII: BOOKS AND RECORDS**

The books, records, and financial statements of the Association, including current copies of the Declaration, Bylaws, Articles and effective rules and regulations, shall be available during normal business hours or under other reasonable circumstances, upon request to the Association, for inspection by Unit Owners, lenders, and the holders, insurers, and guarantors of first mortgages on Units, pursuant to reasonable standards established from time to time by the Board by rule, including, but not limited to, standards governing the type of documents that are subject

{00135256-3}Exhibit G - 9

to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents; provided, further, that the Board shall not be required to permit the examination and copying of materials and information permitted to be excluded from examination and copying under the Condominium Act or the disclosure of which is prohibited by the laws of the State of Ohio or of the United States of America. Likewise, during normal business hours or under other reasonable circumstances, the Association shall make available to prospective purchasers current copies of the Declaration, Bylaws, Articles, effective rules and regulations, and the most recent annual audited financial statement, if such is prepared.

Within thirty (30) days after a Unit Owner obtains a Unit, the Owner shall provide the Board with the home address, home and business mailing addresses, and home and business telephone numbers of the Unit Owner and all Occupants of the Unit, as well as the name, business address, and business telephone number of any person who manages the Owner's Unit as an agent of that Owner. In addition, within thirty (30) days after a change in any of the above information, a Unit Owner shall notify the Association, through the Board, in writing of such change. When the Board requests, a Unit Owner shall verify or update the information listed in this paragraph.

#### **SECTION VIII: AUDITS**

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

1. to each requesting Unit Owner, at the expense of the Association, upon the affirmative vote of Unit Owners exercising a majority of the votes of Unit Owners within a reasonable time after request;
2. to each holder, insurer, or guarantor of a first mortgage on a Unit who requests the same, in writing, within a reasonable time, provided the audit, if an audited statement is not already available, shall be prepared at the expense of such requesting party;
3. during such time, if ever, that the Condominium contains fifty (50) or more Units, to each holder, insurer, or guarantor of a first mortgage on a Unit who makes written request therefor, within one hundred twenty (120) days of the Association's fiscal year end, at the expense of the Association; and
4. as otherwise required by law.

#### **SECTION IX: FISCAL YEAR**

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

#### **SECTION X: COMMON EXPENSES**

{00135256-3}Exhibit G - 10

Common expenses shall be allocated and assessed as directed in the Declaration.

#### **SECTION XI: COMMON PROFITS**

Common profits shall be handled and/or disbursed as directed in the Declaration.

#### **SECTION XII: INDEMNIFICATION**

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

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

3. **Other Determinations of Rights.** Unless ordered by a court, any indemnification under paragraphs 1 and 2 of this Section shall be made by the Association only as authorized in the specific case, upon a determination that indemnification of the director, officer, employee or volunteer is proper under the circumstances because that individual has met the applicable standard of conduct set forth in paragraphs 1 and 2 of this Section. Such determination shall be made in any one of the following manners: (a) by a majority vote of a quorum consisting of

{00135256-3}Exhibit G - 11

Directors who were not and are not parties to or threatened with the action, suit or proceeding referred to in paragraphs 1 and 2 of this Section, or (b) by the members by majority vote.

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

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

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

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

### **SECTION XIII: AMENDMENTS**

Any modification or amendment of these Bylaws shall be made only by means of an amendment to the Declaration, in the manner and subject to the approvals, terms, and conditions set forth in the Declaration. Those amendments shall be effective from the time a certificate

{00135256-3}Exhibit G - 12

setting forth such modification or amendment is delivered for filing with the Delaware County, Ohio Auditor and recording with the Delaware County, Ohio Recorder.

{00135256-3}Exhibit G - 13