
DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

PRESERVE OF HUDSON

An Expandable Residential Condominium Property

CITY OF HUDSON, SUMMIT COUNTY, OHIO

AND

BYLAWS

Of

**PRESERVE OF HUDSON CONDOMINIUM
ASSOCIATION, INC.**

DECLARANT:

**TRIBAN INVESTMENT, LLC
7555 Fredle Drive, Suite 210
Concord Township, Ohio 44077
Phone: (330) 239-2157**

THIS INSTRUMENT PREPARED BY:

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EXHIBITS TO DECLARATION

<u>Exhibit “1”</u>	-	Legal Description of Property
<u>Exhibit “2”</u>	-	Legal Description of Additional Property
<u>Exhibit “A”</u>	-	Reference to Drawings
<u>Exhibit “B”</u>	-	Bylaws of Preserve of Hudson Condominium Association, Inc.
<u>Exhibit “C”</u>	-	Narrative description
<u>Exhibit “D”</u>	-	Listing of each Unit’s Undivided Interest
<u>Exhibit “E”</u>	-	Maintenance Chart

**DECLARATION OF CONDOMINIUM OWNERSHIP
FOR**

**PRESERVE OF HUDSON,
an Expandable Residential Condominium Property**

CITY OF HUDSON, SUMMIT COUNTY, OHIO

This Declaration is made at Concord Township, Ohio, by Triban Investment, LLC, an Ohio limited liability company, hereinafter referred to as “**Declarant**”.

W I T N E S S E T H: T H A T

WHEREAS, the Declarant is the owner of the real estate referred to herein as the “**Property**” which is described in Exhibit “1” attached hereto and made a part hereof; and

WHEREAS, the Declarant is also the owner of the real estate contiguous or near the Property referred to herein as the “**Additional Property**” and described in Exhibit “2” attached hereto and made a part hereof; and

WHEREAS, it is the desire and intention of the Declarant to submit the Property (as hereinafter defined), together with the buildings, structures, improvements and fixtures of whatsoever kind currently located and to be constructed thereon, more particularly described in **Exhibit “A”** attached hereto, and all rights and privileges belonging or in any way pertaining thereto, owned by Declarant to that certain form of co-operative ownership commonly known as “**Condominium**” by submitting the Property to the provisions of the “**Condominium Act**” of the State of Ohio, being Chapter 5311 of the Ohio Revised Code, as amended; and

WHEREAS, it is the desire and intention of the Declarant to provide for the submission of the Additional Property or any portion or portions thereof, together with all buildings, structures, improvements and fixtures of whatsoever kind thereon, and all rights and privileges belong or in any way pertaining thereto, to be owned by Declarant and by each successor of the Declarant who stands in the same relation to the Additional Property as Declarant to the Condominium form of ownership, and to submit the Additional Property, or any portion or portions thereof, to the provisions of the aforesaid Condominium Act; and

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

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

administration of the Property and are established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property; and

WHEREAS, the Declarant hereby establishes by this Declaration a plan for the individual ownership of the Property consisting of the land described herein as belonging to each Unit, the building improvements comprising each of the Units, and the area or space contained within each of the Units, and the co-ownership by the individual and separate owners thereof as tenants-in-common of all of the remaining Property which is not part of a Unit and which is hereinafter defined and referred to herein as the “**Common Elements**.”

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

ARTICLE I. DEFINITIONS

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

(A) “**Act**” means the Ohio Condominium Act as contained in Chapter 5311 of the Ohio Revised Code, as the same may be amended or supplemented from time to time.

(B) “**Additional Property**” means the land or improvements or any portion or portions thereof that may be added in the future to the Property, legal descriptions of the Additional Property are described in **Exhibit “2”** attached hereto and made a part hereof as if fully rewritten herein.

(C) “**Additional Property Buildings**” means the buildings, structures, improvements and fixtures constructed on all or a portion of the Additional Property.

(D) “**Association**” means an Ohio non-profit corporation that is the organization of all the Owners of Units in the Property that administers the Property and is being created for the management of the Preserve of Hudson, the Association being known as Preserve of Hudson Condominium Association, Inc.

(E) “**Board**” or “**Board of Trustees**” means those persons who, as a group, serve as the Board of Trustees of the Association pursuant to the provisions of the Act.

(F) “**Builder**” means any person or entity who (1) purchases a portion of the Property for the purpose of the construction and sale of one or more Units, such Builder also being an Owner during the period such Builder owns title to the Unit; or (2) is retained by an Owner to construct a Unit or any addition thereto.

(G) “**Building**” means the structures that the Units contain, and the parking structure.

(H) “**Bulk Rate Contracts**”. Bulk Rate Contracts mean one or more contracts entered into by Declarant or the Association for the provision of services of any kind or nature by which a particular service is provided to all or a portion of the Preserve of Hudson, or by which various services are offered at the option of each Unit Owner, or both. The services provided under Bulk Rate Contracts may include, without limitation, services provided by Community Systems and services for cable television, telecommunications, internet access, “broadband”, security monitoring, trash pick-up, propane and natural gas, lawn and landscaping maintenance, and wastewater, and other services which are considered by the Declarant or the Board to be beneficial to all or a portion of the Preserve of Hudson.

(I) “**Bylaws**” means the Bylaws of the Association created under the Act, attached hereto as Exhibit “B” and incorporated in this Declaration by reference as if fully rewritten herein, as may be amended from time to time.

(J) “**Charge**” shall have the meaning in Article V Section (D) of this Declaration.

(K) “**City**” means the City of Hudson, Ohio, a municipal corporation.

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

(M) “**Common Elements**” shall have the meaning set forth in Section 5311.01(F) of the Act, except as otherwise provided in this Declaration, and shall include the Property described in Article II Section (C) of this Declaration and the Limited Common Elements, but does not include the actual Units.

(N) “**Common Expenses**” means those expenses designated as such in the Act or in accordance with the provisions of this Declaration, or both, provided, however, that Common Expenses shall not include expenses associated with or arising from the Limited Common Elements.

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

(P) “**Common Profits**” means the amount by which the total income received from Assessments charged for special benefits to specific Units, rents received from rentals of equipment or space in Common Elements (excluding water charges to Tenants), and any other fee, charge or income other than Common Assessments exceeds expenses allocable to the income, rental, fee or charge.

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

(R) “**Condominium**” means a form of real property ownership in which a Declaration has been filed submitting the property to the condominium form of ownership pursuant to the Act and under which each Owner has an individual ownership interest in a Unit with the right to

exclusive possession of that Unit and an Undivided Interest with the other Unit Owners in the Common Elements of the Property.

(S) **“Condominium Instruments”** means this Declaration and accompanying Drawings, the Bylaws of the Association, the Articles of Incorporation of the Association, any contracts pertaining to the management of the Property, and all other documents, contracts, or instruments establishing ownership of or exerting control over the Property or a Unit.

(T) **“Condominium Ownership Interest”** or **“Ownership Interest”** means a fee simple estate in a Unit, together with an appurtenant undivided interest in the Common Elements.

(U) **“Condominium Property”** means the Property, all Buildings, improvements on the Property, all easements, rights, and appurtenances belong to the Property, and all articles of personal property submitted to the provisions of the Act; provided, however, when the Additional Property or any portion or portions thereof, has been added to the Condominium Property pursuant to this Declaration, the term “Condominium Property” or “Property” shall also include such Additional Property, or any portion or portions thereof, together with all buildings, improvements, and structures belonging to the Additional Property, all easements, rights and appurtenances belong to the Additional Property, and all articles of personal property submitted to the Act.

(V) **“County Recorder”** means the Recorder or Fiscal Officer of Summit County, Ohio.

(W) **“Declarant”** means Triban Investment, LLC, a Ohio limited liability corporation.

(X) **“Declaration”** means this Declaration of Condominium Ownership for Preserve of Hudson, which is the instrument by which the Property is submitted to Chapter 5311 of the Ohio Revised Code, and any and all amendments to this Declaration.

(Y) **“Drawings”** shall have the meaning set forth in Article II Section (A) of this Declaration, in compliance with the Act, filed simultaneously with the submission of this Declaration for recording, as the same may be lawfully amended from time to time.

(Z) **“Eligible Mortgage Holders”** means the holder of a first mortgage on a Unit of whose mortgage interest the Association has received written notice from such Unit Owner or such holder (such written notice shall include the name and address of such holder and the address of the Unit).

(AA) **“Enforcement Assessment”** means assessments imposed pursuant to Section 5311.081(B)(12) of the Act, including, but not limited to, the imposition of Charges for late payment of Assessments, imposition of assessments for violation of the Declaration, Bylaws and such other rules as may be promulgated by the Association (see definition of “Rules” below), and reasonable charges for damage to the Common Elements or other property and Enforcement Costs.

(BB) **“Enforcement Costs”** shall have the meaning set forth in Article V Section (D) of this Declaration and shall include, without limitation, all costs, fees and interest provided for in Article IX of this Declaration.

(CC) “**Limited Common Elements**” means the Limited Common Elements as described in Article II Section (C).

(DD) “**Managing Agent**” shall have the meaning set forth in Article II Section (E)(4)(b) of this Declaration.

(EE) “**Occupant**” means a person or persons, natural or artificial, legally in possession of a Unit, including persons who reside in a Unit.

(FF) “**Percentage Value**” shall have the meaning set forth in Article VI Section (C) of this Declaration.

(GG) “**Property**” means the land described on **Exhibit “1”** of this Declaration, together with all Buildings, improvements and structures located on said land including that described in **Exhibit “A”** of this Declaration, all easements, rights and appurtenances belonging to such land, and all articles of personal property related to any of the foregoing.

(HH) “**Rules**” means such rules and regulations governing the operation and use of the Property or any portion thereof as may be adopted from time to time by the Association or the Board.

(II) “**Tenant**” means a person or entity occupying any part of a Unit under lease from the Owner of that Unit, including, without limitation, the holder of the Leasehold Interest.

(JJ) “**Undivided Interests**” means the interest of the Unit in the Common Elements as set forth in Article II Section (E) of this Declaration.

(KK) “**Unit**” means the part of the Property that is designated as a Unit in the Declaration and delineated as a Unit on the Drawings. The components of a “Unit” are more fully defined in Article II Section (B) hereof. Each Unit is a “residential unit” as that term is used in the Act. No Unit is a “convertible unit”, as that term is used in the Act.

(LL) “**Unit Owner**” or “**Owner**” means a person or entity who owns a Condominium Ownership Interest in a Unit.

ARTICLE II.

ESTABLISHMENT OF CONDOMINIUM OWNERSHIP AND DIVISION OF PROPERTY, MAINTENANCE RESPONSIBILITY, AND COST ALLOCATION

(A) **Establishment of Condominium.** Declarant, in order to establish a plan of condominium ownership for the Property, hereby submits the Property, hereinbefore described, to the provisions of Chapter 5311 of the Ohio Revised Code. The Condominium Property, including the structures thereon (existing or to be constructed), contain an aggregate of twenty-nine (29) separate residential Units, each being a separately designated and legally described freehold estate, and three (3) freehold estate hereinafter described and referred to as the “**Common Elements**”.

Insofar as possible, the particulars of the land, Buildings, and other improvements within the Property, including, but not limited to (i) the layout, location, designations and dimensions of

each Unit, (ii) the layout, location and dimensions of the Common Elements (specifically including the Limited Common Elements), and (iii) the location and dimensions of all appurtenant easements are shown graphically on the set of drawings incorporated herein by reference as **Exhibit "A"**, which Drawings have been prepared by and bear the certified statements of Polaris Engineering & Surveying, Inc., as required by Section 5311.07, of the Ohio Revised Code. Such set of drawings is hereinafter referred to as the **"Drawings"**. Each set of drawings for Additional Property being added to this Declaration shall also be known as the Drawings.

(B) Description and Maintenance of Units. The layout, location, designation and dimensions of all Units are shown on the Drawings. Each Unit has a direct exit to a private street or to a Common Element (including a permanent easement) leading to a public street. A narrative description of the Units is set forth in **Exhibit "C"** attached hereto and made a part hereof. Any inconsistencies between the narrative description in **Exhibit "C"** of the Units and/or of the Common Elements on one hand, and in the Drawings on the other hand, shall be resolved in favor of the Drawings. Except as otherwise set forth herein, each Unit Owner shall reasonably maintain and keep the components of its Unit in a state of good working order, condition and repair, in a clean, neat, safe and sanitary condition, and in conformity with all laws, ordinances and regulations applicable to the Unit by properly and in a good and workmanlike manner making all repairs, replacements, alterations and other improvements necessary. Except for use by the Declarant during the sales of the Units, the Units may be used for residential purposes only and uses incidental thereto. Each of the Units hereby declared and established as a freehold estate shall consist of the following components:

(1) **Building.** Each Unit consists of the space inside and outside the building designated by that Unit's designation on the Drawings that is bounded by the undecorated interior and exterior surfaces of the Unit's perimeter walls (except for the walls between two Units), the center of any dividing wall between two Units on the same floor, the unfinished surface of the concrete floor, and the unfinished interior surface of the ceiling, all projected, if necessary, by reason of structural divisions such as structural columns, to constitute a complete enclosure of space, and all improvements within that space. Without limiting the generality of the foregoing, each Unit shall include:

(a) All interior and exterior walls, doors, floors, ceilings, skylights, if any, and rather ceilings located within the bounds of such Unit.

(b) All components of electrical systems, security systems, and fire or smoke detection systems, including, without limitation, all fixtures thereof, and lines and connections to such systems to the extent such lines, connections and/or systems serve only one Unit regardless of the location of such component within Common Elements or the space of another Unit.

(c) All components of heating, ventilating, and air conditioning systems, including, without limitation, lines and connections to such systems to the extent such lines, connections and/or systems serve only one Unit regardless of the location of such component within Common Elements or the space of another Unit.

(d) All interior (to the Unit) partitions (bearing or non-load bearing), floor systems, ceiling systems, floor and wall finishes (including paint, lacquer, varnish, wallpaper, tile and other finishing material applied to ceilings and floors), interior carpets, and all other interior components.

(e) All components of water supply plumbing systems, fire suppression sprinkler systems, natural gas distribution systems, and storm and sanitary sewer systems, including, without limitation, lines and connections to such systems to the extent such lines, connections and/or systems serve only one Unit regardless of the location of such component within Common Elements or the space of another Unit.

(f) All doors and entranceways serving only as access to or within a Unit.

(g) Any interior and perimeter windows, screens and doors, including the frames, sashes, sills, jambs, glass, molding, trim and hardware, and the space occupied by those items; All improvements now or hereafter made within a Unit, to the extent such improvements serve only that Unit.

(h) Foundations, floor slabs, columns, beams, roof deck, and all structural components.

(i) Exterior envelope components, including masonry, metal siding, roofing, flashing, soffits, spandrels, doors, entrances, skylights, insulation, steps, railings, etc.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, ALL MAINTENANCE OF EACH UNIT IS DELINEATED ON THE MAINTENANCE CHART ATTACHED HERETO AS **EXHIBIT “E”** (the “**Maintenance Chart**”).

(C) **Description and Maintenance of Limited Common Elements.** The following are hereby declared and established as the Limited Common Elements, the care, maintenance, repair and replacement of which shall be the responsibility of the Unit Owner to which such Limited Common Elements are appurtenant. Except for landscaping, each Unit Owner shall manage its Limited Common Elements and shall reasonably maintain and keep its Limited Common Elements in a state of good working order, condition and repair, in a clean, neat, safe and sanitary condition, and in conformity with all laws, ordinances and regulations applicable to the Limited Common Elements, including any reasonable Rules. Each Unit Owner shall properly make, in a good and workmanlike manner, all repairs, replacements, alterations and other improvements necessary to comply with the foregoing. The Limited Common Elements include the following components of the Property:

(1) Balconies/patios. Each Unit shall be entitled to the exclusive use of any patio or balcony that serves the Unit (and is accessible by a door/opening in the Unit). Any maintenance, repair and replacement shall be of the same color and style as the existing balconies/patios and must be approved by the Board prior to any repair or replacement that changes the appearance of the balconies/patios.

(2) To the extent such items do not fall within the definition of Unit, all other portions of electrical, plumbing, heating, air conditioning and other utility facilities located with the Common Elements but serving only a particular Unit.

(3) Any Common Elements serving exclusively one Unit the enjoyment, benefit or use of which are reserved to the lawful occupants of that Unit either in this Declaration or by the Board.

(D) Description & Maintenance of Common Elements. The following are hereby declared and established as the Common Elements for which the care, maintenance, repair and replacement shall be the responsibility of the Association, except as otherwise set forth on the Maintenance Chart. The Association shall, to the extent and at such times as the Board determines in the exercise of its business judgment, manage these Common Elements and shall reasonably maintain and keep these Common Elements in a state of good working order, condition and repair, in a clean, neat, safe and sanitary condition, and in conformity with all laws, ordinances and regulations applicable to these Common Elements, by properly making, in a good and workmanlike manner, all repairs, replacements, alterations and other improvements necessary to comply with the foregoing. Any replacement of any portion of the Common Elements shall be of the same quality as the original. The cost of caring for, maintaining, repairing and replacing these Common Elements shall be a Common Expense and shall be allocated between the Units in accordance with their respective Undivided Interests; provided, however, that if an upgrade is desired or required by, or benefits only, one Unit, then the cost of the same shall be paid entirely by such Unit. The Common Elements which are the responsibility of the Association include the following components of the Property:

(1) Land. The land described in **Exhibit 1** hereto and all of the improvements thereon (unless such improvement is a component of a utility serving only one Unit, in which event such component is part of that Unit, even if located within the Common Element land).

(2) Improvements.

(a) The parking areas, sidewalks and driveways designated as Common Elements.

(b) Facilities located within easements on property that is not a part of the Condominium Property, but which serve the Condominium Property, to the extent such maintenance is required by the subject easement.

(c) In general, all other apparatus and installations existing for common use of more than one Unit, including roofing and siding.

(d) All other parts of the Property necessary or convenient to its existence, maintenance and safety or normally in common use, or that have been designated as Common Elements in the Declaration or Drawings.

The existence of all such Common Elements on land which is part of a Unit is subject to the encroachment easement provided in Article III, Section (B) herein.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, ALL MAINTENANCE OF THE COMMON ELEMENTS AND EACH UNIT IS DELINEATED ON THE MAINTENANCE CHART.

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

(1) Use of Common Elements. Each Unit Owner shall own an undivided interest in the Common Elements as a tenant in common with the other Unit Owners, and, except as otherwise limited in this Declaration and in the Bylaws which are attached hereto as **Exhibit "B"**, each Unit Owner shall have the right to use the Common Elements for all purposes incident to the use and occupancy of the Owner's Unit for such uses permitted by this Declaration and the Bylaws, including the non-exclusive easement, together with other Unit Owners, to the use and enjoyment of the Common Elements and for ingress and egress to and from the respective Units to a private street or highway, or to a Common Element leading to a private street or highway, and for access to and from utilities serving or desired in connection with the use, operation and/or occupancy of a Unit, which rights shall be appurtenant to and shall run with title to each Unit. The extent of such ownership in the Common Elements is hereby deemed to be, and is expressed by, the Undivided Interest hereinafter set forth; such Undivided Interest shall remain constant and shall not be changed except by an amendment to this Declaration unanimously approved by all Unit Owners affected. No Common Elements shall be used by the Unit Owners and occupants, their agents, servants, customers, invitees and licensees, for any purpose other than the health, safety, welfare, convenience, comfort, recreation or enjoyment of Unit owners and occupants, subject to such Rules and regulations as may from time to time be promulgated by the Board.

(2) Ownership of Common Elements. The Undivided Interest in the Common Elements attributable to the Ownership Interest in each Unit, together with the Undivided Interest in the Association for the division of Common Expenses, Common Assessments, Common Surplus, Common Profits and Common Losses, as hereinafter described in Article V, Section (B), of this Declaration, shall be on a square footage basis (determined by the proportion that the square footage of each Unit bears to the aggregate square footage of all Units). Each Unit's Undivided Interest is listed in **Exhibit "D"**.

For purposes of conveyance of title to Owners of individual Units, description by Unit number and reference to this Declaration, any amendments hereto and the Drawings and any amendments to the Drawings, as recorded with the Summit County Recorder's Office, shall be sufficient to convey the Unit and the Ownership Interest in the Common Elements appurtenant thereto.

(3) Partition of Common Elements. There shall be no partition of the Common Elements through judicial proceedings or otherwise until this Declaration is terminated and the Property is withdrawn from its terms or from the terms of the Act or any statute applicable to Condominium Ownership that is a successor to the Act; provided, however, that if any Unit shall be owned by two or more co-owners as tenants in common or as joint tenants, nothing herein contained shall be deemed to prohibit a voluntary or judicial

partition of such Unit ownership as between such co-owners. Any partition of the Common Elements or termination of this Declaration shall provide for easements or other mechanisms to ensure that each Unit has access to a private street and access to all necessary structural support and utilities, including, without limitation, sewer, water, gas and electricity.

(4) Association's Regulation and Management of Common Elements.

(a) Regulation by Association. No person shall use the Common Elements or any part thereof in any manner contrary to or not in accordance with the Bylaws and any Rules pertaining thereto. Use of the Common Elements shall be limited to members of the Association and their respective guests, invitees, tenants, agents and servants. Subject to the Bylaws and any Rules, all Owners, Occupants and their respective guests, invitees, tenants, agents and servants may use the Common Elements in such manner as will not restrict, interfere with or impede the use thereof by other Owners.

(b) Management Agreement. The Board may but shall not be required to, delegate all or any portion of its authority and responsibilities to a manager, managing agent, or management company (herein referred to as the "**Managing Agent**"). Such delegation may be evidenced by a management agreement which shall provide for the duties to be performed by the Managing Agent and for the payment to the Managing Agent of a reasonable compensation as a Common Expense. Upon the expiration of each management agreement, the Association may renew said agreement or enter into a different agreement with a different Managing Agent; provided, however, that no management agreement or renewal thereof shall be for a term longer than three (3) years. The Managing Agent may be an entity owned in whole or in part, associated with in whole or in part, or in any other manner connected or associated with the Declarant or any Unit Owner or with any partner, agent, contractor or employee of the Declarant or such Unit Owner, without in any manner restricting, limiting or affecting the validity of the management agreement with said Managing Agent.

(c) Subject to the Maintenance Chart, the Association shall manage the Common Elements and shall maintain and keep same in a state of good working order, condition and repair, in a clean, neat, safe and sanitary condition, in conformity with all laws, ordinances and regulations applicable to the Common Elements, by promptly, properly and in a good and workmanlike manner, making all repairs, replacements, alterations and other improvements necessary to comply with the foregoing. The Association shall maintain, repair and replacement all private streets within the Condominium Property, including snow removal. The Association shall also be responsible for maintaining the landscaping of any Limited Common Elements. If a Unit Owner improves the yard portion of the Limited Common Elements attributable to his/her Unit in a manner that increases the cost of maintenance of the same, the maintenance of such yard portion of the Limited Common Elements shall be the responsibility of the Unit Owner.

(F) Unit Owner Obligations. Except as may otherwise be provided herein, the responsibility of each Unit Owner shall be as follows (which responsibilities may be assigned or delegated by an Owner to any one or more Tenants of its Unit pursuant to a Board approved written lease; provided, however, that no such delegation or assignment shall release or relieve such Unit Owner from its obligations under this Declaration and other Condominium Instruments):

(1) Not to make any alterations in the portions of the Common Elements or remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety or soundness of the Units or the Common Elements without first obtaining the written consent of the Board, nor shall any Unit Owner impair any easement or rights to access and use of a Limited Common Element without first obtaining the written consents of the Board and of the person or persons for whose benefit such easement or rights of access and use exists.

(2) To report promptly to the Association or its agent any defect or need for repairs, the responsibility for the remedying of which is with the Association.

(3) To perform the Owner's responsibilities in such a manner so as not unreasonably to disturb other persons occupying the Property.

(4) To maintain, repair and replace at such Owner's expense all portions of the Property which may be damaged or destroyed by reason of the Owner's own act or neglect, the act or neglect of any Occupant of an Owner's Unit, or the act or neglect of any invitee, licensee or guest of such Unit Owner or Occupant, to the extent such damage or destruction is not covered by insurance maintained by the Association, which repair or replacement must cause the damaged portion of the Property to be in the same (or as close as possible) condition it was prior to the damage. Notwithstanding the foregoing obligation of the Unit Owner, the Association (or other Unit Owner in respect to such Owner's Unit) may, but shall not be obligated to, repair and replace the property damaged or destroyed by reason of the act or neglect of a Unit Owner, an Occupant, or their invitee, licensee or guest, and charge and collect from such Unit Owner the cost and expense paid or incurred in making any such repair or replacement. If such repair or replacement is made by the Association, the cost and expense thereof shall be a lien against the Unit owned by the responsible Unit Owner which the Association may assert and collect in the same manner as the Association may assert and collect a lien against a Unit for non-payment of such Unit Owner's share of assessments for Common Expenses. The right herein of the Association to assert and collect upon a lien shall not be exclusive, but shall be in addition to all other rights and remedies available to the Association, herein, in law and in equity for recovery of the cost and expense so incurred.

(5) To pay all costs for utility services (including, without limitation, water, gas, electricity, sewage, and the like) furnished to the Unit owned by such Owner. In the event any or all of such services are not individually metered per Unit, but are metered by a single meter and billed to the Association or one of the Unit Owners, the Association or such Unit Owner shall have the right to sub-meter such utility consumption by each Unit and charge to the other Unit Owners for such other Unit Owners' portion of such utility consumption, in which case all or any of such services so provided by the Association or such Unit Owner

shall be paid for as a special Assessment to the Association. To the extent the sanitary sewer charges or any other utility charges for the Units are billed to the owner of one Unit or the Association, then each Unit Owner shall pay the amount allocated to its Unit by the utility company or, if no allocation, as if it were a Common Expense. The Association shall have the right to require a utility deposit to be made by each Unit Owner, in an amount reasonably determined by the Board, as required to assure each such Unit Owner's payment of such sub-metered utility costs, which utility deposit shall not exceed the estimated amount of three (3) month's utility charges, as reasonably estimated by the Board. Such utility deposits shall be held by the Association to be applied in the event of a Unit Owner's non-payment of sub-metered utility bills. Each Unit Owner shall immediately repay the Association any payments the Association shall make out of such deposits, and, upon the conveyance of a Unit, any balance remaining on such utility deposits shall first be applied to any outstanding Assessments or other charges due to the Association by the depositing Unit Owner under this Declaration, and any remaining balance shall be returned to the Unit Owner.

(6) To pay all expenses associated with the Limited Common Elements associated with such Unit.

(7) No building, fence, wall, sign or any other structure may be commenced, erected or maintained on the Property, or any part thereof, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved by the Board.

(8) Not to enclose, paint or otherwise decorate or change the appearance of any portion of the Condominium Property not within the walls of the Unit, unless the written consent of the Board of the Association is first obtained, which approval shall be in the sole discretion of the Board.

ARTICLE III. EASEMENTS THROUGH UNITS AND COMMON ELEMENTS

Declarant hereby creates by grant or reservation, as the case may be, in perpetuity, for the benefit of each Unit Owner, each mortgagee in whose favor a mortgage shall be granted with respect to any Unit, the Association, and to any other person now having or hereafter having an interest in the Property (including, without limitation, Tenants, but only to the extent of their leasehold interest) and the respective heirs, devisees, executors, administrators, personal representatives, successors and assigns of the foregoing persons, the following non-exclusive rights and easements:

(A) Driveway, Utility, Emergency and Service Easements, and Other Easements.
The right and easement for the Association to repair, replace, operate and maintain private streets, parking areas, sidewalks, water mains with service connections (if any), storm and sanitary sewer lines, storm systems (including sump pump systems and underground storm detention systems), steam, electric, gas and telephone and telecommunications lines, conduits, and transmission and meter devices and other utilities, in, on, under and/or over the Common Elements; the right and

easement for the Association to repair, replace, relocate, operate and maintain television cable lines and other television reception devices and security devices; the right and easement for the Association and/or the Owner of the Exclusively Served Unit (hereinafter defined) to repair, replace, relocate, operate and maintain that portion of equipment and systems located outside of the bounds of a Unit but which serves only that Unit (such Unit, the “**Exclusively Served Unit**”). Easements are hereby granted for fire, police, health, sanitation, medical, ambulance, utility company, mail service and other public and quasi-public emergency and service personnel and their vehicles for ingress and egress over driveways, parking areas and other Common Elements within the Property for the performance of their respective duties; provided, however, that the foregoing shall not be deemed to be a consent to a warrantless search of a Unit by law enforcement personnel or any other safety forces or persons on behalf of a governmental agency.

(B) **Encroachments.** If by reason of the original construction, repair, restoration, partial or total destruction and rebuilding, expansion, or settlement or shifting of any of the Building(s) or improvements constituting a part of the Property, any part of the Common Elements shall encroach upon any part of a Unit, or any part of a Unit shall encroach upon any part of the Common Elements, or any part of a Unit shall encroach upon any part of any other Unit, or if by reason of the design or construction or rebuilding of the utility systems comprised within the Property any pipes, ducts or conduits serving a Unit shall encroach upon any other Unit, easements in favor of the Unit Owner or Association, as the case may be, for the maintenance of any such encroachment are hereby established; provided, however, in no event shall a valid easement for any encroachment be created in favor of a Unit Owner if such encroachment occurred due to a Unit Owner’s willful conduct.

(C) **Maintenance, Access and Support Easements.** Easements in favor of the Association and its agents (including any Managing Agent, and the contractors employed by the Association) through the Units and their appurtenant Limited Common Elements, and easements in favor of each Unit Owner through the Common Elements and/or other Units for access as may be necessary for the purpose of each party maintaining the Units, Limited Common Elements, and Common Elements as is such party’s obligation pursuant to this Declaration. Easements in favor of each Unit Owner over the Common Elements for access to its Unit. Easements in favor of each Unit Owner to and through the Common Elements as may be necessary for the use of water, gas, sanitary sewers, electric and telephone and telecommunications lines, and other utilities now or hereafter existing. Easements in favor of the Association and each Unit Owner through the Common Elements, Limited Common Elements and all other Units as necessary for the structural support and integrity of all of the Property.

(D) **Easements Through Units.** Easements in favor of the Association and any Unit Owner of an Exclusively Served Unit through the Units and their appurtenant Limited Common Elements for the purpose of maintaining, repairing and replacing any Common Element pipes, wires, cables, ducts, conduits, public utility lines or structural components therein, or as necessary for any structural support.

(E) **Unit Owner’s Right to Ingress and Egress and Support.** Each Unit Owner shall have the perpetual right, as an appurtenance to such Unit Owner’s Unit, of ingress and egress over, upon and across the Common Elements necessary for access to such Owner’s Unit and Limited

Common Elements, and shall have the right to the horizontal and lateral support of its Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

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

(G) **Easement Rights.** The easements set forth in this Article are to be enjoyed in common with the grantees, their heirs, executors, administrators, successors and assigns.

(H) **No Severance of Ownership.** No Unit Owner shall execute any deed, mortgage, lease, or other instrument affecting title to its Unit without including therein both the Unit Owner's interest in the Unit and the corresponding Undivided Interest in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

(I) **Drainage Rights and Authority to Transfer Drainage and other Easement Rights to the City or Summit County.** The Declarant, each Unit Owner, and the Association shall have the non-exclusive right and easement in common to utilize storm detention and/or retention areas (if any), storm sewers and drainage pipes in, over, and upon the Common Elements for the purposes of drainage of surface waters on the Property, said right and easement being hereby established for said purpose. It shall be the obligation of the Association to properly maintain, repair, operate and control such drainage system on the Common Elements unless and until those easement areas are dedicated by the Association and accepted by the City and/or Summit County or other governmental authority having jurisdiction by formal action of the City and/or Summit County. No person shall interfere with, by means of constructing any structure or otherwise, the free flow of water through any drainage ditches, swales, storm water easements or storm sewers within the Property, without the written consent of the Association and the Summit County Engineer.

Furthermore, a Plat sets forth easements for drainage and storm sewers being granted by the Declarant to the City (the "**Sewer Easements**"). Each of the Sewer Easements shall be permanent and in accordance with the widths and lengths as shown on each Plat and through Common Elements to clean, deepen, widen, improve, operate, maintain, repair, reconstruct and relocate any improvements associated therewith above and below ground, to maintain and/or improve such improvements as deemed necessary or convenience by the City for maintaining public services, drainage and utilities as the City may determine upon, within and across the Sewer Easements, subject to the terms included herein. No structures shall be placed within said Sewer Easements. Within said Sewer Easements, no fences, signage, mounding or rocks greater than two (2) feet in diameter shall be placed within five (5) feet of waterlines or sanitary sewers without the prior approval of the City. Said Sewer Easements and the rights associated therewith shall include the right, without liability therefore, to remove trees and landscaping, including lawns, within said Sewer Easements, which may interfere with the installation, maintenance, repair or operation of

such drainage, public utilities and facilities, the right to clean, widen, deepen, repair, augment and maintain public drainage and service within the Sewer Easements, with the right of access and egress to any of the Sewer Easements for exercising any of the purposes of this easement grant. The City shall not be required to replace or repair any curbs, fences, sidewalks, driveways, roadways, parking areas, signage and landscaping, including ornamental trees, bushes and special plantings and that the same are constructed within the Sewer Easements at each Owner's risk; the City's only obligation being to restore the density of subsurface material and to repair or replace any grass damaged in such maintenance repair or reconstruction. Regular maintenance of the landscaping is the responsibility of each Unit Owner or the Association, as set forth herein. The City is hereby provided the right to enter upon any of the Common Elements and performance any landscaping maintenance if a Unit Owner fails to do so and charge the Owner for said landscaping maintenance.

ARTICLE IV. CONDOMINIUM ASSOCIATION

(A) **Membership.** The Declarant has formed an Ohio not for profit corporation to be called PRESERVE OF HUDSON CONDOMINIUM ASSOCIATION, INC. which shall administer the Property. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of its Unit ownership, at which time the new owner of such Unit shall automatically become a member of the Association. The Board of Trustees and officers of the Association elected as provided in the Bylaws attached hereto as **Exhibit "B"**, shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, by the Bylaws and by this Declaration upon the Association, except as otherwise specifically provided; provided, however, that in the event any such power, duty or right shall be deemed exercisable or dischargeable by, or vested in, an officer or a member of the Board of Trustees, solely in his or her capacity as an officer or a member of the Board of Trustees, he or she shall be deemed to act in such capacity to the extent required to authenticate his or her acts and to carry out the purposes of this Declaration and the Bylaws. The number of members constituting the Board of Trustees and the terms of such members are set forth in the Bylaws.

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

(C) **Service of Process.** Service of summons or other process upon the Association may be made in accordance with the provisions of the Ohio Revised Code, Sections 5311.05(B)(8) and 5311.20. The person to receive service of process for the Association shall be as designated by the Board. This designation will be accomplished by filing with the Ohio Secretary of State the required statutory agent designation form. Until such time as a statutory agent is designated, service may be made upon 1600 CNB Corp., 1375 East 9th St., 29th Floor, Cleveland, Ohio 44114. When and after the Association is lawfully constituted, the statutory agent thereof shall be the

person to receive service of process, and his or her name and address (and that of each successor) shall be filed with the Ohio Secretary of State on such forms as are prescribed for the subsequent appointment of a statutory agent for an Ohio corporation not for profit.

ARTICLE V. ASSESSMENTS

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

(B) **Division of Common Expenses, Common Assessments, Common Surplus, Common Profits and Common Losses.** The proportionate shares of the separate Owners of the respective Units in the Common Expenses, Common Assessments, Common Surplus, Common Profits and Common Losses of the operation of the Property shall be a percentage that is equal to the applicable Undivided Interest corresponding to the respective Units as described on **“Exhibit D”**. The acquisition or occupancy of any Unit shall be conclusive evidence against the Unit Owner or Occupant thereof that the Undivided Interest set forth opposite each Unit on **“Exhibit D”** to this Declaration is correct, and represents the proportionate share of Common Profits and Common Expenses of each Unit Owner, which Common Profits and Common Expenses shall be allocated to each Owner in accordance with said Undivided Interest. The obligation of an Owner to pay its proportionate share of Common Assessments shall commence upon such Owner’s acquisition of its Unit.

(C) **Non-Use of Facilities.** As further set forth in the Bylaws and the Act, the obligation to pay all Assessments is an independent covenant. No Owner of a Unit may be exempt from liability for contribution toward the Common Expenses by waiver of the use or enjoyment of the Common Elements, or by the abandonment of a Unit.

(D) **Lien of Association.** The Association shall have the right to place a lien upon the estate or interest in any Unit of the Owner thereof and the Owner’s Undivided Interest for the payment of (i) the portion of the Common Expenses chargeable against such Unit which remains unpaid for ten (10) days or more after such portion has become due and payable, (ii) the Charge applicable thereto, and (iii) Enforcement Costs, such lien to be perfected by filing a certificate therefor (**“Certificate of Lien”**) with the Recording Division of the Fiscal Office of Summit County, Ohio, pursuant to authorization given by the Board of Trustees of the Association. The Certificate of Lien shall contain a description of the Unit, the name or names of the record Owner or Owners, and the amount of the unpaid portion of the Common Expenses. The lien is valid for a period of five (5) years after the date of filing, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of a court in an action brought to discharge the lien as hereinafter provided. In addition, each Unit Owner shall be liable for all assessments levied by the Association against its Unit during the period the Owner owns said Unit, and any Common Assessment not paid within ten (10) days after the same shall become due and payable, shall bear interest at the maximum rate allowed by law until such time as the Common Assessment has been

paid in full. The Association shall be entitled to levy against the Unit Owner who has failed to pay Common Expenses and/or Common Assessments within ten (10) days of when due a late fee or service charge of eighteen percent (18%) of the amount of the delinquent payment per annum (or the maximum permitted by law, if lower), or One Hundred Dollars (\$100.00) per month, whichever is greater (“**Charge**”), in order to defray all costs of collection. In addition, the Association shall be entitled to levy against the delinquent Unit Owner court and enforcement costs and all related attorney and paraprofessional (paralegal) fees (“**Enforcement Costs**”).

(E) **Priority of Association’s Lien.** The lien provided for in Section (D) of this Article V is prior to any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments of political subdivisions and liens of Eligible Mortgage Holders that have been filed for record. This lien may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Association by any officer pursuant to authority given to him or her by the Board of Trustees. In the foreclosure action, the Association President or an Association officer, or its agent, duly authorized by action of the Board, is entitled to become a Purchaser at the foreclosure sale. The Association may institute and maintain suit to recover unpaid Common Expenses, Charges and Enforcement Costs without foreclosing or waiving the lien securing payment of the same.

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

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

(H) **Liability for Assessments Upon Voluntary Conveyance.** In a voluntary conveyance of a Unit, other than by deed in lieu of foreclosure, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid Assessments and Enforcement Assessments levied by the Association against the grantor and grantor’s Unit up to the time of the grant or conveyance, without prejudice to the grantee’s right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board of Trustees setting forth the amount of all unpaid Assessments and Enforcement Assessments against the grantor due the Association, and such grantee shall not be liable for, nor

shall the Unit conveyed be subject to a lien for, any unpaid Assessments and Enforcement Assessments made by the Association against the grantor in excess of the amount set forth in such statement arising prior to the date of, or for the period reflected in, such statement.

(I) Rights of Association in a Foreclosure Action. In a foreclosure action commenced by an Eligible Mortgage Holder or other lien holder on a Unit, or commenced by the Association, the Unit Owner shall be required to pay reasonable rental for the Unit during the pendency of the action. The Association or the holder of the lien is entitled to the appointment of a receiver to collect the rental. Each rental payment a receiver collects during the pendency of the foreclosure action shall be applied first to the payment of the portion of the Common Expenses chargeable to the Unit during the foreclosure action. In a foreclosure action brought by a lienholder other than the Association, the lienholder shall name the Association as a defendant in the action. In a foreclosure action, it is not a defense, setoff, counterclaim, or cross-claim that the Association has failed to provide the Unit Owner with any services, goods, work or material, or failed in any other duty.

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

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

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

(L) Denial of Voting Rights. The Board may suspend the voting privileges of an Owner if the Owner is delinquent in the payment of any Assessment for more than fifteen (15) days.

(M) Capital Contribution. In addition to such regular monthly Assessments, each Owner (except Declarant) shall be required to make, at the time such Owner acquires title to a Unit and upon each re-sale of a Unit, an initial capital contribution to the Association of \$_____.00 for each Unit purchased, one-half (1/2) of said sum shall be held by the Association in the Association's working capital account and the balance of said sum shall be held by the Association as a reserve for contingencies and replacements. The general purpose of this contribution is to provide the Association with funds for working capital and/or contingency reserve purposes. Such funds may be used for certain prepaid items (e.g., insurance premiums, utility deposits and organization, equipment and supply costs) and for such other purposes as the Board may determine. This initial capital contribution is not an escrow or an advance, is not refundable and

shall not be required of the Declarant, but only from those Persons who purchase a Unit from the Declarant or re-sell a Unit to a third party.

(N) **Maximum Monthly Assessment.** Until January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum monthly Assessment is \$_____ per Unit. From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner (other than Declarant), the maximum monthly Assessment each year may not be increased more than ten percent (10%) above the maximum Assessment for the previous year without a vote of at least fifty-one percent (51%) of the Owners and approval of Declarant. Notwithstanding anything to the contrary contained herein, Declarant shall not be required to pay any Assessments.

ARTICLE VI. INSURANCE AND RECONSTRUCTION

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

(1) **Association Property Insurance.** The Association shall carry property insurance on all insurable improvements comprising the Common Elements, except the actual Unit and the Limited Common Elements are to be insured by the Owner of the appurtenant Unit, and as set forth on the Maintenance Chart. To the extent obtainable at a reasonable price, the Association shall also carry property insurance on all personal property owned by the Association and for which the Association is responsible. Such property insurance, if the same is carried by the Association, is hereinafter called "**Association Property Insurance**". The Association Property Insurance shall be in an amount not less than one hundred percent (100%) of the insurable replacement cost of such Common Elements (with an agreed value endorsement), as determined by a qualified appraiser, the amount determined and the insurance to be reviewed and adjusted as determined by the Board (provided, however, that the initial policy may be determined by construction cost, given the fact that the Property will have been newly constructed). The cost of the appraisal and the cost of the Association Property Insurance shall be a Common Expense. Any coinsurance requirement in the policy shall be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as is otherwise appropriate under the particular policy form. Such Association Property Insurance policy shall also include the following coverages:

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

(b) coverage against such other risks (including flood insurance if such insurance is available) as from time to time are customarily covered with respect to buildings similar to the insured property in construction, location and use, including, but not limited to, debris removal, vandalism, malicious mischief, windstorm and water damage, subject to such deductible amounts as the Board shall determine, provided, however, such deductible amounts shall not exceed the lesser

of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy amount. The deductible amounts shall be treated as a Common Expense.

The policy or policies providing Association Property Insurance shall provide that notwithstanding any provision thereof which gives the carrier an option to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the case of removal of the Property from the provisions of the Act as provided for in this Declaration and shall further provide that the coverage thereof shall not be terminated for non-payment of premiums without at least thirty (30) days' written notice to the Association, to the Unit Owners, to the Eligible Mortgage Holders of each Unit (if any), and, at the request of a Unit Owner, to any Tenant specified by such Unit Owner.

All Association Property Insurance policies shall be purchased by the Association for the benefit of the Declarant, the Association, the Unit Owners, and their respective mortgagees, as their interests may appear, and shall provide: (i) for the issuance of certificates of insurance with mortgagee endorsements to the holders of mortgages on the Units, if any; (ii) that the insurer waives its right of subrogation against Unit Owners, Occupants of Units, and the Association; (iii) that the insurance will not be prejudiced by any acts or omissions of Unit Owners that are not under the control of the Association; (iv) that the Association Property Insurance policy is primary with respect to casualty to the Common Elements, even if a Unit Owner Property Insurance policy (as hereafter defined) covers the same loss, and (v) each Unit Owner Property Insurance policy (as hereafter defined) obtained by a Unit Owner is primary with respect to casualty to the Units, even if the Association Property Insurance policy covers the same loss.

The Association Property Insurance policies and any endorsements thereto shall be deposited with the Association.

All Association Property Insurance policies shall provide that all proceeds payable as a result of casualty losses insured thereunder shall be paid to the Association as exclusive agent for each of the Unit Owners and each holder of a mortgage or other lien on any Unit.

In the event Association Property Insurance policies are not obtainable due to prohibitive cost or other reason, upon notice to each Unit Owner from the Association, each Unit Owner shall name the Association as an additional insured on each Unit Property Insurance policy, which shall include such Unit Owner's undivided interest in the Common Elements.

(2) **Liability Insurance.** The Association shall insure itself, the members of the Board, the Unit Owners, and Occupants of Units other than Unit Owners against liability for personal injury, disease, illness or death, and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Common Elements for which the Association has responsibility pursuant to Article II Section (D) of this Declaration, including, without limitation, water damage, legal liability, non-owner automobile and off-premises employee coverage (the "**Association Liability Insurance**") by maintaining commercial general liability insurance ("**CGL**"), and, if necessary, commercial umbrella insurance in commercially reasonable amounts. An endorsement adding Unit Owners as

additional insureds shall be included. All Association Liability Insurance policies shall provide that the coverage thereof shall not be terminated for non-payment of premiums without at least thirty (30) days written notice to the Association, to the Unit Owners and to each Eligible Mortgage Holder. If such Association Liability Insurance shall, for any reason, not fully cover any such liability, the amount of any deficit shall be a Common Expense to the Unit Owners, and any Unit Owner who shall have paid all or any portion of such deficiency in an amount exceeding such Owner's proportionate share thereof based on the Owner's Undivided Interest shall have a right of contribution from the other Unit Owner(s) according to their respective Undivided Interests. The policy or policies for commercial general liability insurance shall afford protection to a limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) in respect to any one such occurrence, and to the limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) in respect to damage to or destruction of property arising out of any one accident. Such liability insurance shall contain a cross liability endorsement to cover liability of one insured to the other.

All Association Liability Insurance policies shall be purchased by the Association for the benefit of the Declarant, the Association, the Unit Owners, and their respective mortgagees, as their interests may appear, and shall provide: (i) for the issuance of certificates of insurance with mortgagee endorsements to the holders of mortgages on the Units, if any; (ii) that the insurer waives its right of subrogation against Unit Owners, Occupants of Units, and the Association; (iii) that the insurance will not be prejudiced by any acts or omissions of Unit Owners that are not under the control of the Association; (iv) that the Association Liability Insurance policy is primary with respect to the extent of losses not covered by a Unit Owner Liability Insurance policy (as hereafter defined), and (v) each Unit Owner Liability Insurance policy (as hereafter defined) obtained by a Unit Owner is primary with respect to personal injuries or damage arising out of actions or inaction of such Unit Owner, the use and occupancy of that Owner's Unit, even if the Association Liability Insurance policy covers the same loss.

The Association may also obtain trustees and officers liability coverage if reasonably available.

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

(B) Unit Owner Insurance. The insurance which shall be carried by each Unit Owner (which obligation shall not be assigned by any Owner) shall be governed by the following provisions:

(1) Unit Owner Property Insurance. Each Unit Owner shall carry property insurance on all of the improvements comprising its Unit (as defined in Article II(B) herein) and the Limited Common Elements appurtenant to such Unit. Such property insurance to be provided by each Unit Owner is hereinafter referred to as "**Unit Property Insurance**". The Unit Property Insurance to be purchased hereunder by each Unit Owner shall be in an amount not less than one hundred percent (100%) of the insurable

replacement cost of such Unit and appurtenant Limited Common Elements, with a “Guaranteed Replacement Cost Endorsement”, the amount determined and the insurance to be reviewed annually and adjusted if necessary. Any coinsurance requirement in the policy shall be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as is otherwise appropriate under the particular policy form. Such Unit Property Insurance policy shall include the following coverages:

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

(b) loss or damage from such other risks customarily covered with respect to buildings similar to the Buildings in construction, location and use, including, but not limited to, debris removal, vandalism, malicious mischief, windstorm and water damage, and flood insurance (if such insurance is available) subject to such deductible amounts as the Board shall determine, provided, however, such deductible amounts shall not exceed the lesser of Five Thousand Dollars (\$5,000) or one-half percent (1/2%) of the policy amount. The Unit Owner shall be solely responsible for payment of deductible amounts.

The Unit Property Insurance shall provide that notwithstanding any provision thereof which gives the insurance carrier an option to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the case of removal of the Property from the provisions of the Act as provided for in this Declaration, and shall further provide that the coverage thereof shall not be terminated for non-payment of premiums without at least thirty (30) days’ written notice to the Unit Owner, the Association, and to the Eligible Mortgage Holders of such Unit, if any. Each Unit Owner shall name the Association as an additional insured on each Unit Property Insurance policy to the extent that such insurance is applicable to any Common Elements.

Copies of each Unit Property Insurance policy and any endorsements thereto, as the same are issued, renewed, and/or revised, shall be deposited with the Association. The Association shall at all times have evidence of an effective Unit Property Insurance Policy for each Unit.

All Unit Property Insurance policies shall provide that all proceeds payable as a result of casualty losses to a Unit, to appurtenant Limited Common Elements, and to the personal property of the Unit Owner shall be paid to the Unit Owner and/or each holder of a mortgage on the Unit as required in such mortgage. All Unit Property Insurance policies shall provide that such policies shall be without contribution against the Association Property Insurance purchased by the Association, or shall be written by the carrier of such Association Property Insurance.

(2) Unit Owner’s Liability Insurance. Each Unit Owner shall insure itself, the Association, the members of the Board, the other Unit Owners, and Occupants of Units other than Unit Owners against liability for personal injury, disease, illness or death, and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the use and occupancy of such Owner’s Unit and appurtenant Limited Common

Elements by maintaining commercial general liability insurance (“CGL”), and, if necessary, commercial umbrella insurance in commercially reasonable amounts (the “**Unit Owner Liability Insurance**”). An endorsement adding the above set forth parties as additional insureds, shall be included. All Unit Owner Liability Insurance policies shall contain cross-liability endorsements to cover liabilities of the Unit Owner to the insured parties set forth above, and shall further provide that the coverage thereof shall not be terminated for non-payment of premiums without at least thirty (30) days written notice to the Unit Owner and the Association. If such Unit Owner Liability Insurance shall, for any reason, not fully cover any such liability, the amount of any deficit shall be the sole responsibility of the Unit Owner.

All Unit Owner Liability Insurance policies shall provide: (i) for the issuance of certificates of insurance to the Association; (ii) that the insurer waives its right of subrogation against other Unit Owners, Occupants of other Units, and the Association; (iii) that the insurance will not be prejudiced by any acts or omissions of the Association or other Unit Owners that are not under the control of the Unit Owner; (iv) that the Unit Owner Liability Insurance policy is primary with respect to the extent of losses not covered by the Association Liability Insurance policy, and (v) the Association Liability Insurance policy is primary with respect to personal injuries or damage arising out of actions or inaction of the Association, even if the Unit Owner Liability Insurance policy covers the same loss.

Copies of each Unit Owner Liability Insurance policy and any endorsements thereto, as the same are issued, renewed, and/or revised, shall be deposited with the Association. The Association shall at all times have evidence of an effective Unit Liability Insurance Policy for each Unit.

(3) If a Unit Owner fails to procure the Unit Owner Property Insurance and/or Unit Owner Liability Insurance required hereunder, and to provide the Association with certificates of such insurance as required herein, the Association may procure such insurance coverage on behalf of the Unit Owner, and the cost to the Association therefore shall become a special assessment against such Owner’s Unit.

(4) In the event Association Property Insurance policies are not obtainable for any reason, each Unit Owner shall name the Association as an additional insured on each Unit Property Insurance policy, which shall include such Unit Owner’s undivided interest in the Common Elements.

(C) Responsibility for Reconstruction or Repair.

(1) If any portion of the Common Elements shall be damaged by perils covered by the Association Property Insurance, the Association shall cause such damaged portion to be promptly reconstructed or repaired to the extent of the funds made available to the Association as hereinafter provided, and any such reconstruction or repair shall be substantially in accordance with the Drawings; provided, however, if such damage renders the Units within the Condominium Property untenable, the Unit Owners may unanimously elect not to reconstruct or repair such damaged Common Elements within ninety (90) days after the occurrence of the casualty, or, if by such date the insurance loss

has not been finally adjusted, then within thirty (30) days after such final adjustment. In the event of such election, the proportionate value of each Unit shall be the Undivided Interest percentage for such Unit (“**Percentage Value**”). Upon such election, all of the Property shall be subject to an action for sale as upon partition at the suit of any Unit Owner. In the event of any such sale, or a sale of the Property after such election by agreement of all Unit Owners, the net proceeds of the sale together with the net proceeds of Association Property Insurance and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to the Unit Owners in proportion to the Percentage Value of their respective Units. No Unit Owner, however, shall receive any portion of such proceeds until all liens and encumbrances on its Unit have been paid, released or discharged. Each Unit Owner and its respective mortgagee by acceptance of a deed to its Unit or a mortgage encumbering such Unit, as the case may be, hereby irrevocably appoints the Association as the Owner’s attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of the attorney, to carry out the provisions of this Article VI.

(2) If any portion of a Unit or its appurtenant Limited Common Elements shall be damaged by perils covered by the Unit Property Insurance, the Unit Owner shall cause such damaged portion of the Unit and/or Limited Common Elements to be promptly reconstructed or repaired.

(D) Procedure for Reconstruction or Repair to Common Elements.

(1) Immediately after a casualty causing damage to any portion of the Common Elements insured by the Association, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as the condition of the property before the casualty. Such costs may include professional fees of public adjuster firms and others and premiums for such bonds as the Board deems necessary.

(2) If the proceeds from the Association Property Insurance policy are not sufficient to fully cover the estimated costs of the Association’s reconstruction and repair of the damaged Common Elements, including the aforesaid fees and premiums, if any, one or more special Assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs, and the proceeds of such special Assessments shall be deposited with the Association.

(3) The proceeds of the Association Property Insurance policy and the sums deposited from collections of special Assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed to the Association and be applied to the payment of the cost of reconstruction and repair of the damaged portion of Common Elements from time to time as the work progresses, but not more frequently than once in any calendar month. The Association shall make such payments upon receipt of a certificate, dated not more than fifteen (15) days prior to such request, signed by the architect or contractor in charge of the work, who shall be selected by the Association, setting forth (a) that the sum then requested is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services

and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate, (b) that except for the amount stated in such certificates to be due as aforesaid less any prescribed holdback of funds, and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry which might become the basis of a vendor's, mechanic's, materialmen's or similar lien arising from such work, and (c) that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining in the hands of the Association after the payment of the sum requested. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in any construction fund accumulated for the repair of any Common Elements after payment of all costs of the reconstruction and repair for which the fund is established, then such balance shall be disbursed to the Association.

(4) Each Unit Owner shall be deemed to have delegated to the Board the Owner's right to adjust with insurance companies all losses under the Association Property Insurance policies.

(E) Negligence of Unit Owner. Each Unit Owner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary to the Common Elements, or to any other Unit or its appurtenant Limited Common Elements by such Owner's negligence, or by the negligence of such Owner's guests, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or other Unit Owner(s). A Unit Owner shall pay the amount of any increase in the Association Property Insurance policy or any Unit Property Insurance policy premiums occasioned by such Owner's, Occupant's or guest's use, misuse, occupancy or abandonment of its Unit, Limited Common Elements, or its appurtenances or of the Common Elements.

ARTICLE VII. COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

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

(A) Except as expressly permitted in this Declaration, or by the Bylaws attached hereto or any Rules, no industry, business, or trade shall be conducted, maintained or permitted on any part of the Property. The Property shall be used solely for residential purposes. Provided, however, that the foregoing shall not preclude Unit Owners who are engaged in a professional or quasi-professional business with a principal office elsewhere from "working at home" using mail, telephones, computers and the like, so long as such "working at home" does not include inviting non-Unit Owners into the Building (whether as customers, clients, independent contractors, co-workers or employees of the business). Further, the foregoing shall not preclude Unit Owners from engaging in a business where the Unit is an office location of the business where such work is (a) conducted solely using mail, phones, computers, and/or facsimile machines and (b) the business does not require or involve in any way inviting non-Unit Owners into the Building as customers, co-workers, independent contractors or employees of the business. All "working at

home” by a Unit Owner shall be conducted in accordance with any and all rules and regulations established by the City.

(B) There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Board except as hereinafter expressly provided. Unit Owners may use Limited Common Elements for storage subject to the easements and provisions contained in Article III of this Declaration and the Unit Owner’s obligations set forth in Article II Section (F) of this Declaration.

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

(D) All sign, awning, canopy, or shutter installations shall be in accordance with the codes and ordinances of the City or variances therefor obtained from the City.

(E) No noxious or offensive activity shall be carried on in any Unit, Limited Common Element or in the Common Elements nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or Occupants. No Owner shall cause or permit any electrical, electronic and/or any other emissions from and/or in or about its Unit, Limited Common Element or the Common Elements which may be or become an annoyance or nuisance to the other Owners or Occupants, unless the Board states in writing that any adverse effect thereof can be properly minimized and/or eliminated by appropriate shielding or other treatment thereof to be provided and maintained at the sole cost and expense of the Owner or Occupant of that Unit, in which case the Board may permit the same on suitable terms and conditions.

(F) No Hazardous Substance (hereinafter defined) shall be used, stored, processed, produced, generated, disposed of, released or spilled in, on, around or from the Property or transported from the Property by any Owner, Tenant, Occupant, guest or invitee of a Unit provided, however, Hazardous Substances may be used or temporarily stored in a Unit or Limited Common Element subject to the following conditions: (i) such use or storage is in compliance with this Declaration and in compliance with all applicable laws, statutes, ordinances, rules and regulations and applicable standards of good industrial hygiene, and (ii) such use or storage is customary and appropriate for household use in compliance with this Declaration and all applicable laws. The term “Hazardous Substance” means any substance, material or waste that is defined or regulated as being hazardous, or as being a pollutant or contaminant, under any applicable law, statute, ordinance, rule or regulation. Hazardous Substances shall include, without limitation, asbestos and asbestos-containing materials, petroleum and petroleum by-products, polychlorinated biphenyls (PCBs), heavy metals and medical, biological or infectious wastes.

(G) Nothing shall be done in any Unit or Limited Common Elements or in, on or to the Common Elements or Limited Common Elements which will impair the structural integrity of the

Building. There shall be no obstructions of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Board. Each Unit Owner shall be obligated to maintain and keep in good order and repair such Unit Owner's Unit.

(H) All exterior portions of the Property shall be kept free and clear of rubbish, debris and other unsightly materials.

(I) Nothing shall be altered or constructed in or removed from the Common Elements or Limited Common Elements except upon the prior written consent of the Board.

(J) The Board shall have the right to establish parking regulations with respect to the Common Elements, including any driveway, in order to enforce the provisions of the Declaration and to tow vehicles which are in violation of such Rules and regulations. Unit Owners, Occupants and their guests may park their motor vehicles overnight only within the driveways of their respective Unit's Limited Common Elements. Vehicles shall not be parked on lawns, landscape areas, or other such non-improved surfaces. There shall not be parking of motor vehicles in any part of the Common Elements, unless such parking is approved by the Board.

(K) Any deck/patio area must be used for its intended purpose as seasonal outdoor living space. Storage of personal property other than furnishings manufactured specifically for outdoor use is prohibited anywhere in the Limited Common Elements. In compliance with local code or ordinances, grills, fire pits or other sources of flame or heat shall not be placed within ten (10) feet of the Unit's (or any other structure's) wall (unless a greater distance separation is required by any law or regulation, in which event that law or regulation shall be complied with at all times).

(L) Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed from time to time in Rules and regulations established by the Board. Each Unit Owner shall be responsible for the removal of trash and garbage from such Owner's Unit and Limited Common Elements. Refuse containers may only be placed in the garage of a Unit, or behind the rear building wall of a Unit. Refuse containers may only be placed upon the Unit's driveway, as applicable, when required for collection by the waste hauler and shall be promptly removed to their place of normal storage once emptied by the waste hauler. The Association shall hire a private refuse disposal company to collect all refuse containers placed by the Unit Owner in a location established by the Association. All Unit Owners are required to utilize the private refuse disposal company hired by the Association.

(M) Except as provided in this paragraph, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Elements, except that dogs, cats or other normal household pets may be kept in Units, subject to rules and regulations adopted by the Board, including, without limitation, the right to levy fines against persons who do not clean up after their pets. No animals shall be permitted in any Common Elements except on a leash maintained by a responsible person. The right of a Unit Owner to maintain an animal in a Unit shall be subject to termination if the Board, in its sole and complete discretion, determines that the maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Condominium Property or other Units or other Unit Owners.

(N) No clothes, sheets, blankets, laundry, flags, posters, signs (including “for sale” or “for rent” signs, except as authorized by the Declarant or the Board) or any other articles shall be hung out or exposed on any Common Area, Limited Common Area or in the window(s) of a Unit.

(O) No temporary building, shed, trailer, recreation vehicle, garage, tent, or any similar structure shall be used, temporarily or permanently, as a residence or office on any part of the Condominium Property at any time. No shack, barn, shed or any type of “outbuilding” shall be permitted on the Condominium Property.

(P) No window type air conditioning units may be installed.

(Q) Play sets or any similar recreational apparatuses of any kind shall not be erected, begun or permitted to remain on any portion of the Condominium Property unless approved by the Board. There shall be no storage of baby carriages or playpens, bicycles, wagons, toys, benches or chairs. No tree houses or platforms may be constructed anywhere on the Common Elements or Limited Common Elements. No permanent or portable skating/bicycles ramps are permitted. No makeshift or temporary ice rinks are permitted. Permanent or portable basketball hoops are not permitted.

(R) No sign or other advertising device of any nature shall be placed upon any portion of the Condominium Property except for signs and advertising devices installed by or at the direction of the Board. “For Rent” signs are prohibited. “For Sale” signs are permitted provided that such “For Sale” signs are reasonable and industry standard as to size, style and location.

(S) No commercial truck or van (except for a non-commercial two-axle truck or van with no more than four tires), camper, camper trailer, recreation vehicle, boat, boat trailer, all terrain vehicle, airplane, snowmobile, commercial vehicle, mobile home, tractor, bus, farm equipment, off-road vehicles or other vehicle (except for automobiles with two axles and four tires and motorcycles) of any kind, licensed or unlicensed, shall be stored on any driveway or other area in or upon the Condominium Property, except in the confines of garages, or parking areas approved by the Board subject to City regulations. No machinery of any kind shall be placed or operated upon any portion of the Condominium Property except such machinery which is customarily required for the maintenance of the Condominium Property, related improvements, lawns and landscaping. Notwithstanding the foregoing, the Declarant may maintain a construction/office/sales trailer(s) on the Common Elements or any portion of the Condominium Property or Additional owned by the Declarant so long as the construction and sales by the Declarant (an affiliate of Declarant) of the Units is continuing.

(T) Sheds and accessory structures are prohibited.

(U) A satellite earth station means any device or antenna, and including associated mounting devices or antenna supporting structures, which is used to transmit or receive signals from an orbiting satellite, including television broadcast signals; direct broadcast satellite services; multichannel, multipoint distribution services; fixed wireless communications signals; and any designated operations indicated in the FCC's allocations for satellite services promulgated in accordance with the Telecommunication Act of 1996, as amended. Satellite earth stations of one meter or less in diameter may be erected by a Unit Owner at any such location on that Unit's

building or Limited Common Elements as required to obtain reception in accordance with FCC guidelines; provided however, no satellite station may be erected or placed on the ground. Satellite earth stations of greater than one meter in diameter are prohibited except in the event FCC's allocations for satellite services promulgated in accordance with the Telecommunication Act of 1998, as amended, renders this prohibition legally ineffective.

(V) Storage pods and other such movable storage containers may only be temporarily placed on a Unit's driveway if necessary, for (i) active construction at the Unit, (ii) to facilitate moving of personal and household property, or (iii) in response to an emergency need for secure storage (fire, water, or other such damage to the Unit). The storage pod / container shall be removed immediately, as applicable upon cessation of construction, once move in/out is complete, or the emergency need has passed. The Board may grant approval to locate the storage pod/container to an area other than the driveway based upon unusual and compelling circumstances that require the driveway to be unobstructed.

(W) Firearms, ammunition and explosives of every kind shall not be discharged nor shall any traps or snares be set, nor shall any hunting or poisoning of wildlife of any kind be permitted in or upon the Condominium Property, except for rodent control, with the prior written approval of the Board. No Unit Owner or any resident, guest or invitee of a Unit Owner shall be allowed to fish or ice skate on any portion of the Condominium Property.

(X) No tractor trailers, commercial tractors, commercial vehicles, road machinery, excavating equipment shall be permitted to remain on any portion of the Condominium Property or on the private streets adjoining any portion of the Condominium Property for any period of time whatsoever, except while making deliveries or performing services thereon and except as necessary for the improvement, construction, reconstruction or repair of buildings or structures or other improvements on the Condominium Property subject to compliance with City zoning requirements.

(Y) Mailboxes will be located and constructed within the Condominium Property as determined by the U.S. Postal Service (the "USPS"). Declarant hereby reserves for the benefit of the USPS, Declarant and the Association an easement over those portions of the Common Elements as may be designated for the installation of a mailbox, together with space reasonably necessary for the installation and maintenance of same. No Unit Owner may disturb the mailbox improvements or obstruct access thereto. The Association shall have the right to adopt reasonable rules and regulations governing the use of mailboxes.

(Z) Subject to applicable easement rights, no facilities, including poles and wires, for the transmission of electricity, telephone messages, ham radio messages and the like shall be placed or maintained above the surface of the ground in any portion without the prior approval of the Board and subject to City regulations. This provision shall not apply for temporary facilities for the construction or repair of any building or other structure.

(AA) No swimming pools are permitted on the Condominium Property. A spa/hot tub is permitted directly behind the Unit with the prior written approval of the Board; provided however, that no spa/hot tub is permitted in the rear yard set back.

(BB) Flower and vegetable gardens are permitted with the prior written approval of the Board.

(CC) The exterior of any Building or structure in the Condominium Property shall not be altered, modified, changed or redecorated in such a way as to change the appearance or decor of the structure, nor shall any of the landscaping appurtenant to such Building or structure be materially changed without the express written authorization of the Board.

(DD) No person shall change the grade on any portion of the Condominium Property without first obtaining the consent of the Board. In addition, any changes to the grading or drainage on the Condominium Property must also be submitted to, and reviewed and approved by, the City. No Person shall interfere with the free flow of water through any drainage ditches or storm sewers within the Condominium Property. The City, County or other governmental authority having jurisdiction shall have the right (but not the obligation) to enter upon the Common Elements of the Condominium Property to repair and maintain all storm, drainage, courses, ditches, structures and appurtenances for the purpose of relieving any flooding condition or threatened flooding condition which might be harmful to other property.

(EE) No Person shall use the name "Preserve of Hudson" or any derivative thereof in any printed or promotional material without the prior written consent of Board. However, Unit Owners may use the name above in printed and promotional material where such word is used solely to specify that particular property is located within the Condominium Property.

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

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

ARTICLE VIII. SALE OF THE PROPERTY

The Unit Owners by unanimous vote may elect to sell the Property as a whole. Upon such action, it shall become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts in manner and form as may be necessary to effect such sale. If the Property is sold, the proceeds of sale shall be received and held by the Association in trust for the benefit of the Unit Owners and their respective mortgagees as their respective interests may appear, and such proceeds shall be disbursed as soon as possible to satisfy first mortgage liens, unpaid Assessments

and other liens and encumbrances, with the balance to be distributed to the Unit Owners, in accordance with the Percentage Value of each Unit.

ARTICLE IX.

REMEDIES FOR BREACH OF COVENANTS, RESTRICTIONS AND REGULATIONS

(A) **Abatement and Enjoyment.** If any Unit Owner (either by its own conduct or by the conduct of any Tenant or other Occupant of its Unit or by any guest or invitee of any Unit Owner, Tenant or Occupant) shall violate any restriction or condition or Rule adopted by the Board, or the breach of any covenant or provision contained in this Declaration or the Bylaws, the Association shall have the right, in addition to the rights hereinafter set forth in this Article IX and those provided by law:

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

(2) to terminate any utility or other service to a Unit if the Unit Owner is delinquent in the payment of an Assessment that pays, in whole or in part, the cost of that utility or service; and/or

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

(B) **Involuntary Sale.** If any Unit Owner (either by its own conduct or by the conduct of any other Occupant of its Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the Rules adopted by the Board (other than the nonpayment of Assessments or other charges which is governed by Article V of this Declaration), and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall occur repeatedly during any thirty (30) day period after written notice or request to cure such violation from the Board, then the Board shall have the right, upon the giving of at least thirty (30) days' prior written notice to the Unit Owner and the holder of a first mortgage on such Unit to terminate the rights of such Unit Owner to continue as an Owner and continue to occupy, use or control its Unit and thereupon an action in equity may be filed by the Association against the Unit Owner for a decree of mandatory injunction against the Unit Owner or Occupant or, in the alternative, a decree declaring the termination of the right of such Unit Owner to occupy, use or control its Unit, and ordering that all the right, title and interest of the Unit Owner in the Property shall be sold at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain such Unit Owner from re-acquiring its interest at such judicial sale. The proceeds of any such judicial sale shall be paid to discharge court costs, mortgages and any other liens and encumbrances of record, in the order of their priority, and all such items shall be taxed against

such Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid Assessments owing to the Association or any liens required to be discharged shall be paid to the Unit Owner. Upon the confirmation of such sale, the Purchaser thereat shall thereupon be entitled to a deed to the Unit and to immediate possession of the Unit sold and may apply to the court for a writ for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the Purchaser shall take the interest in the Property sold subject to this Declaration.

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

(1) Impose an Enforcement Assessment against the Unit Owner or Occupant as provided in Section (D) of this Article; and/or

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

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

(4) Commence an action to recover damages, which damages shall include all Enforcement Costs.

(D) Enforcement Assessments.

(1) Prior to imposing a charge for damages or an Enforcement Assessment pursuant to this Article and pursuant to the Bylaws, the Board shall give the Unit Owner a written notice that includes all of the following:

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

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

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

(d) If applicable a reasonable date by which the Unit Owner must cure the violation to avoid the proposed charge for damages or the Enforcement Assessment.

(2) The Board may allow a reasonable time to cure a violation described in the Bylaws before imposing a charge for damages or Enforcement Assessment.

(3) Within thirty (30) days following the date on which the Board imposes a charge or Enforcement Assessment, the Association shall deliver a written notice of the charge for damages or Enforcement Assessment to the Unit Owner, which will be due and payable within ten (10) days after such notice. Any Enforcement Assessment levied against a Unit Owner shall be deemed a Common Assessment and if not paid when due, all of the provisions of this Declaration relating to the late payment of Common Assessments shall be applicable except as otherwise provided by the Act.

(4) Any written notice required herein shall be delivered as provided herein.

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

(F) Costs and Attorney's and Paralegal's Fees. In any legal proceedings commenced by the Association to enforce this Declaration, the Bylaws, and/or the Rules, as said documents may be amended from time to time, the prevailing party shall be entitled to recover all of the costs of the enforcement and legal proceeding, including all related attorney's and paralegal's fees. Any such cost or attorney's and paralegal's fees awarded to the Association in connection with any action against any Unit Owner shall be charged to the Unit Owner.

(G) No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or any other provision of this Declaration, the Bylaws, or the Rules, as the said documents may be amended from time to time, shall not constitute a waiver of the right to do so thereafter.

ARTICLE X.
ADDITIONS TO CONDOMINIUM PROPERTY

Declarant contemplates constructing certain residential structures and other improvements on the Additional Property and submitting the Additional Property together with the buildings and other improvements to be constructed thereon (being defined as the “**Additional Property Buildings**”) and all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and Act, so the same will become in all respects part of the Condominium Property, Declarant’s right to submit the Additional Property and the Additional Property Buildings constructed thereon to the provisions of this Declaration and the Act shall be in accordance with the following provisions:

(A) Declarant hereby reserves the right and option, but not the obligation, to submit the Additional Property, or any portion or portions thereof, in one (1) or more submissions, together with the Additional Property Buildings which may be constructed thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and the Act.

(B) Except as otherwise provided herein and the Act, there are no limitations on Declarant’s right and option to expand the Condominium Property to include the Additional Property and there is no requirement for the consent of the Unit Owners to such expansion.

(C) Declarant has a period of seven (7) years after the date the Declaration is filed for record to expand the Condominium Property to include the Additional Property. The Declarant has the option to renew the initial seven (7) year period for an additional seven (7) year period, exercisable within six (6) months prior to the expiration of the initial seven (7) year period. Other than the expiration of the time limits set forth above, there are no circumstances that will terminate the Declarant’s right to expand the Condominium Property to include the Additional Property.

(D) A metes and bounds legal description of the Additional Property is set forth on Exhibit “2”.

(E) The Declarant is not obligated to expand the Condominium Property to include all or any portion of the Additional Property. There are not limitations fixing the boundaries of the portions of the Additional Property that the Declarant may submit to the Condominium Property and there are no limitations on the order in which portions of the Additional Property may be submitted to the Condominium Property.

(F) The Declarant anticipates constructing twenty-four (24) additional Units on the Additional Property.

(G) The Units to be constructed on the Additional Property are also restricted exclusively to residential use and related common purposes for which the Condominium Property was designed.

(H) Although the Declarant anticipates that the Additional Property Buildings shall be compatible with the initial Building with respect to quality of construction, principal materials to

be used and architectural style, the Additional Property Buildings need not be compatible with the initial Building with respect to the foregoing.

(I) At the time or times Declarant expands the Condominium Property to include the Additional Property, or any portion or portions thereof, the Declarant shall submit with the amendment to the Declaration expanding the Condominium Property such drawings of the Additional Property being submitted as are required by the Act to show graphically, insofar as is possible, all the particulars of the land, buildings and other improvements, including, but not limited to, the layout, location and dimensions of the Common Elements and Limited Common Elements for the Additional Property, or portion thereof, being submitted.

(J) The Declarant reserves the right to amend this Declaration in the manner provided herein, in such respects as the Declarant may deem advisable in order to effectuate the provisions set forth herein, including without limiting the general of the foregoing, the right to amend this Declaration to do the following:

(1) To include the Additional Property, or any portion or portions thereof, and the improvements constructed thereon as part of the Condominium Property;

(2) To include descriptions of Additional Property and the Additional Property Buildings in this Declaration and to add drawings of the Additional Property and Additional Property Buildings to Exhibit "1" hereto;

(3) To provide that the owners of Units in the Additional Property Buildings shall have an Undivided Interest in the Condominium Property and to amend Article II hereof so as to establish the Undivided Interest in the Common Elements which the owners of all Units within the Buildings on the Condominium Property will have at the time of such amendment, which percentage shall be, with respect to each Unit, in proportion that the square footage of each Unit on the date said amendment is filed for record bears to the aggregate square footage of all Units within the Buildings on the Condominium Property, which determination shall be made by Declarant and shall be conclusive and binding upon all Unit Owners; and

(4) To exclude or subtract any portion of the Additional Property from the Additional Property.

(K) Declarant reserves the right to file an instrument in recordable form expressing its intention not to submit the Additional Property or any portion thereof to the provisions of this Declaration and the filing of such instrument will be conclusive proof of such removal of the Additional Property or any portion thereof from the operation of the Declaration; provided, however, that such filing will not in any way affect any easements created by the Declaration or otherwise for the benefit of the Property or the Additional Property. Declarant reserves the right to develop all or any portion of the Additional Property independently of the Condominium Property for residential dwellings which need not be made subject to this Declaration.

ARTICLE XI. AMENDMENT OF DECLARATION

(A) **In General.** Except where otherwise provided in this Article XI or in any of the other Articles of this Declaration or by the Act, the provisions of this Declaration may be amended by an instrument in writing setting forth specifically the item or items to be amended and/or any new matter to be added, which instrument shall require the approval of Owners entitled to exercise seventy-five percent (75%) of the voting power of the Association. Said instrument shall contain the certification by the President or Secretary of the Association that a copy of the amendment has been mailed or hand delivered to all Eligible Mortgage Holders. An amendment hereunder must be executed with the same formalities as this instrument and must refer to the County's recording information by which this instrument and amendments hereto are identified. No amendment shall have any effect, however, upon the rights of bona fide mortgagees until the written consent of such mortgagees to such amendment has been secured. Such consents shall be retained by the Secretary of the Association and the Secretary's certification in the instrument of amendment as to the consent or non-consent of the consenting and non-consenting mortgagees may be relied upon by all persons for all purposes. An amendment hereunder shall be effective upon recordation of the amendment in the Summit Recording Division of the Fiscal Office of Summit County, Ohio; provided, however, that no provision in the Declaration may be amended so as to conflict with the obligatory provisions of the Act.

(B) **Special Amendment.** The Board, by a majority vote of the Trustees, may prepare and record a special amendment to this Declaration ("**Special Amendment**") at any time, and from time to time, which amends this Declaration: (1) to meet the requirements of institutional mortgagees, guarantors and insurers of first mortgage loans, or (2) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering a Unit, or (3) to bring this Declaration into compliance with the Act, or (4) to correct clerical or typographical errors or obvious factual errors and inconsistencies in this Declaration or any Exhibit hereto or any supplement or amendment hereto, or (5) to correct obvious factual errors or inconsistencies between the Declaration and any exhibit thereto and other documents governing the Condominium, the correction of which would not materially impair the interest of any Unit Owner or mortgagee, or (6) to comply with the underwriting requirements of insurance companies providing casualty insurance, liability insurance, title insurance and other insurance coverages for the Condominium, or (7) to bring any provision hereof into compliance with the provisions of any applicable governmental statute, ordinance, rule or regulation (including any conditions imposed by governmental authorities in connection with approvals of the Condominium) or any judicial determination, or (8) to designate a successor to the person named to receive service of process for the Association and to file with the Secretary of State of the State of Ohio an appropriate change of statutory agent designation. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of the power to the Board to vote in favor or, make and record Special Amendments.

(C) **Declaratory Judgment Action Under (B) of this Article XI.** Any Unit Owner who is aggrieved by a Special Amendment to the Declaration that the Board makes pursuant to (B) above may commence a declaratory judgment action to have the Special Amendment declared invalid as violative of (B) above. Any action filed pursuant to this paragraph shall be filed in the

Summit County Court of Common Pleas within one (1) year after the date of the recording of the Special Amendment.

ARTICLE XII. RELOCATION OF BOUNDARIES

(A) The boundaries between adjoining Units or Limited Common Elements may be relocated, and the Undivided Interests in the Common Elements appurtenant to those Units may be reallocated, by an amendment to the Declaration that is executed by all affected Unit Owners and that includes all of the following:

- (1) Identification of the affected Units;
- (2) Words of conveyance between the Owners of the Units;
- (3) A specification of the Undivided Interests in the Common Elements, the proportionate shares of Common Surplus and Common Expenses, and the voting powers of each Unit resulting from the relocation and reallocation, the total of which shall equal the interests, shares, and powers of the former adjoining Units.

(B) At the equal expense of the affected Owners, the Association shall record the amendment to the Declaration together with both of the following:

- (1) Any drawing, plat, or plans necessary to show the altered boundaries of the Units, and their appurtenant Common Elements;
- (2) The dimensions and identifying number of each Unit that results from the relocation and reallocation.

(C) Existing liens automatically shall attach to each Unit that results from the relocation and reallocation.

ARTICLE XIII. CONDEMNATION

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

(B) If the entire Property is taken by eminent domain or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium shall terminate. The Association shall as soon as practicable determine the share of the condemnation award to which each Unit Owner is entitled and each such share shall be paid into separate accounts and disbursed

as soon as practicable to the Unit Owners. Distribution of such awards shall be made by checks payable jointly to the applicable Unit Owner and its first mortgagee and by checks payable jointly to the applicable Unit Owner and any other holder of a lien or encumbrance against such Owner's Unit, so that all liens and encumbrances on its Unit have been paid, released or discharged.

(C) If an entire Unit is taken by eminent domain or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condemnation award for such Unit shall be disbursed as soon as practicable to the Owner of such Unit. Distribution of such awards shall be made by checks payable jointly to the applicable Unit Owner and its first mortgagee and by checks payable jointly to the applicable Unit Owner and any other holder of a lien or encumbrance against such Owner's Unit, so that all liens and encumbrances on its Unit have been paid, released or discharged.

(D) If less than the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium hereunder shall not terminate. Each Unit Owner shall be entitled to a share of the condemnation award to be determined in the following manner: As soon as practicable the Association shall, reasonably and in good faith, allocate the condemnation award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the Unit Owners, as follows: (1) the total amount allocated to taking of or injury to the Common Elements, excluding Limited Common Elements, shall be apportioned among Unit Owners in proportion to their respective Undivided Interests; (2) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned; (3) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements a Unit Owner has made within its Unit and/or Limited Common Elements for which that Unit Owner had responsibility shall be apportioned to the particular Unit involved, and (4) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable under the circumstances. If an allocation of the condemnation award is already established in negotiation, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made by checks payable jointly to the applicable Unit Owner and its applicable first mortgagee.

(E) The payment of funds by the condemning authority pursuant to this Article XIII and any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article VI hereof (Insurance and Reconstruction).

(F) Each Unit Owner and its respective mortgagee by acceptance of a deed conveying such Unit or a mortgage encumbering such Unit, as the case may be, hereby irrevocably appoints the Association, by and through its Board, as its attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of the attorney, to carry out the provisions of this Article XIII.

(G) Each Eligible Mortgage Holder shall receive timely written notice of any condemnation that affects either a material portion of the Condominium Property or the Unit securing its mortgage.

ARTICLE XIV. RIGHTS OF FIRST MORTGAGEES

The following provisions inure to the benefit of each holder, insurer or guarantor of a first mortgage encumbering a Unit:

(A) **Default By Unit Owner.** Upon written request to the Association, the holder of any first mortgage encumbering a Unit may request that it be provided with notice from the Association if such Unit Owner shall be in default, for a period of thirty (30) days, in the performance of such Owner's obligations under this Declaration, the Bylaws and/or the Rules. Within thirty (30) days after receiving any such notice of default from the Association, the holder of the mortgage encumbering said Unit may (but shall not be obligated to do so) cure said default. If, however, said default is not curable within said thirty (30) day period by reason of delay(s) beyond the reasonable control of said mortgagee, then, providing said mortgagee has commenced to cure said default within said thirty (30) day period and has continued thereafter with due diligence to complete the curing of said default, the time within which said mortgagee shall be permitted to cure said default shall be extended for a period co-extensive with said delay(s).

(B) **Compliance With Mortgage Insurance Regulations.** In general, and in order to facilitate the marketability of the Units, the Board shall comply, to the best of its ability, with requests by first mortgagees for information required by regulations of any secondary mortgage market lender, or by any governmental insurer or guarantor of the first mortgage of any Condominium Unit.

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

(D) **Notices to Mortgagees.** Upon written request to the Association, each mortgagee shall have the right to receive notices of all meetings of the Association and to designate a representative to attend any such meeting. Furthermore, an Eligible Mortgage Holder shall receive timely written notice from the Association of: (1) a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and (2) any condemnation or casualty loss that affects either a material portion of the Condominium Development or the Unit securing its mortgage.

ARTICLE XV. SALE, LEASING OR OTHER ALIENATION OF UNITS

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

(B) **Unit Owner's Right to Lease Unit.** Unit Owners, including but not limited to the Declarant, may lease their Units. The lessees of any leased Units are generally permitted to use the Condominium Property on the same basis as resident Unit Owners, and, except as expressly provided otherwise herein, all assessments and obligations under this Declaration shall be applied

consistently with respect to each Unit Owner and Unit. All Units in the Condominium Property, whether leased or not, must be maintained in accordance with the requirements and standards set forth herein. In purchasing a Unit, each Unit Owner accepts that other Unit Owners may lease their Units and Declarant and Triban may sell Units in the Condominium Property to other builders, investors or other companies or persons who may use them for rental purposes.

No Unit may be used as a lodging house, hotel, bed and breakfast lodge, or any similar purpose, but Units may be leased for residential purposes for an initial lease term of no less than six (6) months (unless a shorter period is approved by the Declarant). No Unit may be advertised for lease as a short-term rental (less than 6-month term) on any website or other advertising medium. All leases must be for the entire Unit and must be in writing. The Owner must provide a copy of this Declaration, the Rules and any other governing documents to its lessee. An Owner must deliver a copy of each Unit lease to the Association within 30 days after the effective date of the lease.

A Unit Owner who leases such Owner's Unit is deemed to have assigned such Owner's rights to use the Condominium Property amenities to the lessee of such Dwelling Unit and such Owner is not entitled to use the Condominium Property amenities while the Unit is occupied as a rental property. All lessees and other occupants of a Unit are obligated to comply with all Rules and all obligations contained herein or any other governing documents, including without limitation repairing and maintaining the occupied Unit in accordance with the governing documents. The Owner of a leased Unit is responsible to the Association for any violation of the Declaration, the Bylaws or the Rules by the Owner's lessee and their guests or invitees, and for any expense incurred by the Association in connection with enforcing the governing documents due to such violation. In the event of any such violation of the governing documents, the applicable Unit Owner, upon notice thereof by the Association, shall immediately take all necessary actions to correct such violation. The Association, Declarant and Triban will not be liable to a Unit Owner for any damages, including lost rents, suffered by the Unit Owner in relation to the Association's enforcement of this Declaration or any other applicable governing documents against the Unit Owner's lessee or other occupants of the Unit, nor liable to any Owner for any claim or damages of any kind resulting from another Unit Owner's leasing of such Owner's Unit or the activities or conduct of such Owner's lessee or other occupants of the Unit.

Notwithstanding any provision in this Declaration to the contrary, unless otherwise required by applicable law, any additional restriction pertaining to the leasing of Units must be adopted by an amendment to this Declaration and will not be effective without the express written consent of 100% of the total number of Unit Owners. The Board may not adopt additional restrictions on the leasing of Dwelling Units by rule.

(C) Association Making Available Condominium Documents and Financial Information. The Association shall, upon written request, make available to Unit Owners, lenders and holders and insurers of first mortgages on any Unit, current copies of this Declaration, the Bylaws, Rules and other books, records and financial records of the Association. The Association shall also, upon written request, make available to prospective purchasers current copies of the Declaration, Bylaws, Rules, and the most recent annual statement, if such is prepared. "Available" shall at least mean available for inspection upon request, during normal business hours or under

other reasonable circumstances. Upon written request by any agency or corporation who makes, purchases, sells, insures or guarantees mortgages on Units, the Association shall prepare and furnish within a reasonable time a financial statement of the Association for the immediately preceding year. The Association shall have the right to impose a reasonable fee to defray the cost of copying such information and for the preparation of such financial statement.

ARTICLE XVI. INFORMATION OF OWNERSHIP AND OCCUPANCY OF UNITS

(A) **Unit Owner Information.** Within thirty (30) days after a Unit Owner obtains title to a Unit, the Unit Owner shall provide the following information in writing to the Board:

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

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

(B) **Change of Information.** Within thirty (30) days after a change in any of the information that (A) of this Section requires, a Unit Owner shall notify the Board, in writing, of the change. When the Board requests, a Unit Owner shall verify or update the information.

ARTICLE XVII. REMOVAL FROM CONDOMINIUM OWNERSHIP

For reasons other than substantial destruction of the Property (in which event the provisions of Article VI would apply) or condemnation of the Property (in which event the provisions of Article XIII would apply), the Unit Owners may unanimously elect to remove the Property from the provisions of the Act. In the event of such election, all liens and encumbrances, except taxes and assessments of political subdivisions not then due and payable, upon all or any part of the Property, shall be paid, released, modified, or discharged, and a certificate setting forth that such election was made shall be filed and recorded with the Summit Recording Division of the Fiscal Office of Summit County, Ohio. Such certificate shall certify therein under oath that all liens and encumbrances, except taxes and assessments of political subdivisions not then due and payable, upon all or part of the Common Elements have been paid, released or discharged; and, shall also be signed by the Unit Owners, each of whom shall certify therein under oath that all such liens and encumbrances on its Unit or Units have been paid, released, modified or discharged. A Property is deemed removed from the provisions of the Act upon the filing of the Certificate with the Summit Recording Division of the Fiscal Office of Summit County, Ohio, and upon that removal, the Property is owned in common by the Unit Owners. The Undivided Interest in the Property owned by each Unit Owner is the Undivided Interest in the Common Elements appurtenant to the Unit in the Property previously owned by each Owner.

ARTICLE XVIII. MISCELLANEOUS PROVISIONS

(A) **Right of Declarant to act as Board of Trustees.** Declarant hereby reserves the right to waive and release the right to manage, control and exercise all of the rights of the

Association as it might otherwise be permitted to do so pursuant to Section 5311.08 of the Act, without, however, waiving or releasing any rights of Declarant as a Unit Owner.

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

(C) Rights of Mortgagees of Units to Receive Notices. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the owner or owners whose Unit ownership is subject to such mortgage or trust deed.

(D) Notices to Association. Notices required to be given to the Board or the Association may be delivered to any member of the Board or officer of the Association either personally or by regular U.S. mail, postage prepaid, to such member or officer.

(E) Notices. All notices required or permitted hereunder, and under the Bylaws and the Act, to the Declarant, the Association, the Board of Trustees and its delegates shall be in writing and shall be given by personal delivery or sent by certified U.S. mail (return receipt requested) to the Board of Trustees or its delegates at the address as the Board may designate from time to time by notice in writing to all Unit Owners. All notices to the Declarant shall be sent by certified U.S. mail, return receipt requested, to: Triban Investment, LLC, (Declarant), 7555 Fredle Drive, Suite 210, Concord Township, Ohio 44077, with a copy to Matthew T. Viola, Esq., Kohrman Jackson & Krantz, LLP, 1375 East 9th Street, 29th Floor, Cleveland, Ohio 44114, or to such other address as the Declarant or its counsel may designate from time to time by notice in writing to all Unit Owners. All notices to any Unit Owner shall be sent by personal delivery or sent by certified U.S. mail, return receipt, requested, to such Unit Owner's Unit address or to such other address as may be designated by the Owner from time to time, in writing, to the Board of Trustees. All notices shall be deemed to have been given and therefore effective not later than forty-eight (48) hours after the date that such notice is deposited in the U.S. Mail, except notices of change of address which shall be deemed to have been given when received, and except as otherwise provided herein. Any notice required or permitted to be given to any Occupant of a Unit other than a Unit Owner shall effectively be given if hand delivered to such Occupant or placed in his or her mail box or placed under the door to such Occupant's Unit or portion thereof.

(F) Title to Units Subject to Declaration. Each grantee of the Declarant, by the acceptance of a deed of conveyance for a Unit, accepts the same subject to all easements, restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights, and powers created or reserved by this Declaration and the Condominium Instruments, and all rights, benefits and privileges of every nature hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in the Property, and shall inure to the benefit of such owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance. Declarant, and each Unit owned by Declarant, shall be bound by and subject to this Declaration and the

Condominium Instruments to the same extent as any grantee of the Declarant or any grantee of a deed of conveyance to a Unit, regardless of whether or not Declarant is the grantee of a deed of conveyance to a Unit.

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

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

(I) **Rule Against Perpetuities**. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common-law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of Joseph Biden, President of the United States of America, and Kamala Harris, Vice President of the United States of America.

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

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

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

(M) **Liberal Interpretation**. The provisions of this Declaration shall be liberally interpreted to effectuate its purpose of creating a uniform plan for the development and operation of the Property as a first-class Condominium Property.

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

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

(P) **Use of New Technology**. Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by Ohio and Federal law,

as well as by the unanimous vote of the Board, now or in the future: (1) any notice required to be sent or received; (2) any signature, vote, consent or approval required to be obtained or (3) any payment required to be made, under the Declaration or Bylaws may be accomplished under the most advanced technology available at that time provided such use is generally accepted business practice.

(Q) **Arbitration**. Unless otherwise provided in this Declaration, any controversy, dispute or claim arising out of or relating to this Declaration or the breach thereof shall be settled by arbitration in Cleveland, Ohio in accordance with the Commercial Rules of the American Arbitration Association and the judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction hereof. Provided, however, that this provision shall not apply, and arbitration is not available, to a Unit Owner to correct or contest an Assessment or to contest a lien against a Unit.

ARTICLE IX **HOME CONSTRUCTION CLAIMS**

Claims Relating to Units

EACH UNIT OWNER (WHICH INCLUDES WITHOUT LIMITATION EACH SUBSEQUENT PURCHASER OF A UNIT), BY ACCEPTING AN INTEREST IN OR TITLE TO A UNIT, AGREES THAT ALL CLAIMS AND CAUSES OF ACTION THAT SUCH UNIT OWNER MAY HAVE RELATING TO THE ORIGINAL DESIGN OR CONSTRUCTION OF SUCH OWNER'S UNIT OR ANY IMPROVEMENT THEREON (INCLUDING ANY COMMON ELEMENTS), INCLUDING WITHOUT LIMITATION CLAIMS BASED ON ANY EXPRESS OR IMPLIED WARRANTIES (COLLECTIVELY, "HOME CONSTRUCTION CLAIMS"), WILL BE GOVERNED EXCLUSIVELY BY THE TERMS AND CONDITIONS OF THE EXPRESS OR IMPLIED WARRANTY PROVIDED BY THE BUILDER OR CONTRACTOR WHICH CONSTRUCTED SUCH UNIT OR IMPROVEMENT AND ANY OTHER AGREEMENTS BETWEEN THE INITIAL PURCHASER OF SUCH UNIT AND SUCH BUILDER OR CONTRACTOR, INCLUDING WITHOUT LIMITATION ALL PROCEDURES AND AGREEMENTS CONTAINED THEREIN PERTAINING TO THE RESOLUTION OF DISPUTES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH UNIT OWNER (WHICH INCLUDES WITHOUT LIMITATION EACH SUBSEQUENT PURCHASER OF A UNIT), BY ACCEPTING AN INTEREST IN OR TITLE TO A UNIT, ASSUMES THE TERMS AND CONDITIONS OF THE EXPRESS OR IMPLIED WARRANTY PROVIDED BY THE BUILDER OR CONTRACTOR WHICH CONSTRUCTED THE UNIT OR IMPROVEMENT, AND, UNLESS THE EXPRESS WARRANTY OR CONTRACT PROVIDED BY SUCH BUILDER OR CONTRACTOR CONTAINS OTHER PROCEDURES TO RESOLVE HOME CONSTRUCTION CLAIMS, SPECIFICALLY AGREES TO THE FOLLOWING:

(a) **Agreement to Arbitrate Home Construction Claims.** ALL HOME CONSTRUCTION CLAIMS SHALL BE RESOLVED BY BINDING ARBITRATION. This means each Unit Owner (which includes without limitation each subsequent purchaser of a Unit) and the other parties involved in the Home Construction Claim GIVE UP THE RIGHT TO GO TO

COURT OR TO A JURY to assert or defend Home Construction Claims (EXCEPT for matters that may be taken to SMALL CLAIMS COURT as provided below). Home Construction Claims will be determined by a NEUTRAL ARBITRATOR and NOT by a judge or jury. The parties to each Home Construction Claim will be entitled to a FAIR HEARING, but the arbitration procedures are simpler and more limited than the rules applicable in a court. The arbitrator's decision will be final and binding, subject to appeal as described below. Arbitrator decisions are as enforceable as any court order and are subject to very limited review by a court. For more information, read the provisions regarding arbitration below, review the American Arbitration Association's Home Construction Arbitration Rules and related information at www.adr.org, call the American Arbitration Association at 1-800-778-7879, and consult an attorney if you so choose. Alternatively, if the Home Construction Claim does not exceed the maximum jurisdictional amount for a small claims court in the state where the Unit is located, a party involved in a Home Construction Claim may elect to have the claim resolved in a small claims court rather than by binding arbitration (however, any appeal of a small claims court judgment must be resolved through arbitration in accordance with this Article).

(b) **Applicable Law.** The original construction and sale of each Unit was a transaction involving interstate commerce. The Federal Arbitration Act (the "FAA") shall govern the interpretation and enforcement of this agreement to arbitrate Home Construction Claims. Even if a part of these arbitration provisions is determined to be unenforceable under applicable law, the remainder shall survive, and the parties shall remain obligated to resolve Home Construction Claims through binding arbitration as set forth herein.

(c) **Arbitrator – American Arbitration Association.** The arbitration shall be conducted before an arbitrator appointed by the American Arbitration Association (the "AAA"). If the AAA declines to arbitrate a Home Construction Claim, or if the AAA is not available, the parties will agree to an alternative arbitrator, or have a court appoint a new arbitrator who meets the qualification criteria of an AAA-trained arbitrator and has at least ten (10) years of construction arbitration experience.

(d) **Arbitration Rules.** The arbitration shall proceed in accordance with the AAA's Home Construction Arbitration Rules. If those rules have been repealed or replaced at the time the arbitration claim is filed, the AAA's rules then most applicable to residential construction shall apply. However, each builder or contractor will be entitled to visually inspect and perform testing as to any component claimed to have a construction defect and no AAA rule shall apply if it is inconsistent with the provisions of this Declaration.

(e) **Additional Parties or Claims.** Each party to a Home Construction Claim may join as a party to the arbitration any third-party consultant, contractor, supplier, manufacturer, engineer, architect or other professional involved in the manufacture, design or construction of any part of the Unit or improvement. Except as provided above, each Home Construction Claim shall be between only the then Unit Owner of a Unit and the Builder, Contractor and other parties involved in manufacture, design or construction of any part of such Unit or improvements and shall not be joined or consolidated with the claims or arbitration of any other party, and the arbitrator is not authorized to permit any consolidation or joinder with any other party. Each Unit Owner and subsequent purchaser of a Unit waives the right to institute or participate in a class or

any other type of representative arbitration or any type of legal action as a member or representative of a class for any Home Construction Claim and agrees the arbitrator is not authorized to permit any class or representative arbitration.

(f) **Arbitration Process.** A party seeking to resolve a Home Construction Claim shall begin the arbitration process by filing a demand for arbitration with the AAA and serving a copy of the demand on the other party. The failure to initiate arbitration at any particular time shall not be considered a waiver of the right to compel arbitration of a Home Construction Claim. The only way this right to arbitrate claims may be waived is by a written agreement among the parties. To the extent not inconsistent with the FAA, all provisions of this paragraph are subject to the general qualification that state laws, requirements and rules, including, but not limited to, state filing limitations (such as statute of limitations and statutes of repose), may affect how and when arbitration may be initiated and administered. The following is a brief description of the steps to initiate arbitration and the arbitration process:

(1) **Step 1 – Filing a Request.** The party initiating arbitration must notify the AAA in writing of the request for arbitration under the terms of this Agreement. If a Builder or contractor initiates arbitration, such Builder or contractor will pay the AAA's filing fee. If a Unit Owner (including a subsequent purchaser of a Unit) initiates arbitration, such Unit Owner will pay the lesser of 1/2 of the AAA filing fee or the amount provided by the AAA rules and the Builder or contractor will pay the other 1/2 or remainder. All other AAA arbitration fees and costs shall be paid in accordance with the applicable AAA fee schedule.

(2) **Step 2 - Hearing.** The arbitration will be held at a location agreed to by the parties, usually in the metropolitan area where the Property is located. The hearing typically will be scheduled by the arbitrator at a time mutually agreeable to all parties. At the hearing, the arbitrator will hear and consider evidence presented by all parties. If a party timely notifies the AAA of a request for a record of the hearing prior to the earlier of the hearing date or the date in the AAA's rules, if specified, the arbitrator will preserve all evidence presented at the arbitration. Oral evidence will be preserved in a manner that it can be converted into a written transcript. The costs of the record will be paid by the party requesting the record or shared equally among the parties requesting a copy.

(3) **Step 3 - Award.** The arbitrator's award will decide the relief to be awarded and, if requested by a party, the scope and manner of correction. The arbitrator's award shall be consistent with this agreement, based on applicable law (except to the extent the FAA overrides and preempts state, local or other law), and shall include findings of fact and conclusions of law. If permitted by the AAA rules, either party may request a written explanation of the award. Each party shall bear its own attorney's fees and expenses (including without limitation the costs and fees of any expert witnesses) in the arbitration, any confirmation proceeding and any appeal. Arbitrator compensation, expenses, and administrative fees (which include filing and hearing fees) shall not be subject to reallocation.

(i) **Appeal.** Each party shall have the right to appeal the arbitrator's award to the AAA by filing a written notice with the AAA (with a copy to the other party) within 30 days of the date of the arbitrator's award. The party appealing the award shall pay the fees

necessary to initiate the appeal. If both sides appeal, the fees shall be split 50/50. The notice of appeal must include the specific items the party seeks to change in the award and the supporting facts and law. The appeal shall be heard by a panel of three arbitrators from the AAA. The appeal shall be conducted in accordance with the applicable rules of the AAA and this agreement as if the claim was being initially filed with the AAA, except that: (i) the only issues to be determined on appeal are the issues described in the notice of appeal and any issues raised by the non-appealing party in response to the issues in the notice of appeal, (ii) the arbitrators' award on appeal shall be final, binding and non-appealable, and (iii) no new evidence shall be accepted or considered by the arbitrators.

(ii) **Award after Appeal.** The award of the arbitrator shall be final, subject to appeal as provided above. If a notice of appeal from the initial hearing is not received by the AAA within 30 days after the date of the initial award, then the initial award shall be final. Once the award is final, it will be binding on and enforceable against the parties, except as modified, corrected, or vacated according to the applicable arbitration rules and procedures or to the extent not inconsistent with the FAA or applicable state law. Either party may present the final award to any court having jurisdiction over the Home Construction Claim to enter that award as a judgment of the court.

(4) **Step 4 - Repairs.** Unless designated otherwise in the award (and unless appealed), any party ordered to perform a correction to the Unit will, within 10 days after a final award, elect to either perform the correction awarded by the arbitrator or, at such party's option, pay the Unit Owner of the Unit the reasonable cost of such correction. If such party elects to perform a correction under an award, such party will complete the correction within 60 days after a final award or as may be specified by the arbitrator. If the correction cannot be completed in that time, the arbitrator must grant reasonable additional time to make the correction. If the Unit Owner believes that the correction was not performed satisfactorily or in a timely manner, such Unit Owner may have those issues determined in a later arbitration. If the cost of correction is not specified in the award and party ordered to perform a correction elects to pay the Unit Owner the reasonable cost of the correction, such Unit Owner may have the amount of that payment reviewed in a later arbitration.

(g) **Expenses.** Except as stated above, each party shall bear its own attorney's fees and other expenses incurred in connection with a Home Construction Claim. However, if a party to such a claim files a court action in violation of this Article and the other party is required to compel arbitration by filing a motion with the court, the court shall award the moving party its court costs and reasonable attorneys' fees incurred in connection with the motion.

LIKE ALL COVENANTS CONTAINED IN THIS DECLARATION, THE AGREEMENTS CONTAINED IN THIS ARTICLE ARE COVENANTS RUNNING WITH TITLE TO EACH UNIT, CONCERN EACH UNIT AND OTHER IMPROVEMENTS ASSOCIATED THEREWITH, AND SHALL BE BINDING UPON EACH SUCCESSIVE OWNER OF A UNIT (WHICH INCLUDES WITHOUT LIMITATION EACH SUBSEQUENT PURCHASER OF A UNIT).

ARTICLE X

BULK RATE CONTRACTS

(A) **Community Systems.** The Declarant may provide, the Declarant may enter into and assign to the Association contracts with other persons to provide, or the Association may provide or enter into contracts with other persons to provide, telecommunications receiving and distribution systems (e.g., cable television, video entertainment, data/Internet/Intranet services, telephone, and security monitoring) and related components, including associated wiring, lines, antennae, towers, satellite dishes and other infrastructure, equipment, hardware, and software, to serve the Community, including those based on and containing and serving future technology not now known (collectively, “**Community Systems**”). Such contracts may provide for installation, operation, management, maintenance and upgrades or modifications to the Community Systems. Each Unit Owner shall be responsible for ensuring that such Unit is wired to connect to any Community Systems or to receive any such service.

(B) **Community Services.** The Declarant may provide, the Declarant may enter into and assign to the Association contracts with other persons to provide, or the Association may provide or enter into contracts with other persons to provide, services to Unit Owners and their Units. By way of example and not limitation, such services might include such things as cable television, telephone, Internet, community technology, utilities, fire protection, security, trash collection, lawn and/or landscape maintenance, pest control, and caretaker services. Any Association contract for services may require individual Unit Owners or occupants to execute separate agreements directly with the persons providing services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Unit Owner or occupant of a Unit, may result in termination of the services provided to such Unit. Any such termination shall not relieve the Unit Owner of the continuing obligation to pay Assessments for any portion of the charges for such service that are assessed against the Unit. The Association may discontinue offering any particular service and may modify or cancel existing contracts for services, subject to the contract terms and any provision that may exist elsewhere in the governing documents requiring the Association to provide such services.

(C) **Bulk Rate Contracts.** Any contract to provide Community Systems may be Bulk Rate Contracts. Declarant may enter into and assign to the Association Bulk Rate Contracts with other persons to provide the services set forth hereinabove and/or Community Systems. In addition, Bulk Rate Contracts may be entered into from time to time with any service providers and on such terms and provisions as the Board may determine in its sole and absolute discretion. The Association may include the charges and other expenses of any Bulk Rate Contract as Common Expenses of the Association and/or the Association may, at its option, add the charges payable with respect to any Unit Owner under a Bulk Rate Contract to the Assessments charged against such Unit. In this regard, if any Unit Owner fails to pay any charges due by such Unit Owner under the terms of any Bulk Rate Contract, then the Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Declaration with respect to the failure by such Unit Owner to pay Assessments, including without limitation the right to foreclose the lien against such Unit Owner’s Unit which is reserved under the terms and provisions of this Declaration. In addition, in the event of nonpayment by a Unit Owner of any charges due under a Bulk Rate Contract and after the lapse of at least twelve (12) days since such charges were due, the Association may, upon five (5) days’ prior written notice to

such Unit Owner (which may run concurrently with such 12 day period), in addition to all other rights and remedies available pursuant to applicable law, terminate, in such manner as the Board deems appropriate, any service provided at the cost of the Association and not paid for by such Unit Owner (or the resident of such Unit) directly to the service provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Unit Owner (or the resident of such Unit) can make arrangements for payment of the bill and for re-connection or re-institution of service. No service will be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services.

(D) **Interruptions in Community Systems and Services.** Each Unit Owner acknowledges that interruptions in cable television and other Community Systems and services will occur from time to time. Declarant and the Association shall not be liable for, and shall not be obligated to provide any person with any compensation, or refund, rebate, or offset any applicable fee, as a result of any interruption in Community Systems and services, regardless of whether or not such interruption is caused by reasons within the Association's or the service or system provider's control.

(E) **Declarant and Association Rights Regarding Community Systems and Services.** The Declarant reserves for itself and perpetually for the Association a right and easement over all of the Community to install and operate the Community Systems and to serve any portion of Preserve. Such reserved right includes, without limitation, the right to select and contract with companies licensed to provide telecommunications, cable television, and other Community Systems and services, and the right to charge or authorize any provider to charge individual users a reasonable fee, not to exceed the maximum allowable charge for such service (as defined from time to time by applicable laws, rules, and regulations of any government authority having jurisdiction). Declarant shall also have the right to receive compensation from any provider of Community Systems or services (including without limitation in connection with a Bulk Rate Contract), which compensation may be in consideration for, among other things, Declarant's or its affiliates' development of Community Systems or other portions of Preserve of Hudson or marketing activities.

[remainder of page intentionally left blank]

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

TRIBAN INVESTMENT, LLC, an Ohio limited liability company

By: _____
Bo Knez, President

STATE OF OHIO)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ by
Bo Knez, President, Triban Investment, LLC, an Ohio limited liability company, on behalf of the
limited liability company.

Notary Public

EXHIBIT "1"
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT “2”
LEGAL DESCRIPTION OF ADDITIONAL PROPERTY

DRAFT

EXHIBIT A
REFERENCE TO DRAWINGS

The particulars of the land, Buildings and other improvements, including, but not limited to, the layout, location, designation, dimensions of each Unit, the layout, locations and dimensions of the Common Elements and the location and dimensions of all appurtenant easements or encroachments are shown graphically on the set of Drawings dated _____ and hereby incorporated into the Declaration of Condominium Ownership for Preserve of Hudson (the “**Declaration**”) by reference through this **Exhibit “A”**, prepared and bearing the certified statements of Polaris Engineering & Surveying, Inc. as required by the Condominium Property Act of the State of Ohio. Such set of Drawings will be filed in the Condominium Map Records of the Summit Recording Division of the Fiscal Office of Summit County, Ohio, simultaneously with the recording of the Declaration.

EXHIBIT B
BYLAWS OF
PRESERVE OF HUDSON CONDOMINIUM ASSOCIATION, INC.

ARTICLE I. NAME AND LOCATION

The name of the Association is Preserve of Hudson Condominium Association, Inc. (the "Association"), which Association is created pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio as the Unit Owners' association for the Preserve of Hudson. The place of meetings of Unit Owners (members) and of the Trustees (Board of Trustees) of the Association shall be at such place as the Board of Trustees ("the Board"), may from time to time designate.

ARTICLE II. DEFINITIONS

All of the terms used herein shall have the same meanings as set forth in the Declaration of Condominium Ownership for Preserve of Hudson (the "Declaration"), recorded simultaneously herewith with the Recording Division of the Fiscal Office of Summit County, Ohio.

ARTICLE III. UNIT OWNERS (MEMBERS)

Section 1. **Composition / Voting Rights.** Each Unit Owner, as defined in the Declaration, is a member of the Association. If there are a total of twenty-nine (29) Units in the Property, then there shall only be twenty-nine (29) members of the Association. Each Unit Owner shall be entitled to voting rights equal to his/her respective percentage interest in the Common Areas as set forth on **Exhibit "D"** to the Declaration. In the case of a Unit owned or held in the name of a corporation, a partnership, or a limited liability company, a certificate signed by said Unit Owner shall be filed with the Secretary/Treasurer of the Association naming the person authorized to cast a vote for such Unit, which certificate shall be conclusive until a subsequent substitute certificate is filed with the Secretary/Treasurer of the Association. If such certificate is not on file, the vote of such corporation, partnership, or limited liability company, shall not be considered. Fiduciaries and minors who are owners of record of a Unit may vote their respective interests as a Unit Owner. When any fiduciary or other legal representative of a Unit Owner has furnished to the Association proof, satisfactory to it, of his or her authority, he or she may vote as though he or she were the Unit Owner. If multiple Units are owned by the same person, such person may designate one individual to serve as "Member".

Section 2. Annual Meetings. Regular annual meetings of the Unit Owners shall be held in the first calendar quarter of each year hereafter, on a date and at an hour established, from time to time, by the Board.

Section 3. Special Meetings. Special meetings of the Unit Owners may be called at any time upon written request of any Unit Owners entitled to cast at least twenty-percent (20%) of the votes of the Association.

Section 4. Notice of Meetings. Written notice of each meeting of Unit Owners shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least five (5) days before such meeting, to each Unit

Owner entitled to vote thereat, addressed to the Unit Owner's address last appearing on the books of the Association, or supplied by such Unit Owner to the Association for the purpose of notice, or by delivering a copy of that notice at such address at least five (5) days before the meeting. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 5. Quorum. The presence of Unit Owners, in person or by proxy, entitled to exercise a majority of the voting power of the Association at any duly called and noticed meeting of Unit Owners, shall constitute a quorum for such meeting. Unit Owners may, at any time, agree to adjourn such meeting.

Section 6. 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. Every proxy shall be revocable and shall automatically cease upon conveyance by a Unit Owner of its Unit.

Section 7. Voting Power. Except as otherwise provided in these Bylaws, or by law, a majority vote of those present at a meeting in which a quorum, in person or by proxy, is in attendance shall be required to determine that matter.

ARTICLE IV. BOARD OF TRUSTEES

Section 1. Trustees. The Board of Trustees initially shall be those three persons named as the Trustees pursuant to the provisions of the Articles of Incorporation, or such other person or persons as may from time to time be designated or substituted by the Declarant. No later than 60 days after the Declarant and each Builder has sold and conveyed 75% or more of the planned Units, the Unit owners shall meet. At that meeting, the Unit Owners other than the Declarant shall elect one-third (one) of the Trustees and Declarant shall designate the other two-thirds (two) of the Trustees. Those three Trustees shall serve until the meeting described in the next paragraph.

Upon the earlier of (a) ten years from the date of the establishment of the Association, or (b) sixty (60) days after the sale and conveyance from Declarant and each Builder to purchasers in good faith and for value of all of the planned Units, the Association shall meet and the Unit Owners, shall elect Trustees to replace all of those Trustees earlier elected or designated as well as two (2) new Trustees, bringing the total number of Trustees to five (5). The terms of the five Trustees shall be staggered so that the term of at least one of the Trustees will expire and successors will be elected at each annual meeting of the Condominium Association thereafter. At such annual meetings, the successors to the Trustee whose term then expires shall be elected to serve a five-year term.

Other than as provided above in this Section 1, Trustees must be Unit Owners or the spouses of Unit Owners or a person holding a Durable General Power of Attorney for such Unit Owner, or, if a Unit Owner is not an individual, a principal, member of a limited liability company, partner, director, officer, shareholder or employee of a Unit Owner.

Section 2. Declarant Board of Trustees. Until the first election provided for in Section 1 of this Article, the Declarant shall designate all of the Trustees of the first Board of Trustees, who shall have all of the powers, authorities and duties herein conferred upon and/or

delegated to the Board of Trustees. The Declarant reserves the right to replace or substitute all Trustees that it names/designates under Section 1 of this Article.

Section 3. Election of Trustees. At the first meeting when the Declarant relinquishes control of the Board of Trustees, and in each annual meeting thereafter, the Board of Trustees shall be elected by a majority of the voting power of the Unit Owners.

Section 4. Term, Removal and/or Replacement. Except as specifically provided otherwise herein, each Trustee shall hold office for five-year terms and until the annual meeting of the members of the Association at which the Trustee's successor is elected, or until the Trustee's earlier resignation, removal from office, or death. Any Trustee may resign at any time by oral statement to that effect made at a meeting of the Board of Trustees or in a writing to that effect delivered to the Secretary of the Association. Such resignation shall take effect immediately or at such other time as the Trustee may specify.

Section 5. Compensation. Unless otherwise determined by the Unit Owners at a meeting duly called and noticed for such purpose, no Trustee shall receive compensation for any service rendered to the Association as a Trustee. However, any Trustee may be reimbursed for his or her actual expenses incurred in the performance of duties.

Section 6. Regular Meetings. Regular meetings of the Board after the Board is increased to five Trustees shall be held no less than annually, without notice, on such date and at such place and hour as may be fixed from time to time by resolution of the Board. Until the Board increases to five Trustees, regular meetings shall be held no less than annually.

Section 7. Special Meetings. Special meetings of the Board shall be held when called by the president of the Board, or by any Trustee, after not less than three days' notice to each Trustee.

Section 8. Quorum. The presence of a majority of Trustees shall constitute a quorum for such meeting.

Section 9. Voting Power. Each Trustee shall have an equal vote.

Section 10. 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 Trustees.

The Board shall exercise all powers and authority, under law, and under the provisions of the Declaration and these Bylaws, that are not specifically and exclusively reserved to the Unit Owners by law or by other provisions thereof, 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 all requirements of law, and the Declaration and these Bylaws;
- (b) obtain insurance coverage 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 as provided in the Declaration;
- (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 thereon, and establish penalties for the infraction thereof; provided that such rules and regulations are consistent with and do not conflict with the Declaration;
- (g) suspend the voting rights of a Unit Owner during any period in which such Unit Owner shall be in default in the payment of any assessment levied by the Association for each infraction of published rules and regulations or of any provisions of the Declaration and these Bylaws, as provided in the Declaration;
- (h) declare the office of a member of the Board to be vacant in the event such Trustee shall be absent from three consecutive regular meetings of the Board;
- (i) authorize the officers to enter into one or more agreements necessary or desirable to fulfill the purposes and objectives of the Association and to facilitate the efficient operation of the property; (it shall be the primary purpose of such management agreements to provide for administration, management, repair and maintenance as provided in the Declaration, and the receipt and disbursement of funds as may be authorized by the Board. The terms of any management agreements shall be as determined by the Board to be in the best interest of the Association, subject, in all respects, to the provisions of the Declaration and these Bylaws);
- (j) cause 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 including, without limitation, the pledge of the Association's right to future income and to levy assessments upon the members;
- (l) do all things and take all actions permitted to be taken by the Association by law, or the Declaration and these Bylaws not specifically reserved thereby to others;
- (m) In carrying out the purposes of the Association and subject to the limitations prescribed by law, the Declaration or these Bylaws, the Board, for and on behalf of the Association, may:
 - (i) Purchase or otherwise acquire, lease as lessee, hold, use, lease as lessor, sell, exchange, transfer, and dispose of property of any description or any interest therein.
 - (ii) Grant easements.
 - (iii) Make contracts.

- (iv) Effect insurance.

Section 12. 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 and to present a statement thereof to the Unit Owners at each annual meeting of Unit Owners, or at any special meeting when such statement is requested in writing by any Unit Owner;
- (b) supervise all officers, agents and employees of the Association and see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
 - (i) fix the amount of assessments against each Unit;
 - (ii) give written notice of each assessment to every Unit Owner subject thereto within the time limits set forth therein; and
 - (iii) foreclose the lien against any property for which assessments are not paid within a reasonable time after they are authorized by the Declaration to do so, or bring an action at law against the Unit Owner(s) personally obligated to pay the same, or both;
- (d) issue, or to cause an appropriate representative to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid;
- (e) procure and maintain insurance and bonds as provided in the Declaration, and as the Board deems advisable;
- (f) cause the property subject to the Association's jurisdiction to be maintained within the scope of authority provided in the Declaration;
- (g) cause the restrictions created by the Declaration to be enforced; and
- (h) take all other actions required to comply with all requirements of law and the Declaration and these Bylaws.

ARTICLE V. OFFICERS

Section 1. Enumeration of Offices. The officers of this Association shall be a president and a secretary-treasurer and such other officers as the Board may from time to time determine. The same person may hold more than one office, except that the offices of president and secretary-treasurer may not be held by the same person.

Section 2. Selection and Term. Except as otherwise specifically provided in the Declaration or by law, the officers of the Association shall be selected by the Board, from time to time, to serve until the Board selects their successors.

Section 3. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 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 on the date of receipt of such notice or at any later time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

Section 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, shall have the authority to see that orders and resolutions of the Board are carried out, and shall sign all legal instruments on behalf of the Association.

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

ARTICLE VI. GENERAL POWERS OF THE ASSOCIATION

Section 1. Payments from Maintenance Funds The Association, for the benefit of all the Owners, shall acquire, and shall pay for out of the maintenance fund hereinafter provided for, all Common Expenses arising with respect to, or in connection with, the Common Elements, including, without limitation, the following:

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

(b) Association Property Insurance. A policy or policies of fire insurance, with extended coverage, vandalism and malicious mischief endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually;

(c) Association Liability Insurance. A policy or policies insuring the Association, the members of the Board and the Owners against any liability to the public or to the Unit Owners and

their invitees, or tenants, incident to the ownership and/or use of the Common Elements and Units, as provided in the Declaration, the limits of which policy shall be reviewed annually;

(d) Workers' Compensation. Workers' compensation insurance to the extent necessary to comply with any applicable laws;

(e) Wages and Fees for Services. The services of any person or firm employed by the Association, including, without limitation, the services of a person or firm to act as a manager or managing agent for the Property, the services of any person or persons required for the maintenance of or operation of the Property, and legal and/or accounting services necessary or proper in the operation of the Property or the enforcement of the Declaration and these Bylaws and for the organization, operation and enforcement of the rights of the Association.

(f) Care of Common Elements. Landscaping, gardening, snow removal, painting, cleaning, tuck pointing, paving, patching, maintenance, decorating, repair and replacements of the Common Elements, and such furnishings and equipment for the Common Elements as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Elements;

(g) Additional Expenses. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and these Bylaws or by law, which in the Board's opinion shall be necessary or proper for the maintenance and operation of the Property as a first-class Property or for the enforcement of the Declaration and these Bylaws;

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

(i) Certain Maintenance of Units And Limited Common Elements. Maintenance and repair of any Unit or Limited Common Element which is the responsibility of one or more Unit Owners, as provided in the Declaration, if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements, or any other portion of a building, and the Owner or Owners of said Unit(s) have failed or refused to perform said maintenance or repairs within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner or Owners, provided that the Association shall levy a special assessment against such Unit Owner for the cost of said maintenance or repair;

(j) Certain Utility Services to Units. The Association may pay from the maintenance fund for waterlines, waste removal and/or any utilities which are not separately metered or otherwise directly charged to individual Owners. The Association reserves the right to levy additional assessments against any owner to reimburse it for excessive use, as shall be determined

by the Board of Trustees or by such owner of any utility service, the expense of which is charged to the maintenance fund; and

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

Section 2. Rules. The Board of Trustees may adopt such reasonable Rules and from time to time amend the same supplementing the Rules set forth in the Declaration and these Bylaws as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the owners and occupants of the Property. Written notice of such Rules shall be given to all owners and occupants, and the Property shall at all times be maintained subject to such Rules. In an action or proceeding brought by the Association against an Owner and/or Occupant of a Unit to enforce such rules or regulations, the Association shall be entitled to collect costs of suit and reasonable attorneys’ fees from such Owner and/or Occupant. In the event such supplemental Rules shall conflict with any provisions of the Declaration or of these Bylaws, the provisions of the Declaration and of these Bylaws shall govern.

Section 3. Delegation of Duties. Nothing herein contained shall be construed so as to preclude the Association, through its Board of Trustees and officers, from delegating to persons, firms or corporations of its choice, including any manager or managing agent, such duties and responsibilities of the Association as the Board Members of the Association shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

Section 4. Applicable Laws. The Association shall be subject to and governed by the provisions of any statute adopted at any time and applicable to property submitted to the Condominium form of ownership (including without limitation, Chapter 5311, Ohio Revised Code); provided, however, that all inconsistencies between or among the permissive provisions of any statute and any provision of the Declaration and these Bylaws, shall be resolved in favor of the Declaration and these Bylaws, and any inconsistencies between any statute applicable to associations formed to administer property submitted to the Condominium form of ownership, and the Articles or Bylaws of the Association shall be resolved in favor of the statute. In the event of any conflict or inconsistency between the provisions of the Declaration and the Articles or Bylaws of the Association, the terms and provisions of the Declaration shall prevail, and the owners and all persons claiming under them covenant to vote in favor of such amendments in the Articles or Bylaws as will remove such conflicts or inconsistencies.

ARTICLE VII. BOOKS AND RECORDS

The Association shall maintain correct and complete books, records and financial statements of the Association, including, without limitation, its governing documents (current copies of the Declaration, Bylaws and Articles); current rules and regulations; names and addresses of the Unit Owners and their respective undivided interests in the Common Elements; actions (board resolutions, minutes of all meetings of members and the Board, etc.); documents relating to its financial condition (all receipts and expenditures, budget, financial statements showing the allocation, distribution and collection of the common profits, losses and expenses among and from the Unit Owners, etc.) and annual financial statements when such are prepared.

Any Unit Owner, duly authorized agent of any Unit Owner, duly authorized prospective purchaser, lender or the holder, insurer or guarantor of an Eligible Mortgage Holder, may examine and copy any of the foregoing books, records and financial statements pursuant to reasonable standards established in the Declaration, these Bylaws, or by rules and regulations promulgated by the Board, which may include, without limitation, standards governing the type of documents that are subject 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. Notwithstanding the foregoing, the Association shall not be required to permit the examination and copying of any of the following:

- (a) information that pertains to Condominium-related personnel matters;
- (b) communications with legal counsel or attorney work product pertaining to pending litigation or other Condominium-related matters;
- (c) information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;
- (d) information that relates to the enforcement of the Declaration, Bylaws, or rules and regulations of the Association against Unit Owners; or
- (e) Information the disclosure of which is prohibited by state or federal law.

ARTICLE VIII. DETERMINATION AND PAYMENT OF ASSESSMENTS

Section 1. Payment of Assessments. Regular monthly Assessments shall be paid to the Association commencing on the date the deed or other evidence of ownership is filed of record following the first conveyance of a Unit to a party other than the Declarant and shall continue to be due and payable on the first day of each and every calendar month thereafter, or as otherwise determined by the Board. Said assessments shall be deposited when received by the Association in an account established in the name of the Association at a local bank or savings and loan association. Unit Owners (other than the Declarant, who shall not be responsible to pay assessments) shall continue to pay such monthly assessments as aforesaid until revised assessments are made by the Board of Trustees in the manner herein provided.

Section 2. Preparation of Estimated Budget. Each year on or before December 1st, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Association to be necessary for a reserve for contingencies and replacements, and shall on or before December 15th notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof. Said “estimated cash requirement” shall be assessed to the Owners according to each Owner’s Undivided Interest as set forth in the Declaration. On or before January 1st of the ensuing year, and the 1st of each and every month of said year, each Unit Owner shall be obligated to pay to the Association or as it may direct one-twelfth (1/12) of the assessment made pursuant to this section, provided, however, the Association shall have the right to bill and collect payments on a semi-annual or annual basis in lieu of a monthly basis. On or before the date of the annual meeting of

each calendar year, the Association shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid together with a tabulation of the amounts collected pursuant to the estimate provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount which is accumulated in excess of the amount required for actual expenses and reserves shall either be credited according to each Owner's Undivided Interest to the next monthly installments due from each Unit Owner under the current year's estimate, until exhausted, or returned to the Unit Owners, in the Board's discretion.

Section 3. Reserve for Contingencies and Replacements. The Association shall be obligated to build up and maintain a reasonable working capital reserve fund to finance the cost of repair or replacement of the components of the Common Elements. These reserves are not required to be maintained in a separate "fund" apart from the general funds of the Association. Upon the sale of a Unit by any Unit Owner, such Unit Owner shall have no right to any portion of the funds in the reserve fund; nor shall any such Unit Owner have any claim against the Association with respect thereto. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year, shall be charged first against such working capital reserve fund. If said "estimated cash requirement" proves inadequate for any reason, including non-payment of any Owner's assessment, the Association shall prepare an estimate of the additional cash requirements then necessary, or necessary for the balance of the year, which additional amount of cash requirements shall be assessed to the Owners according to each Owner's Undivided Interest in the Common Elements. The Association shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefore, and such further assessment shall become effective with the monthly maintenance payment which is due not more than ten (10) days after the delivery or mailing of such notice of further assessments. All Owners shall be obligated to pay the adjusted monthly amount. The Declarant shall not use the working capital reserve fund to defray its expenses, reserve contributions or construction costs or to make up any budget deficits.

Section 4. Budget for First Year. When the first Board of Trustees takes office, the Board of Trustees shall determine the "estimated cash requirement" as hereinabove defined, for the period commencing thirty (30) days after the first meeting of the Board and ending on December 31st of the calendar year in which said election occurs.

Section 5. Failure to Prepare Annual Budget. The failure or delay of the Board of Trustees to prepare or serve the annual or adjusted estimate on the Owners shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly maintenance charge at the existing monthly rate established for the previous period until the monthly maintenance payment which is due not more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

Section 6. Status of Funds Collected by Association. All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all of the Owners, and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to

be held for the use, benefit and account of all of the Owners in proportion to each Owner's Undivided Interest in the Common Elements as provided in the Declaration.

Section 7. Annual Statements. Within one hundred twenty (120) days after the end of each fiscal year of the Association, the Board shall furnish to each Unit Owner a financial statement consisting of: (a) a balance sheet containing a summary of the assets and liabilities of the Association as of the date of such balance sheet; and (b) a statement of the income and expenses for the period commencing with the date marking the end of the period for which the last preceding statement of income and expenses required hereunder was made and ending with the date of said statement, or in the case of the first such statement, from the date of formation of the Association to the date of said statement. The financial statement shall have appended thereto a certificate signed by the President or Secretary/Treasurer of the Association or by a public accountant or firm of public accountants to the effect that the financial statement presents fairly the financial position of the Association and the results of its operations in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding period except as may be specified therein.

Section 8. Annual Review. The books of the Association shall be reviewed once a year by the Board of Trustees, and such review shall be completed prior to each annual meeting. If requested by any member of the Board of Trustees, such review shall be made by a Certified Public Accountant. In addition, and at any time, if requested by a Unit Owner or member of the Board of Trustees, the Board shall cause an additional review to be made.

Section 9. Special Assessments for Capital Improvements. In addition to the annual operating assessments, the Board may levy, in any fiscal year, special assessments to construct, reconstruct or replace capital improvements on the Common Elements to the extent that reserves therefor are insufficient, provided that new capital improvements not replacing existing improvements (except new capital improvements required by governmental regulation or to correct any deficiency or defect creating a safety or health hazard) shall not be constructed nor funds assessed therefor, if the cost thereof in any fiscal year would exceed an amount equal to five percent of that fiscal year's budget, without the prior consent of all Unit Owners and the consent of all eligible holders of first mortgages. Any such assessment shall be prorated among all Units in proportion to their respective undivided interests in the Common Elements, and shall become due and payable on such date or dates as the Board determines following written notice to the Unit owners.

Section 10. Initial Contributions. In addition to such regular monthly assessments, each Owner shall be required to make, at the time such Owner acquires title to a Unit and upon each re-sale of a Unit, an initial capital contribution to the Association of \$ _____ .00 for each Unit purchased, one-half (1/2) of said sum shall be held by the Association in the Association's working capital account and the balance of said sum shall be held by the Association as a reserve for contingencies and replacements. The general purpose of this contribution is to provide the Association with funds for working capital and/or contingency reserve purposes. Such funds may be used for certain prepaid items (e.g., insurance premiums, utility deposits and organization, equipment and supply costs) and for such other purposes as the Board may determine. This initial capital contribution is not an escrow or an advance, is not refundable and shall not be required of

the Declarant, but only from those Persons who purchase a Unit from the Declarant or re-sell a Unit to a third party.

ARTICLE IX. FISCAL YEAR

Unless otherwise changed by the Board, the fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of the filing of the Declaration.

ARTICLE X. 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 therein, and shall be effective from the time a certificate setting forth such modification or amendment is delivered for recording to the Recording Division of the Fiscal Office of Summit County, Ohio.

ARTICLE XI. INDEMNIFICATION

Section 1. In General. The Association shall indemnify any member of the Board, officer, employee, or agent of the Association or any former member of the Board, officer, employee or agent of the Association and/or his, her, or their respective heirs, executors and administrators, against reasonable expenses, including attorneys' fees, judgments, decrees, fines, penalties or amounts paid in settlement actually and necessarily incurred by him or her in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, to which he or she is or may be made a party by reason of being or having been such member of the Board, officer, employee or agent of the Association, provided it is determined in the manner hereinafter set forth (a) that such member of the Board, officer, employee or agent of the Association was not, and is not, adjudicated to have been grossly negligent or guilty of willful misconduct in the performance of his or her duty to the Association, (b) that such member of the Board acted in good faith in what he or she reasonably believed to be in the best interest of the Association, (c) that, in any matter which is the subject of a criminal action, suit or proceeding, such Board member had no reasonable cause to believe that the conduct was unlawful, and (d) in case of settlement, that the amount paid in the settlement was reasonable. Such determination shall be made either by the members of the Board of the Association acting at a meeting at which a quorum consisting of members of the Board who are not parties to or threatened with any such action, suit or proceeding is present, or, in the event of settlement, by a written opinion of independent legal counsel selected by the members of the Board.

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

Section 3. Indemnification Not Exclusive; Insurance. The indemnification provided for in this Article XI shall not be exclusive, but shall be in addition to any other rights to which any person may be entitled under the Articles of Incorporation, Rules of the Association, any

agreement, any insurance provided by the Association, the provisions of Section 1701.12(E) of the Ohio Revised Code, or otherwise. If available at a reasonable cost, the Association may purchase and maintain insurance on behalf of any person who is or was a member of the Board, officer, agent or employee of the Association against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

Section 4. Indemnification by Unit Owners. The members of the Board and officers of the Association shall not be liable to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify against and hold each of the members of the Board and officers of the Association harmless from all contractual liability to third parties arising out of contracts made on behalf of the Association except with respect to any such contracts made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board and officers of the Association shall have no personal liability with respect to contracts entered into on behalf of the Association. Every agreement made by any members of the Board, officer, employee or agent of the Association or by a management company, if any, on behalf of the Association, shall provide that such members of the Board, officer, employee or agent of the Association, or the management company, as the case may be, is acting only as agent for the Association and shall have no personal liability thereunder (except as a Unit Owner), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as its Undivided Interest bears to the total Undivided Interest of all Unit Owners.

Section 5. Cost of Indemnification. Any sum paid or advanced by the Association under this Article XI shall constitute a Common Expense and the Association and the Board shall have the power to raise, and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article XI; provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of any member of the Board, officer, employee or agent of the Association, or out of the aforesaid indemnity in favor of such member of the Board, officer, employee or agent of the Association, shall be limited to such proportion of the total liability hereunder as said Unit Owner's Undivided Interest bears to the total Undivided Interest of all the Unit Owners.

EXHIBIT C
NARRATIVE DESCRIPTION OF BUILDING AND UNITS

The Condominium Development (including the Additional Property) is situated on a singular piece of real estate totaling approximately _____ acres situated off Darrow Road in Hudson Ohio. The Condominium Property is situated on _____. Said private drives, and any driveways servicing those Units, are maintained and repaired by the Association. Phase 1 of Preserve of Hudson consists of one (1) “free-standing”, single-family attached condominium building with four (4) Units, situated on _____.

Phase 1 of Preserve of Hudson, which consists of Units 1, 2, 3 and 4 is a 2-story single-family attached structure principally of wood frame construction on a slab with drywall finish on the interior walls. The roof is asphalt shingle.

Unit 1 - _____

Unit 2 - _____

Unit 3 - _____

Unit 4 - _____ Any inconsistencies between the narrative description of the Unit and/or Common Area on the one hand and the “As-Built” Drawings on the other hand shall be resolved in favor of the “As-Built” Drawings.

EXHIBIT D
UNIT INFORMATION AND PERCENTAGE INTEREST

<u>UNIT NO.</u>	<u>PHASE NO.</u>	<u>UNIT ADDRESS</u>	<u>UNIT TYPE</u>	<u>SQUARE FOOTAGE</u>	<u>PERCENTAGE OR FRACTIONAL INTEREST IN COMMON AREAS AND FACILITIES AND PERCENTAGE OR FRACTIONAL INTEREST IN COMMON ASSESSMENTS, COMMON SURPLUS, COMMON PROFITS AND COMMON LOSSES</u>
1	1				
2	1				
3	1				
4	1				
		TOTALS:			100%

EXHIBIT E MAINTENANCE CHART

Chart of Maintenance Responsibilities

Item of Maintenance*	Ownership	Responsibility For Cost and Performance of Maintenance /Repair**
Individual Driveways	Association	Owner responsible to maintain, repair and replace. Association to remove snow and ice***
Sidewalks along streets	Association	Owner responsible to maintain, repair and replace. Association to remove snow and ice***
Leadwalks	Association	Owner responsible to maintain, repair and replace. Owner to remove snow and ice***
Porch Slab	Association	Owner responsible to maintain, repair and replace
Porch Structure	Association	Owner responsible to maintain, repair and replace
Patios	Association	Owner responsible to maintain, repair and replace
Fences and decks	Association	Owner responsible to maintain, repair and replace. Any installment or replacement of a fence or deck shall require prior approval of the Board.
Windows	Association	Owner responsible to maintain repair and replace; provided, however, any replacement shall require prior approval of the Board.
Shutters	Association	Owner responsible to maintain, repair and replace; provided, however, any replacement of shutters shall require prior approval of the Board.
Roof	Association	Owner responsible to maintain, repair and replace; provided, however, any replacement of the roof shall require prior approval of the Board.
Siding	Association	Owner responsible to maintain, repair and replace; provided, however, any replacement of siding shall require prior approval of the Board.

Landscaping within Common Elements (i.e. Landscaping surrounding the Unit)	Association	Association shall maintain, repair and replace (any additions to the initial landscaping by Owner is subject to Board approval and shall be maintained and watered by Owner).
Grass within Common Elements	Association	Association shall maintain, repair and replace (cut grass and annually fertilize). Owner to water grass.
Unit Irrigation (lawns)	Owner	Owner will do a seasonal turn-on and turn-off. Owner to maintain, repair and replace. Owner to pay applicable water bill.
Trash Removal	Owner	Owner. Everyone to use same company for removal.
Trimwork	Association	Owner responsible to maintain, repair and replace; provided, however, any replacement of trimwork shall require prior approval of the Board.
Exterior Doors	Association	Owner responsible to maintain, repair and replace; provided, however, any replacement of exterior doors shall require prior approval of the Board.
Sliding Glass Doors	Association	Owner responsible to maintain, repair and replace; provided, however, any replacement of sliding glass doors shall require prior approval of the Board.
Garage Doors	Association	Owner responsible to maintain, repair and replace; provided, however, any replacement of garage doors shall require prior approval of the Board.
Insurance (Common Elements)	Association	Association to insure Common Elements for public liability and casualty damage
Insurance (Unit Structure)	Owner	Owner to insure Unit for public liability and casualty damage (full replacement value)
Insurance (Inside Unit)	Owner	Owner to insure for inside the Unit

*** FOR ANY ITEM NOT LISTED THE RESPONSIBILITY FOR COST AND THE PERFORMANCE SHALL BE THE RESPONSIBILITY OF THE OWNER OF THAT ITEM.**

**** UNLESS OTHERWISE PROVIDED IN THE DECLARATION, MAINTENANCE/REPAIR SHALL INCLUDE THE OBLIGATION TO REPLACE.**

***** THE ASSOCIATION SHALL NOT BE REQUIRED TO REMOVE OR PLOW ICE AND SNOW UNLESS AND UNTIL A DEPTH OF 2 INCHES.**

DRAFT