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Richard B. Metcalfe T199903250073854  
Franklin County Recorder JMC

DECLARATION AND BYLAWS 199903250073854  
CREATING AND ESTABLISHING A PLAN FOR  
CONDOMINIUM OWNERSHIP

UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO

FOR

BEECHER RIDGE OFFICE PARK CONDOMINIUM

Instr: 199904010001300 04/01/1999  
Pages: 74 Fee: \$30.00 2:56PM  
Richard B. Metcalfe T199904010001300  
Franklin County Recorder FL

CERTIFICATE OF AUDITOR

*March 15, 1999*

Receipt is hereby acknowledged of a copy of the Declaration, Bylaws and Drawings of the  
above-named Condominium.

*Joseph T. Testa, Jr.*  
Auditor

FOR REFERENCE PLEASE SEE  
CONDOMINIUM PLAT BOOK NO. 82 PAGE 7-12

TRANSFERRED  
MAR 25 1999  
JOSEPH T. TESTA  
AUDITOR  
FRANKLIN COUNTY, OHIO

This instrument prepared by  
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Attorney at Law  
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Re-record to show correct Condo Book and Page  
(6.08)

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### **DECLARATION**

This is the Declaration of Beecher Ridge Office Park Condominium made on or as of the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_, pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio.

#### **Recitals**

- A. Canini & Pelletchis, Inc., an Ohio corporation, "Declarant", is the owner in fee simple of all of the real property hereinafter described and the improvements thereon and appurtenances thereto.
- B. The Declarant desires to create of this property a site of individually owned units, and commonly owned areas and facilities, and to these ends to submit this property to condominium ownership under the Condominium Act.

#### **Definitions**

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

1. "Additional Property" means the land, and improvements thereon, that may, at a subsequent time, be added to the Condominium Property and become a part of the Condominium.
2. "Articles" and "Articles of Incorporation" mean the articles, filed with the Secretary of State of Ohio, incorporating Beecher Ridge Office Park Condominium Association as a corporation not-for-profit under the provisions of Chapter 1702 of the Revised Code of Ohio. (The State of Ohio's enabling non-profit corporation act.)
3. "Association" and "Beecher Ridge Office Park Condominium Association" mean the corporation not-for-profit created by the filing of the Articles and is also one and the same as the association created for the Condominium under the Condominium Act.
4. "Board" and "Board of Trustees" mean those persons who, as a group, serve as the board of trustees of the Association and are also one and the same as the board of managers of the Condominium established for the Condominium under the Condominium Act.
5. "Bylaws" mean the bylaws of the Association, created under and pursuant to the Condominium Act for the Condominium, and which also serve as the code of regulations of the Association under and pursuant to the provisions of Chapter 1702. A true copy of the Bylaws is attached hereto and made a part hereof.

6. "Common Areas" means all of the Condominium Property, except that portion described in this Declaration as constituting a Unit or Units, and is that portion of the Condominium Property constituting "common areas and facilities" of the Condominium under the Condominium Act.
7. "Condominium" and "Beecher Ridge Office Park Condominium" mean the condominium regime for the Condominium Property created under and pursuant to the Condominium Act.
8. "Condominium Act" means Chapter 5311 of the Revised Code of Ohio.
9. "Condominium instruments" means this Declaration, the Bylaws, the Drawings, and, as provided by the Condominium Act, "all other documents, contracts, or instruments establishing ownership of or exerting control over a condominium property or unit".
10. "Condominium Property" means the Articles, the Bylaws, the Drawings, and this Declaration.
11. "Condominium Property" means the tract of land hereinafter described as being submitted to the Condominium Act, all buildings, structures and improvements situated thereon, and all easements, rights and appurtenances belonging thereto.
12. "Declarant" means whoever is designated in the recitals of this Declaration as creating the Condominium, and Declarant's successors and assigns, provided the rights specifically reserved to Declarant under the Condominium organizational documents shall accrue only to such successors and assigns as are designated in writing by Declarant as successors and assigns of such rights.
13. "Declaration" means this instrument, by which the Condominium Property is hereby submitted to the Condominium Act.
14. "Drawings" means the drawings for the Condominium, and are the Drawings required pursuant to the Condominium Act. A set thereof is attached hereto, but the same may be detached and filed separately herefrom by the appropriate public authorities.
15. "Eligible mortgagees" means the holders of valid first mortgages on Units who have given written notice to the Association stating their names, addresses and Units subject to their mortgages.
16. "Limited Common Areas" means those Common Areas serving exclusively one Unit or more than one but less than all Units, the enjoyment, benefit or use of which

reserved to the lawful occupants of that Unit or Units either in this Declaration, or by the Board, and is that portion of the Condominium Property constituting "limited common areas and facilities" of the Condominium under the Condominium Act.

17. "Occupant" means a person lawfully residing in a Unit, regardless of whether or not that person is a Unit owner.
18. "Person" means a natural individual, corporation, partnership, trust, or other legal entity capable of holding title to real property.
19. "Trustee" and "Trustees" mean that person or those persons serving, at the time pertinent, as a trustee or trustees of the Association, and mean that same person or those persons serving in the capacity of a member of the board of managers of the Association, as defined in the Condominium Act.
20. "Unit" and "Units" mean that portion or portions of the Condominium Property described as a unit or units in this Declaration, and is that portion of the Condominium constituting a "unit" or "units" of the Condominium under the Condominium Act.
21. "Unit owner" and "Unit owners" mean that person or those persons owning a fee simple interest in a Unit or Units, each of whom is also a "member" of the Association, as defined in Chapter 1702 of the Revised Code of Ohio.

#### The Plan

NOW, THEREFORE, Declarant hereby makes and establishes the following plan for condominium ownership of the below-described property under and pursuant to the provisions of the Condominium Act:

#### ARTICLE I

##### THE LAND

A legal description of the land constituting a part of the Condominium Property, located in the City of Gahanna, Franklin County, Ohio, and consisting of 3.094 acres of land, more or less, is attached hereto and marked "Exhibit A".

#### ARTICLE II

##### NAME

The name by which the Condominium shall be known is "Beecher Ridge Office Park

Condominium”.

### ARTICLE III

#### PURPOSES: RESTRICTIONS

- Section 1. Purpose.** This Declaration is being made to establish separate individual parcels from the Condominium Property to which fee simple interests may be conveyed; to establish a unit owners' association to administer the Condominium; to provide for the preservation of the values of Units and the Common Areas; to provide for and promote the benefit, enjoyment and well being of Unit owners and occupants; to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth; and to raise funds through assessments to accomplish these purposes.
- Section 2. Restrictions.** The Condominium and the Condominium Property shall be benefited by and subject to the following restrictions.
- (A) **Unit Uses.** Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purposes other than that of an office for business and professional purposes, and uses customarily incidental thereto, provided; however, that no Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any type of lodging; and, (ii) it shall be permissible for the Declarant to maintain, during the period of its sale or rental of Units, but for no longer than a three year period of time from the time of the closing of the first sale of a Unit to a bona fide purchaser, parts of one or more Units as sales and rental models and offices, and for storage and maintenance purposes, provided, that Declarant may maintain and utilize parts of one or more of the Units in property added to the Condominium for such purposes for a two year period of time from the time of the closing of the first sale of a Unit in the property so added.
- (B) **Common Area Uses.** The Common Areas (except the Limited Common Areas) shall be used in common by Unit owners and occupants and their agents, servants, customers, invitees and licensees, in accordance with the purposes for which they are intended, reasonably suited and capable, and as may be required for the purposes of access, ingress to, egress from, use, occupancy, and enjoyment of Units. Unless expressly provided otherwise herein, no Common Areas shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation and enjoyment of Unit owners and occupants.
- (C) **Limited Common Area Uses.** Those portions of the Common Areas described herein and shown on the Drawings as Limited Common Areas shall be used and possessed exclusively by the Unit owners and occupants of the Unit or Units served by the

same, as specified in this Declaration, and shall be used only for the purposes intended.

- (D) **Visible Areas.** Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows or placed on the outside walls of a building or otherwise outside of a Unit, or any part thereof, and no sign, awning, canopy, shutter, or television or citizens' band or other radio antenna or transmitter, or any other device or ornament, shall be affixed to or placed upon the exterior walls or roof or any part thereof, or in, on, or over a patio or balcony, unless authorized in writing by the Board. In this regard, see subparagraph (O) regarding window blinds.
- (E) **Offensive Activities.** No noxious or offensive activity shall be carried on in any Unit, or upon the Common or Limited Common Areas, nor shall any be used in any way or for any purpose which may endanger the health of or unreasonably disturb any occupant.
- (F) **Vehicles.** The Board may promulgate rules and regulations restricting or prohibiting the parking of automobiles, buses, inoperable vehicles, trucks, trailers, boats and recreational vehicles on the Common Areas, or parts thereof, including the right to assign reserved parking spaces in such numbers and for such fees as the Board may determine; provided, that each Unit may be assigned no more than four (4) reserved parking spaces per 1000 square feet of unit space. The Board may enforce such regulations or restrictions by levying enforcement charges, having such vehicles towed away, or taking such other actions as it, in its sole discretion, deems appropriate. In the event that Declarant constructs a commercial use building on the 1.134 acre tract owned by Declarant on the South side of Beecher Road, the Declarant and its tenants, assigns, purchasers, licensees, and invitees shall have a non exclusive right of access to the Common Areas for temporary parking purposes, subject to such reasonable restrictions, fees and costs as the Board shall impose; provided that the Board may not promulgate any fees, costs or restrictions which would unreasonably restrict Declarant and its tenants, assigns, purchasers, licensees, and invitees in the use and operation of the commercial property referenced above.
- (G) **Renting and Leasing.** No Unit or part thereof shall be rented or used for any purpose which is not consistent with the use of commercial and professional offices as set out above. Any lease agreement shall be in writing, shall be approved by the Board as to form and content, and shall provide that the lease be subject in all respects to the provisions hereof, and to the rules and regulations promulgated from time to time by the Board, and shall provide that the failure by the tenant to comply with the terms of the Condominium organizational documents and lawful rules and regulations shall be a default under the lease. Prior to the commencement of the term of a lease the Unit owner shall notify the Board, in writing, of the name or names of the tenant or tenants and the time during which the lease term shall be in effect, and submit a copy

of the lease to the Board for approval. The Association shall have the authority and power, in the name of the unit owner, or in its own name, to cause an eviction of any tenant of any Unit Owner which is violation of the Declaration, Bylaws and Rules and Regulations of the condominium.

- (H) **Signs.** No sign of any kind shall be displayed to the public view on the Condominium Property except: (a) on the Common Areas, signs regarding and regulating the use of the Common Areas, provided they are approved by the Board; (b) on the interior side of the window of a Unit, one professionally prepared sign not in excess of nine square feet in size, advertising the Unit for rent; and (c) on the Common Areas and model Units, signs advertising the sale and/or rental of Units by the Declarant during the initial sale and rental period. "For Sale" signs are prohibited, except with Board permission.
- (I) **Replacements.** Any building erected to replace an existing Unit shall be of new construction, be of comparable size, design and construction to that replaced, and shall be of comparable size to the Unit being replaced.
- (J) **Structural Integrity.** Nothing shall be done in any Unit, or in, on or to the Common or Limited Common Areas, which may impair the structural integrity of any improvement.
- (K) **Construction in Easements.** No structure, planting or other material shall be placed or permitted to remain within the easements for the installation and maintenance of utilities and drainage facilities which may damage or interfere with the installation and maintenance of utility lines or which may change the direction of the flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easement areas. The utility facilities within the easement areas shall be subject to the right of the Association to maintain the same, and its right to delegate that right to a public authority or utility.
- (L) **Animals.** Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or on the Common Areas.
- (M) **Conveyances.** Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof. The undivided interest of a Unit in the Common Areas shall be deemed to be conveyed or encumbered with the Unit even though that interest is not expressly mentioned or described in the deed, mortgage or other instrument of conveyance or encumbrance. In any instrument of conveyance or creating an encumbrance, or in any other document legally describing a Unit, it shall be sufficient to lawfully describe a Unit and its interest in the Common Area by referring to the Unit designation of the Unit and the appropriate recording references of the initial page

of this Declaration and the Drawings, and in the case of a Unit added to the Condominium, the initial pages of the amendment to the Declaration and the amendment to the Drawings by which such Unit was added to the Condominium. The right of a Unit owner to sell, transfer or otherwise convey that owner's Unit is subject to a right of first refusal, and any Unit owner may not transfer that owner's Unit unless and until the Board has refused to match a bona fide offer to purchase the Unit within 20 days of presentation of the offer to it. To enable the Association to maintain accurate records of the names and addresses of Unit owners, each Unit owner agrees to notify the Association, in writing, within five days after an interest in that Unit owner's Unit has been transferred to another owner.

- (N) **Discrimination/Handicapped Accommodation.** No action shall at any time be taken by the Association or its Board which in any manner would discriminate against any Unit owner in favor of another. In addition, notwithstanding any provision hereto, any rule or regulation, the Board shall make reasonable accommodation if necessary to afford a handicapped person equal opportunity to use and enjoy the Condominium Property, provided, that nothing contained herein shall be construed to mean or imply that any such accommodation be at the cost of the Association.
- (O) **Architectural Control.** No building, fence, wall, sign or other structure or attachment shall be commenced, erected or maintained upon the Condominium Property, or any part thereof. All window treatments, shades, blinds, curtains and the like shall be subject to Board approval prior to installation by any Unit Owner or their tenants. Any Unit may be subdivided by the Unit Owner at the Unit Owner's sole expense; provided however, all plans for the modification, subdivision and/or bulldout of the interior portions of the units shall be submitted in writing to the Board and shall be approved in writing by the Board or its designated representative or representatives prior to the commencement of any construction or alteration of the interior of a Unit, in its or their sole and unfettered discretion. The Board shall approve the contractor who will be performing the bulldout work. All materials, colors, and construction materials shall be approved by the Board prior to the commencement of any construction or alteration of the interior portions of a unit, in the Board's sole and unfettered discretion.
- (P) **Rules and Regulations.** In addition to adopting and enforcing rules and regulations in the instances specifically heretofore mentioned, the Board may, from time to time, adopt and enforce such further reasonable rules and regulations concerning use of the Condominium Property, or any part thereof, as it deems necessary or desirable to promote harmony, to serve the best interests of the Unit owners, as a whole, and to protect and preserve the nature of the Condominium and the Condominium Property. A copy of all rules and regulations shall be furnished by the Board to the owners of each Unit prior to the time when the same shall become effective.

- (Q) Disputes Between Owners. In the event of any dispute between Unit owners as to the application of the foregoing restrictions or any rule or regulation promulgated pursuant thereto, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time, date and place for a hearing thereon within sixty (60) days thereafter, and give written notice to each party thereof no less than three days in advance. The Board shall thereupon hear such evidence on the dispute as the Board deems proper and render a written decision on the matter to each party within thirty (30) days thereafter. No action of any type may be instituted by either party to such a dispute unless the dispute has first been submitted to and determined by the Board, as aforesaid.

#### ARTICLE IV

##### IMPROVEMENT DESCRIPTIONS

- Section 1. Buildings. There are four (4) buildings as part of the Condominium, each building consisting a unit. The buildings are unfinished, unpartitioned, sprinkled in the utility rooms only, one story office buildings, except Unit 428, which is two stories, built on concrete foundations, of block construction, with fieldstone and stucco veneer, and cedar trim, and have asphalt shingle roofs. Unit 430 contains a crawl space and a partial unfinished basement. The principal materials of which these buildings are constructed are wood, glass, steel, concrete, concrete block, cedar, fieldstone, stucco, asphalt shingle, and drywall. The buildings are located as shown on the Drawings.
- Section 2. Other. Each building has a front entry portico and a rear entry area. There are no recreation facilities as part of the Condominium, as initially constituted hereby.

#### ARTICLE V

##### UNITS

- Section 1. Unit Designations. Each of the units is designated by a number, corresponding to Declarant's number assigned to the building, which number is the street number on Beecher Road. The location and designation of each Unit is also shown on the sketch plot plan attached hereto as "Exhibit B". Information concerning the Units, with a listing of property Unit designations, is shown on the attached "Exhibit C".
- Section 2. Compositions of Units.

- (A) **Unit Composition.** Each Unit constitutes a single freehold estate and consists of the space in the building designated by that Unit's designation on the Drawings that is bounded by the undecorated interior surfaces of the perimeter walls, the unfinished surface of the floor at the lowest level, and the unfinished interior surface of the ceiling of the highest level, to constitute a complete enclosure of space, and all improvements within that space. Without limiting the generality of the foregoing, or, as appropriate, in addition, each Unit shall include:

- (1) the decorated surfaces, including paint, lacquer, varnish, wall covering, tile and other finishing material applied to floors, ceilings, and interior and perimeter walls, carpeting, if any, and also the floors and ceilings themselves, and the drywall, paneling and other finishing wall material;
- (2) all windows, skylights, if any, and screens and doors, including storm doors and windows, if any, and the frames, sashes and jambs, thresholds and the hardware therefor;
- (3) all fixtures and appliances installed for the exclusive use of that Unit, including, without limiting the generality hereof, built-in cabinets, dishwashers, garbage disposal units, refrigerators, stoves and hoods, antennas and cables, furnaces, hot water heaters, heat pumps, air-conditioning units (even though located outside the bounds of a Unit), and components of the foregoing, if any;
- (4) all plumbing, electric, heating, cooling and other utility or service lines, pipes wires, ducts, conduits and apparatus wherever located, which serve only that Unit;
- (5) all control knobs, switches, thermostats and electrical outlets and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein;
- (6) all interior walls that are not necessary for support of the structure, and all components thereof and all space encompassed thereby; and
- (7) the attic space or storage space above a Unit, and the crawl space and basement below a Unit, if any, to which the Unit has direct and exclusive access;

excluding therefrom, however, all of the following items, whether or not located within the bounds of that Unit:

- (1) any supporting element of the building contained in interior walls;

- (2) all plumbing, electric, heating, cooling, and other utility or service lines, pipes, sump pumps and accessories thereto, wires, ducts and conduits which serve any other Unit; and
  - (3) fireplace stacks and chimneys, if any.
- (B) Unit Types, Sizes, Locations and Components. On exhibit D attached hereto is a listing of the types of Units that are and that may be in the Condominium, together with a description of the components of each type of Unit and the useable gross interior square footage of each type of Unit. The type of each Unit is shown on the attached Exhibit C. The location, dimensions, type and composition of each Unit are also shown on the Drawings. Each Unit has direct access to a Common Area, which leads directly to Beecher Road, which will be dedicated as a public street.

#### ARTICLE VI

##### COMMON AND LIMITED COMMON AREAS

- Section 1. Common Areas - Description. All of the Condominium Property, including all of the land and all improvements thereon and appurtenances thereto, except those portions labeled or described herein or on the Drawings as a part of a Unit, are Common Areas.
- Section 2. Limited Common Areas - Description. Those portions of the Common Areas that are labeled or designated "limited common areas" on the Drawings, are Limited Common Areas. Those Limited Common Areas consist of a front entrance portico, and a rear entrance, service walk from the parking area, deck serving units 428 and 430, and patio serving unit 428, storage area serving unit 430, side service walk serving unit 440, all as further shown on the drawings. Each such Limited Common Area is reserved for the exclusive use of the owners and occupants of the Unit to which it is appurtenant and as set forth herein.
- Section 3. Undivided Interest. The undivided interests have been assigned on the basis of a consideration of base prices, relative values, reproduction costs, fairness, and simplicity. Undivided interests have also been adjusted as necessary to make the total of undivided interests equal exactly one hundred percent, rounded to hundredths of a percent. The Common Areas shall be owned by the Unit owners in the proportions described as tenants in common, and ownership thereof shall remain undivided. No Unit owner may waive or release any rights in the Common Areas. Further, the undivided interest in the Common Areas of a Unit shall not be separated from the Unit to which it appertains.

If at a later time the Condominium is expanded, the percentages of interests of Units in the Common Areas shall be reallocated among all Units, including the newly added Units, on the same basis as above, so that the undivided interest of each Unit of each type added with the same options shall be the same as each other Unit of that type with those same options, and so that the undivided interest of a Unit of one type with certain options to one of another type with those same options will be in the same relationship as those relative interests are with respect to the Units initially a part of the Condominium. Notwithstanding the foregoing, further minor adjustments will be made, as necessary, so that the undivided interests of all Units equals precisely one hundred percent, rounded to hundredths of a percent, in Declarant's sole discretion.

## ARTICLE VII

### UNIT OWNER'S ASSOCIATION

- Section 1. Establishment of Association.** The Association has been formed to be and to serve as the Unit owners' association of the Condominium. The Declarant is presently the sole member of the Association.
- Section 2. Membership.** Membership in the Unit Owners' Association shall be limited to the Unit owners, and every person or entity who is or become a record owner of a fee or undivided fee simple interest in a Unit is a Unit owner and shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Unit, and transfer of a Unit shall automatically transfer membership to the transferee.
- Section 3. Voting Rights.** Each Unit owner shall be entitled to one vote for each Unit owned in fee simple, and a proportionate part of a vote of ownership of an undivided fee simple interest in a Unit, provided, that unless timely challenged by an owner of a fee simple interest in a Unit, any owner of a fee simple interest in that Unit may cast the entire vote with respect to that Unit. The Board, from time to time, may suspend the right of a member to vote with respect to his, her, or its Unit for failure to pay assessments when due, or for failure to observe other of the terms hereof, the Bylaws, or rules and regulations of the Association, pursuant to rules and regulations duly adopted by the Board from time to time.
- Section 4. Board of Trustees.** The Board initially shall be those three persons named as the initial Trustees pursuant to the provisions of the Articles, or such other person or persons as may from time to time be substituted by Declarant. No later than the time that Units to which twenty-five percent (25%) of the undivided interests in the Common Areas appertain have been sold and

conveyed by the Declarant, the Unit Owners shall meet, and the Unit owners other than the Declarant shall elect one Trustee at such meeting to replace whichever Trustee Declarant designates.

Within the earlier of (a) five years from the date of the establishment of the Association, and (b) thirty days after the sale and conveyance to purchasers in good faith and for value, of Units to which seventy-five percent (75) of the undivided interests in the Common Areas appertain, the Association shall meet. All Unit owners, including the Declarant, shall elect three (3) Trustees to replace all of those Trustees earlier elected or designated by the Unit owners or Declarant, respectively. The terms of the three Trustees shall be staggered so that the terms of one-third of the Trustees will expire and successors will be elected at each annual meeting of the Association. Thereafter, at such annual meetings, successors to the Trustee whose term then expires shall be elected to serve three-year terms. Notwithstanding the foregoing, the members, by the vote of members exercising not less than a majority of the voting power of members, may from time to time, change the number and terms of Trustees, provided, that in any such event the terms of not less than one-third of the Trustees shall expire annually.

Notwithstanding the foregoing, Declarant shall have the right at any time to waive its right to select one or more Trustees to vote in an election of Trustees.

**Section 5. Authority.** The Board shall have all authority to manage, maintain, repair, replace, alter and improve the Common Areas and assess and collect funds for the payment thereof, and do all things, and exercise all rights provided by the Condominium organizational documents, or the Condominium Act, that are not specifically reserved to Unit owners.

**Section 6. Delegation of Authority; Professional Management.** The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense, provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty day's written notice; shall be terminable by either party without cause and without penalty, on ninety day's written notice; shall not exceed one year unless renewed by agreement of the parties for successive one-year periods; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing. Subject to the foregoing, nothing contained herein shall preclude Declarant, or any other entity designated by Declarant, from being employed as managing agent. The managing agent or the Board, if there is no managing agent, shall have the authority to enter into contracts with Declarant or an affiliate of Declarant, as defined by an institutional first mortgagee or an

agency or organization which purchases or insures first mortgages, for goods, services, or for any other thing, including, without limiting the generality of the foregoing, contracts for the providing of management, maintenance, and repair services provided the same are bona fide and commercially reasonable to the Unit owners at the time entered into under the circumstances then prevailing, do not exceed a two year period, and are terminable by the Association, without cause and without penalty, on ninety days' written notice.

#### ARTICLE VIII

##### \* AGENT FOR SERVICE

The name of the person to receive service of process for the Association, and that person's residence or place of business, which is Franklin County, Ohio, where the Condominium is situated, is:

Loretto V. Canini  
430 Beecher Road  
Gahanna, Ohio 43230

In the event this individual for any reason ceases to be registered with the Secretary of State of Ohio as Statutory Agent for the Association, the person so registered shall be the person to receive service of process for the Association.

#### ARTICLE IX

##### MAINTENANCE AND REPAIR

Section 1. Association Responsibility. The Association, to the extent and at such times as the Board, in its exercise of business judgment, determines to allocate funds therefor, shall maintain, repair and replace all improvements constituting a part of the Common Areas, including but not limited to utility facilities serving the Common Areas, utility lines in the Common Areas, lawns, shrubs, trees, walkways, drives, parking areas, and the structural portions of all buildings and improvements which are a part of the common Areas and that do not constitute part of a Unit, and the structural components of improvements constituting a part of the Limited Common Areas; provided that the Association shall not be responsible for the repair and replacement of entrance steps and concrete pads of the entrance ways, outside stairways, or nonstructural and structural components of improvements a part of the Limited Common Areas nor for the cleaning, housekeeping and routine maintenance of Limited Common Areas or components thereof. The

Association shall maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements a part of the Common Areas and structural components of improvements a part of the Limited Common Areas required to be maintained by it. Except to the extent, if any, that a loss is covered by insurance maintained by the Association, the Association shall not have responsibility to repair or maintain any Unit, or component thereof, or personal property within a Unit.

**Section 2. Individual Responsibility.** Each Unit owner shall repair and maintain the Unit or Units, and all components thereof, owned by that Unit owner, shall repair and maintain the Limited Common Areas appurtenant to that owner's Unit and shall repair and maintain structural and non-structural components of improvements constituting part of those Limited Common Areas. The maintenance costs for the deck appurtenant to units 428 and 430 shall be paid equally by the Unit owners. Without limiting the generality of the foregoing, this repair and maintenance responsibility of a Unit owner shall include repair, maintenance and replacement of all windows, screens, and doors, including the frames, thresholds, sashes and jambs, and the hardware therefor, repair and maintenance of the front and rear entranceway steps and pads, decks, patios and service walks. In addition, each unit owner shall repair and maintain the exterior portions of their unit, including paint, shingles, exterior lighting, and roof. Each Unit Owner shall provide trash removal, and the Board shall designate the type of container and method and manner of storing and placing trash containers. In the event a Unit owner shall fail to make a repair or perform maintenance required of that Unit owner, or in the event the need for maintenance or repair of any part of the Common Areas or Limited Common Areas is caused by the negligent or intentional act of any Unit owner or occupant, or is as a result of the failure of any Unit owner or his her or its predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law, the Association may perform the same, and if the cost of such repair or maintenance is not covered by insurance, whether because of a deductible or otherwise, the cost thereof shall constitute a special individual Unit assessment, as hereinafter defined, on the Unit owned by such Unit owner. The determination that such maintenance or repair is necessary, or has been so caused, shall be made by the Board.

#### ARTICLE X

##### UTILITY SERVICES

Each Unit owner by acceptance of a deed to a Unit agrees to pay for utility services separately metered or separately charged by the utility company to that Unit, and to reimburse the

Association for that owner's Unit's share of any utility costs that the Board reasonably determines is attributable to use by the owner's Unit. All other utility costs shall be common expenses and paid by the Association.

#### ARTICLE XI

##### INSURANCE; LOSSES; BONDS

- Section 1. Fire and Extended Coverage Insurance.** The Board shall have the authority to and shall obtain insurance for all buildings, structures, fixtures and equipment, and common personal property and supplies now and at any time hereafter constituting a part of the Common Areas, the Limited Common Areas, or common property of the Association, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard extended coverage endorsements, and all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available, issued in the locale of the Condominium Property, in amounts at all times sufficient to prevent the unit owners from becoming co-insurers under the terms of any applicable coinsurance clause or provision and not less than one hundred percent (100%) of the current replacement cost of such items (exclusive of land, foundations, footing, excavations, and other items normally excluded from coverage), as determined from time to time by the insurer. This insurance:
- (A) shall provide coverage for built-in or installed improvements, fixtures and equipment that are originally installed as part of a Unit, and shall provide coverage of windows and doors and the frames, thresholds, sashes, jambs and hardware therefor, even though these improvements may be parts of Units;
  - (B) shall have an agreed amount and inflation guard endorsement when that can be obtained, construction code endorsements, if there is a construction code provision that requires changes to undamaged portions of building even when only part of the Condominium Property is destroyed by an insured hazard, such as demolition cost, contingent liability from operation of building laws and increased cost of construction endorsements, and, when applicable, a steam boiler and machinery coverage endorsement, which provides that the insurer's minimum liability per accident at least equals the lesser of two million dollars or the insurable value of the building or buildings housing the boiler or machinery;
  - (C) shall provide that no assessment may be made against a first mortgage lender, or its insurer or guarantor, and that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a first

mortgage.

- (D) shall be written in the name of the Association for the use and benefit of the Unit owners, or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit owners;
- (E) shall contain or have attached the standard mortgagee clause commonly accepted by institutional first mortgage holders, insurers, and guarantors which (i) must provide that the carrier shall notify the named insured and each first mortgagee named in the mortgage clause at least ten days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy, and (ii) must be endorsed to provide that any loss shall be paid to the Association (or its insurance trustee), as a trustee for each Unit owner and each such Unit owner's mortgagee, and, unless otherwise prohibited by a nationally recognized institutional first mortgage holder, insurer, or guarantor, to the holders of first mortgages on Units;
- (F) shall have a deductible amount no greater than the lesser of ten thousand dollars or one percent of the policy face amount;
- (G) shall be paid for by the Association, as a common expense;
- (H) shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Trustees, and all Unit owners;
- (I) shall provide that the insurance shall not be prejudiced by any acts or omissions of individual Unit owners who are not under the control of the Association; and
- (J) shall be primary, even if a Unit owner has other insurance that covers the same loss.

**Section 2. Liability Insurance.** The Association shall obtain and maintain, at Association cost and as a common expense, a comprehensive policy of general liability insurance covering all of the Common Areas, public ways and any other areas under the Association's supervision, and Units, if any, owned by the Association, even if leased to others, insuring the Association, the Trustees, and the Unit owners and occupants, with such limits as the Board may determine, but no less than the greater of (a) the amounts generally required by institutional first mortgage holders, insurers, and guarantors for projects similar in construction, location and use, and (b) one million dollars, for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" provision, or, if it does not, an endorsement which shall preclude the insurer from denying the claim of a Unit owner because of

negligent acts of the Association, the Board, or other Unit owners, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons resulting from the operation, maintenance or use of the Common Areas, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party. Each such policy must provide that it may not be canceled or substantially modified, by any party, without at least ten days' prior written notice to the Association and to each holder of a first mortgage on a Unit.

**Section 3. Fidelity Bond.** The Board shall obtain and maintain, at the Association's cost and as a common expense, a fidelity bond providing coverage for the Association against dishonest acts on the part of directors, managers, trustees, employees, agents, and volunteers responsible for or handling funds belonging to or administered by the Association. The fidelity bond must name the Association as the named obligee or insured and shall be written in an amount sufficient to provide protection, which is in no event less than the greater of (a) an amount equal to the Association's reserve funds plus three months' assessments on all Units, and (b) the maximum amount that will be in the custody of the Association or its managing agent at any time while the bond is in force. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The bond or policy may not be modified (including cancellation for non-payment of premium) without at least ten days' prior written notice to the Association, and any insurance trustee, and any servicer on behalf of any holder, guarantor or insurer of any mortgage on a Unit who requires such rights.

Any management agent who handles funds of the Association shall maintain a fidelity bond providing coverage no less than that required of the Association, which bond names the Association as an additional obligee.

**Section 4. Hazard Insurance Carrier.** Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has B general policyholder's rating and a III financial size category (or as an alternative an A general policyholder's rating), as determined by the then latest edition of *Best's Insurance Reports*, or its successor guide or the insurer is reinsured by a company that meets those rating requirements and the insurer and reinsurer execute an assumption of liability agreement or a similar endorsement providing for 100 percent reinsurance of the insurer's policy and requiring the reinsurer to give the Unit owner, the first mortgage lender, and the insurer 90 days' written notice

before canceling or otherwise terminating the reinsurance, or the coverage is underwritten by Lloyd's of London.

**Section 5. Other Association Insurance.** In addition, the Board may purchase and maintain contractual liability insurance, trustees' and officers' liability insurance, and such other insurance as the Board may determine.

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

**Section 7. Unit Owners' Insurance.** Any Unit owner or occupant may carry such insurance in addition to that provided by the Association pursuant hereto as that unit owner or occupant may determine, subject to the provisions hereof, and provided that no Unit owner or occupant may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried pursuant hereto by the Association. In the event any Unit owner or occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit owner who acquired or whose occupant acquired such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss of proceeds. Without limiting the foregoing, a Unit owner or occupant may obtain insurance against liability for events occurring within a Unit, losses with respect to personal property and furnishings, and losses to improvements owned by the Unit owner or occupant, provided that if the Association obtains insurance for permanent improvements and built-in fixtures and equipment, then the insurance obtained by the Unit owner with respect to improvements within the Unit shall be limited to the type and

nature of coverage commonly referred to as "tenants' improvements and betterments". All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and Trustees, and all other Unit owners and occupants.

**Section 8. Sufficient Insurance.** In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance process shall be used in payment thereof; provided, however, that in the event that within sixty (60) days after such damage or destruction the Unit owners and eligible mortgagees, if they are entitled to do so pursuant to the provisions of this Declaration, shall elect to terminate the Condominium, then such repair, restoration or reconstruction shall not be undertaken.

**Section 9. Insufficient Insurance.** In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless the Unit owners and eligible mortgagees if they are entitled to do so pursuant to the provisions of this Declaration, shall elect within sixty (60) days after such damage or destruction not to make such repair, restoration or reconstruction, the Association shall make repairs, restoration or reconstruction of the Common Areas so damaged or of all Unit owners in proportion to their respective undivided interests in the Common Areas. Should any Unit owner refuse or fail after reasonable notice to pay that Unit owner's share of such cost in excess of available insurance proceeds, the amount so advanced by the Association shall be assessed against the Unit of such Unit owner and that assessment shall have the same force and effect, and, if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments.

**Section 10. Lender Requirements.** Notwithstanding the foregoing provisions of this Article, the Association shall at all times maintain hazard insurance, liability insurance, and fidelity bond coverage conforming with the requirements then governing the making of a first mortgage loan or the purchase, guaranty, or insurance of first mortgages by national institutional lenders, guarantors or insurers of first mortgage loans on condominium units.

## ARTICLE XII

### DAMAGE, RESTORATION, REHABILITATION AND RENEWAL

- Section 1.** Restoration of Substantial Damage or Destruction. In the event of substantial damage to or destruction of a Unit, or damages to a Unit caused by condemnation proceedings, the Association shall promptly restore or replace the same, unless an election is made not to do so, as hereinafter provided.
- Section 2.** Election Not to Restore. The Association may, with the consent of Unit owners entitled to exercise not less than eighty percent (80%) of the voting power of Unit Owners, and the consent of eligible mortgagees hereinafter provided, determine not to repair or restore such damage or destruction, or reconstruct such Unit or Units. In such an event, all of the Condominium property shall be sold as upon partition. In the event of such an election not to repair or restore substantial damage or destruction or reconstruct such Unit or Units, the net proceeds of insurance paid by reason of such damage or destruction, or the net amount of any award or proceeds of settlement arising from such proceedings, shall be added to the proceeds received from the sale as upon partition, and the total amount distributed among the owners of the Units, and the holders of their respective first mortgage liens, (as their interests may appear), in the proportions of their undivided interests in the Common Areas.
- Section 3.** Rehabilitation and Renewal. The Association, with the consent of Unit owners entitled to exercise not less than seventy-five percent (75%) of the voting power of Unit owners, and the consent of eligible mortgagees hereinafter provided, may determine that the Condominium is obsolete in whole or in part and elect to have the same renewed and rehabilitated. The Board shall thereupon proceed with such renewal and rehabilitation and the cost thereof shall be a common expense.

## ARTICLE XIII

### CONDEMNATION

- Section 1.** Standing. Except as hereinafter provided, the Association, or its designated representative, or authorized successor, as trustee, shall represent the Unit owners in any condemnation or eminent domain proceedings or in negotiations, settlements or agreements with the condemning authority for acquisition of all or any part of the Condominium Property, and shall have the sole and exclusive right to settle losses with the condemning authority and to receive the award or proceeds of settlement, for the use and benefit of

the Unit owners and their mortgagees as their interests may appear. Notwithstanding the foregoing, in the event that a Unit owner may lawfully separately pursue and realize upon a claim for incidental and consequential losses or damage to that Unit owner resulting from a taking under the power of eminent domain, such as for relocation and moving expenses, loss of tenants, favorable mortgage terms, and other such individual incidental or consequential losses, that Unit owner may, at his, her or its election, separately pursue such claim, provided, that the pursuing of the same, or the realization of an award thereof, neither jeopardizes, in any way, an action by the Association to recoup the losses incurred by it, any other Unit owner, or the direct loss with respect to the Unit itself, or with regard to the usability thereof, nor diminishes any award for any such loss.

**Section 2. Use of Proceeds.** The award or proceeds of settlement in any actual or threatened condemnation or eminent domain proceedings after reduction by the costs, if any, incurred in obtaining the same, shall be applied first to the cost of restoring or replacing all damaged or taken improvements on the remaining Condominium Property in accordance with the Drawings, or in accordance with any new plans and specifications therefor approved by Unit owners exercising no less than seventy-five percent (75%) of the voting power of Unit owners, and the consent of eligible mortgagees hereinafter provided.

**Section 3. Insufficient Proceeds.** If the award of proceeds are insufficient for such purpose, the excess cost shall be paid by the Association and, to the extent funds of the Association are insufficient therefor, in the judgment of the Board, such excess cost shall be a common expense and assessed among the Units in the same manner as special assessments for capital improvements are assessed. Except as hereinafter provided, the balance of any such award or proceeds of settlement, if there is an excess, shall be allocated and disbursed to the Unit owners, and their first mortgagees, as their interests may appear, in proportion to the relative undivided interests of the Units in the Common Areas.

**Section 4. Non-Restorable Unit.** Notwithstanding the foregoing, in the event that as a result of any such taking, and consequent restoration or replacement, any Unit could not reasonably be restored to a condition comparable to that which existed prior to the taking, or could not be replaced, prior to the allocation and disbursement of any sum to any other Unit owner or his, her or its mortgagee, there shall be allocated and disbursed from such award or proceeds, to each Unit owner whose Unit cannot be so restored or replaced, and his, her or its respective first mortgagee, as their interests may appear, such amount as is equal to the then fair market value of the Unit that cannot

be so restored or replaced. Thereupon, such Unit or Units, and the owners thereof, shall be immediately and automatically divested of any interest in the Condominium, the Condominium property, and the Association, including, without limiting the generality of the foregoing, divestment of an undivided interest, vote, membership in the Association, and liability for common expenses. All such rights and interests shall be reallocated among all other Units and Unit owners in the same relative proportions as those rights and interests were prior to such taking. To illustrate, upon a Unit being divested from the Condominium, (a) the voting right of that Unit will be equally allocated among all other Units, since each Unit prior thereto had an equal vote, and (b) the undivided interest of that Unit will be reallocated among all other Units in the proportions of their relative undivided interests prior to such taking.

**Section 5.** **Power of Attorney.** Each Unit owner, by acceptance of a deed to a Unit, appoints the Association, or its designated representative, or authorized successor, as his her or this attorney-in-fact to represent that Unit owner, settle losses, receive and utilize the award or proceeds of settlement, and do all things necessary or desirable for such attorney-in-fact to exercise the rights and fulfill the responsibilities of the Association set forth in this Article with respect to the benefit of each and every Unit owner, each holder of a first mortgage on a Unit, the Association, and the real estate to which it is applicable, runs with land, is coupled with an interest, and is irrevocable.

#### ARTICLE XIV

##### GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS

**Section 1.** **Easements of Enjoyment: Limitations.** Every Unit owner shall have a right and easement of enjoyment in, over and upon the Common Areas and an unrestricted right of access to and from his, her or its Unit, which rights and easements shall be appurtenant to and shall pass with the title to a Unit, subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Areas and the Limited Common Areas, provided that no such rule or regulation shall limit or prohibit the right of ingress and egress to a Unit, or any part thereof, or to that Unit's parking facilities. Any Unit owner may delegate that Unit owner's right of enjoyment to the Common Areas and to ingress and egress to the occupants of that owner's Unit.

**Section 2.** **Easement for Access.** The Association, and the present and future owners and occupants of Units in the Condominium, as it exists pursuant hereto or

as it may hereafter be expanded, and their respective licensees and invitees, are hereby granted a non-exclusive easement, to continue until such time as Beecher Road, extended from its proposed entryway onto the Condominium Property to Hamilton Road, has been completed and dedicated as a public street, providing vehicular and pedestrian ingress and egress to and from the Condominium Property and Beecher Road, upon and across the property hereinafter described as Parcel 1 of the Additional Property, at such location as Declarant may from time to time determine, provided that easement area shall be of sufficient size to accommodate two way standard sized automotive traffic and has useable exit and entrance routes to and from the Condominium Property and Beecher Road.

**Section 3. Right of Entry for Repair, Maintenance and Restoration.** The Association shall have a right of entry and access to, over, upon and through all of the Condominium Property, including each Unit and the Limited Common Areas, to enable the Association to perform its obligations, rights and duties pursuant hereto with regard to maintenance repair, restoration and/or servicing of any items, things or areas of or in the Condominium Property. In the event of an emergency, the Association's right of entry to a Unit and its appurtenant Limited Common Areas may be exercised without notice; otherwise, the Association shall give the owners or occupant of a Unit no less than three hours advance notice prior to entering a Unit or its appurtenant Limited Common Areas.

**Section 4. Easements for Encroachments.** Each Unit and the Common Areas and Limited Common Areas shall be subject to and benefitted by easements for encroachments on or by any other Unit and upon the Common Areas and Limited Common Areas created or arising by reason of overhangs; or by reason of deviations in construction, reconstruction, or repair; or by reason of shifting, settlement, or movement of the structures; or by reason of errors in the Drawings. Valid easements for these encroachments and for the maintenance of same, so long as the encroachments remain, shall and do exist.

**Section 5. Easement for Support.** Every portion of a building or utility line or any improvement on any portion of the Condominium Property contributing to the support of another building, utility line or improvement on another portion of the Condominium Property shall be burdened with an easement of support of the benefit of all other such buildings, utility lines, improvements and other portions of the Condominium Property.

**Section 6. Easements for Proper Operations.** Easements to the Association shall exist upon, over and under all of the Condominium Property for ingress to and

degree from, and the installation, replacing, repairing and maintaining of, all utilities, including, but not limited to water, sewer, gas, telephone, electricity, security systems master television antennas and cable television, and the road system and all walkways, and for all other purposes necessary for the proper operation of the Condominium Property. By these easements it shall be expressly permissible for the Association to grant to the appropriate public authorities and/or the providing companies and contractors permission to construct and maintain the necessary appurtenances and improvements on, above, across and under the Condominium Property, so long as such appurtenances and improvements do not unreasonably interfere with the use and enjoyment of the Condominium Property. Should any public authority or other company furnishing a service request a specific easement, permit or license, the Board shall have the right to grant such easement, permit, or license without conflicting with the terms hereof. In addition, in the event the Board determines that the grant of easement rights to others is in the best interests of the Association, the Association shall have the right to grant the same, provided that use of the same would not unreasonably interfere with the use and enjoyment of the Condominium Property by owners and occupants, in the judgment of the Board.

**Section 7. Easement for Services.** Non-exclusive easements are hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all similar persons and to the local governmental authorities and the Association, but not to the public in general, to enter upon the Common Areas in the performance of their duties.

**Section 8. Easements Reserved to Declarant.** Non-exclusive easements are hereby reserved to Declarant, its successors and assigns, over and upon the Common Areas and Limited Common Areas (a) for a two (2) year period of time from the date of the closing by Declarant of the first sale of a Unit to a bona fide purchaser, for access to and for the purpose of completing improvements for which provision is made in this Declaration, provided that such right of access shall be to the extent, but only to the extent, that access thereto is not otherwise reasonably available, (b) for the periods provided for warranties hereunder or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with Unit purchasers, and (c) for the initial sales and rental period, but for no longer than three years from the time of the closing of the first sale of a Unit to a bona fide purchaser, to maintain and utilize one or more Units and appurtenances thereto, for sales and management offices and for storage and maintenance, and parking areas for sales and rental purposes, and advertising signs.

In addition, a non-exclusive perpetual easement is hereby reserved to Declarant, its

successors and assigns, for their benefit and the benefit of future owners and occupants of the area into which the Condominium may be expanded (the Additional Property) for pedestrian and vehicular access over the streets and walkways that may be a part of the Condominium Property, for ingress to and egress from the Additional Property, and each part thereof, and a public street, and to Declarant, for itself and its successors and assigns, reserves the right until such time as control of the Condominium Property is assumed by the Association, to extend utility lines from the Common Areas onto the Additional Property, and thereafter to service and maintain the same.

All rights and easements reserved to Declarant, its successors and assigns, pursuant to this section, shall be exercised and utilized, as the case may be, in a reasonable manner, and in such way as not to unreasonably interfere with the operation of the Association and the rights of owners and occupants of Unit.

**Section 9. Power of Attorney.** Each Unit owner, by acceptance of a deed to a Unit, appoints the president of the Association his, her or its attorney-in-fact, to execute, deliver, acknowledge and record, for and in the name of such Unit owner such deeds of easement, licenses, permits, and other instruments as may be necessary or desirable, in the sole discretion of the Board, or its authorized representative, to further establish or effectuate the foregoing easements and rights. This power is the for the benefit of each and every Unit owner, the Association, and the real estate to which it is applicable, run with the land, is coupled with an interest, and is irrevocable.

**Section 10. General.** The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said rights or easements but the same shall be deemed, conveyed or encumbered, as the case may be, along with the Unit.

#### ARTICLE XV

##### ASSESSMENTS AND ASSESSMENT LIENS

**Section 1. Types of Assessments.** The Declarant for each Unit within the Condominium hereby covenants and agrees, and each Unit owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to pay to the Association: (1) annual operating assessments, (2) special assessments for capital improvements, and (3) special individual Unit Assessments, all of such assessments to be established and collected as hereinafter provided.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be

used exclusively to promote the health, safety and welfare of Unit owners and occupants and the best interests of the Condominium Property.

**Section 3. Elements-Appportionment: Due Dates.**

**(A) Annual Operating Assessments.**

- (1) Prior to the time any Unit owner other than Declarant is to be charged assessments by the Association, and prior to the beginning of each fiscal year of the Association after the period for which the first assessments are levied, the Board shall estimate, and prorate among all Units on the basis of the undivided interest of each Unit in the Common Areas, common expenses of the Association consisting of the following:
  - (a) the estimated next fiscal year's cost of the maintenance, repair, and other services to be provided by the Association;
  - (b) the estimated next fiscal year's costs for insurance and bond premiums to be provided and paid for by the Association;
  - (c) the estimated next fiscal year's costs for utility services not separately metered or charged to Unit owners;
  - (d) the estimated amount required to be collected to maintain a general operating reserve to assure availability of funds for normal operations of the Association in an amount deemed adequate by the Board, but in no event less than an amount equal to two months' currently estimated assessments on all Units;
  - (e) an amount deemed adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained; and
  - (f) the estimated next fiscal year's costs for the operation, management and administration of the Association, including, but not limited to, fees for property management, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and the salaries, wages, payroll charges, and other costs to perform these services, and any other costs constituting common expenses not otherwise herein specifically excluded.

- (2) The Board shall thereupon allocate to each Unit that Unit's share of all of these items, provided in accordance with each respective Unit's undivided interest in the Common Areas, and thereby establish the annual operating assessment for each separate Unit. For administrative convenience, any such assessment may be rounded so that monthly installments will be in whole dollars.
  - (3) The annual operating assessment shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit owner from prepaying assessments in annual, semiannual, or quarterly increments. The due dates of any such installments shall be established by the Board, and, unless otherwise provided, the Association shall collect on or before the first day of each month from those who own the Unit an equal monthly prorata share of the annual operating assessment for that Unit.
  - (4) If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units on the same basis as heretofore set forth, provided, that if common expenses are incurred by the Association prior to the time the Association commences to levy assessments against the Units, Declarant shall pay the same (subject to its right, if any, to reimbursement from Unit purchasers contained in individual contracts for the sale of a Unit or Units).
  - (5) If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves, and shall in no event be deemed profits nor available, except on dissolution of the Association, for distribution to Unit owners.
  - (6) So long as the Declarant is in control of the Association, Declarant shall not use any general operating reserve funds to defray Declarant's expenses, reserve contributions or construction costs, or to make up any budget deficits.
- (B) **Special Assessments for Capital Improvements.**
- (1) 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 Areas to the extent that reserves therefor are insufficient, provided that new capital improvements not replacing existing improvements shall not be constructed nor funds assessed therefor, if the costs thereof in any fiscal year would exceed an amount equal to five percent

(5%) of that fiscal year's budget, without the prior consent of Unit owners exercising no less than seventy-five percent (75%) of the voting power of Unit owners and the consent of eligible mortgagees hereinafter provided.

- (2) Any such assessment shall be prorated among all Units in proportion to their respective undivided interests in the Common Areas, and shall become due and payable on such date or dates as the Board determines following written notice to the Unit owners.
- (C) **Special Individual Unit Assessments.** The Board shall levy assessments against an individual Unit, or Units, to reimburse the Association for those costs incurred in connection with that Unit or Units properly chargeable by the terms hereof to a particular Unit (such as, but not limited to, the cost of making repairs the responsibility of a Unit owner, a Unit owner's enforcement and arbitration charges, and increases in insurance attributable to the use of the Unit owner or the occupants of a Unit). Any such assessment shall become due and payable on such date as the Board determines, and gives written notice to the Unit owners subject thereto. Additionally, during the first years of the Condominium's existence, and until such time as real estate taxes and assessments are split into separate tax bills for each Unit, the Association shall have the right to pay the real estate taxes and assessments attributable to the Condominium Property in the event the same have not been paid, when due, and assess each Unit owner of this, her or its share of such real estate taxes and assessments as a special individual Unit assessment. The share of those taxes and assessment attributable to a Unit shall be computed by multiplying the total taxes and assessments for all of the Condominium Property by the undivided interest in Common Areas attributable to that Unit. The calculation by the Association of the Units' shares of taxes and assessments shall be binding upon all unit owners.

**Section 4. Effective Date of Assessment.** Any assessment created pursuant hereto shall be effective, provided it is created as provided herein, if written notice of the amount thereof is sent by the Board to the Unit owner subject thereto at least ten (10) days prior to the due date thereof, or the due date of the first installment thereof, if to be paid in installments. Written notice mailed or delivered to a Unit owner's Unit shall constitute notice to that Unit owner, unless the Unit owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address shall constitute notice to that Unit owner.

**Section 5. Effect on Nonpayment of Assessment; Remedies of the Association.**

- (A) If any assessment or any installment of any assessment is not paid within ten (10) days after the same has become due, the Board, at its option, without demand or notice, may (i) declare the entire unpaid balance of the assessment immediately due

and payable, (ii) charge interest on the entire unpaid balance (or on an overdue installment, alone, if it has not exercised its option to declare the entire unpaid balance due and payable), at the highest rate of interest then permitted by law, or at such lower rate as the Board may from time to time determine, and (iii) charge a reasonable, uniform, late fee, as determined from time to time by the Board.

- (B) Annual operating and both types of special assessments, together with interest, late fees, and costs, including attorney fees, shall be a charge in favor of the Association upon the Unit against which each such assessment is made.
- (C) At any time after any assessment or an installment of an assessment levied pursuant hereto remains unpaid for ten (10) or more days after the same has become due and payable, a certificate of lien for all or any part of the unpaid balance of that assessment, interest, late fees, and costs, including attorney fees, may be filed with the recorder of the county in which the Condominium Property is located, pursuant to authorization given by the Board. The certificate shall contain a description of the Unit against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessments and charges, and shall be signed by the president or other chief officer of the Association.
- (D) The lien provided for herein shall become effective from the time a certificate of lien or renewal certificate was duly filed therefor, and shall continue for a period of five (5) years unless sooner released or satisfied in the same manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of a court in an action brought to discharge the lien.
- (E) Any Unit owner who believes that an assessment chargeable to his, her or its Unit (for which a certificate of lien has been filed by the Association) has been improperly charged against that Unit, may bring an action in the court of common pleas of the county in which the Condominium Property is located for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Unit, the court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.
- (F) Each such assessment together with interest, late fees, and costs, including attorney fees, shall also be the joint and several personal obligation of the Unit owners who owned the Unit at the time when the assessment fell due. The obligation for delinquent assessments, interest, late charges and costs shall not be the personal obligation of that owner or owners' successors in title unless expressly assumed by the successors, or required by applicable law, provided, however, that the right of the Association to a lien against that Unit, or to foreclose any lien thereon for these delinquent assessments, interest, late charge and costs, shall not be impaired or

abridged by reason of the transfer, but shall continue unaffected thereby.

- (G) The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees, and costs, including attorney fees, bring an action at law against the owner or owners personally obligated to pay the same, and an action to foreclose a lien, or any one or more of these. In any foreclosure action, the owner or owners affected shall be required to pay a reasonable rental for that Unit during the pendency of such action, and the Association as plaintiff in any such foreclosure action shall be entitled to become a purchaser at the foreclosure sale. In any such foreclosure action or action at law, interest and costs of such action (including attorneys' fees) shall be added to the amount of any such assessment.
- (H) No owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use of the Common Areas, or any part thereof, or by abandonment of his, her or its Unit.

**Section 6. Subordination of the Lien to First Mortgages.** The lien of the assessments and charges provided for herein shall be subject and subordinate to the lien of any duly executed first mortgage on a Unit recorded prior to the date on which such lien of the Association arises, and any holder of such first mortgage which comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid installments of assessments and charges against the mortgaged Unit which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vests in the successor owner.

**Section 7. Certificate Regarding Assessments.** The Board shall, upon demand, for a reasonable charge, furnish a certificate signed by the president, treasurer, secretary or other designated representative of the Association, setting forth whether the assessments on a specified Unit have been paid. This certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

#### ARTICLE XVI

##### CONDOMINIUM INSTRUMENT REQUIREMENTS

- Section 1. General.** The Condominium Act requires that certain information be provided in the Condominium instruments. Much of this is provided elsewhere in the Condominium organizational documents and in other

documents, but in order that all such information be provided in this Declaration, various items of that information are set forth in the following sections of this article.

**Section 2. Deposits.** Any deposit or down payment made in connection with a sale of a Unit by Declarant or its agent will be held in trust or escrow until delivered at the time of the closing of the sale or returned to or otherwise credited to the buyer, or forfeited to the Declarant. If, in the case of any such sale, a deposit or down payment of two thousand dollars or more is held for more than ninety (90) days, interest at the rate of at least four percent per annum for any period of time before the closing of the sale or upon return or other credit made to the buyer, or added to any forfeiture to the Declarant. Deposits held in trust or escrow pursuant to sales by Declarant or its agent shall not be subject to attachment by creditors of Declarant or the buyer.

**Section 3. Association Control.** Except in its capacity as a Unit owner of unsold Units, the Declarant or its agent will not retain a property interest in any of the Common Areas after control of the Association is assumed by the Association, except as expressly provided herein. The owners of Units that have been sold by the Declarant or its agent will assume control of the Association and the Common Areas, as elsewhere provided herein, in compliance with the requirements of the Condominium Act. Neither the Association nor the Unit owners will be subject to any management contract or agreement executed prior to the assumption of control of the Association by the Unit owners other than Declarant for more than one year subsequent to that assumption of control unless such a contract or agreement is renewed by a vote of the Unit owners pursuant to the provisions of the Bylaws.

**Section 4. Limited Warranties.** The following are the limited warranties (and limitations thereon) which the Declarant gives to the buyer of a Unit from it, which are not binding upon the Declarant nor enforceable by the buyer unless and until the sale of the Unit to the buyer is closed:

- (A) **Units.** Except as provided in subparagraph C, below, the Declarant warrants to provide and pay for the full cost of labor and materials for any repair or replacement of structural, mechanical, and other elements pertaining to the Unit, occasioned or necessitated by a defect in material or workmanship, that arise within a period of one year from the date the deed to the buyers for that Unit is filed for record.
- (B) **Common Areas and Facilities.** The Declarant warrants to provide and pay for the full cost of labor and materials for any repair or replacement of the roof and structural components, and mechanical, electrical, plumbing, and

common service elements serving the Condominium as a whole, occasioned or necessitated by defects in material or workmanship, that arise within a period of two years from the date the deed is filed for record following the first sale of a unit in the Condominium to a purchaser in good faith for value.

- (C) Appliances, etc. In the case of ranges, refrigerators, hot water tanks, HVAC equipment, disposals, and other appliances, if any, installed and furnished by the Declarant as part of the Unit the Declarant assigns to the buyers all express and implied warranties of the manufacturer, and the Declarant's warranty with respect to such items is limited to the Declarant's warranty that the same have been properly installed.
- (D) Extended Warranties. The Declarant assigns to the buyers any warranties made to the Declarant that exceed the time period for warranties that the Declarant has given to the buyers by this limited warranty.
- (E) Limitations.
  - (1) No responsibility is assumed for damage from any cause, whatsoever, other than to repair or replace, at the Declarant's cost, items containing defects covered by Declarant's warranty.
  - (2) No responsibility is assumed for consequential or incidental damage except to the extent, if any, not permitted to be excluded or limited by law.
  - (3) Implied warranties, if any, are limited to one year from the date on which the Unit is deeded to the buyers, except to the extent, if any, that limitation is not lawful.
  - (4) No warranty, either express or implied, is made regarding the presence or absence of radon gas or other hazardous substance at or in the vicinity of the Unit.
  - (5) Any claim for breach of warranty not made, in writing, and received by Declarant within forty-eight (48) hours after expiration of the warranty period, shall be deemed waived.
  - (6) Any action brought with respect to any warranty extended pursuant hereto or by law shall be commenced within one year of the expiration of the applicable warranty period or be forever barred.
  - (7) Any request for service or claim of breach of warranty must be sent

in writing to the Declarant at such address as the Declarant may designate, from time to time, in writing to the buyers. The Declarant or the Declarant's designated representative will commence performance of the Declarant's obligations under this warranty within thirty (30) days after receipt of the buyers' request for service, and complete the same as soon as reasonably possible. All repairs and adjustments will be made Monday through Friday, 8:00 a.m. to 5:00 p.m.

**F. Other Rights.** This written limited warranty gives the buyers specific legal rights and the buyers may also have other legal rights under law. These written warranties are the only express warranties the Declarant gives to the buyers unless additional warranties are included in a written contract between the Declarant and the buyers.

**G. Common Areas Expansions.** With respect to the repair or replacement of roof and structural components, and mechanical, electrical, plumbing, and common service elements in areas added to the Condominium, the two year warranty shall commence on the date the deed or other evidence of ownership is filed for record following the sale of the first Unit in that area added to a purchaser in good faith for value.

**Section 5. Declarant's Obligations.** Declarant will assume the rights and obligations of a Unit owner in its capacity as owner of Units not yet sold, including without limitation, the obligation to pay common expenses attaching to such Units, from a date no later than that upon which common expenses are first charged with respect to any other Unit.

#### ARTICLE XVII

##### EXPANSIONS

**Section 1. Reservation of Expansion Option.** Declarant expressly reserves the option to expand the Condominium Property but only within the limitations, and subject to the terms set forth in this article.

**Section 2. Limitations on Option.** Declarant has no limitations on its option to expand the Condominium Property except as provided in this article or elsewhere in this Declaration and except as otherwise so expressly limited has the sole right, power and authority to expand the Condominium Property.

**Section 3. Maximum Expansion Time.** Except as hereinafter provided, Declarant's option to expand the Condominium Property shall expire and terminate at the

end of seven years from the date this Declaration is filed for record. Notwithstanding the foregoing, Declarant, with the consent of a majority of the Unit owners other than it, may extend its option to expand the Condominium Property for an additional seven years, if it exercises its right to so renew within six months prior to the expiration of that initial seven year period. Declarant shall have the right to waive its option to expand at any time. There are no other circumstances that will terminate the option prior to the expiration of the time limit.

**Section 4. Legal Description.** Legal descriptions, by metes and bounds, of all of the land that, through exercise of Declarant's option, may be added to the Condominium Property by submission to the Condominium Act as part of this condominium, consisting of three (3) Parcels comprising a total of approximately 2.3 acres, is set forth in the exhibit attached hereto and marked "Exhibit E". That property is referred to herein as "the Additional Property".

**Section 5. Composition of Portions Added.** Neither all nor any portion of the Additional Property must be added to the Condominium Property, nor if any of the Additional Property is added, shall it be required that a particular portion of the Additional Property must be added, provided that portions added meet all other requirements set forth in this Article and provided, further, that all improvements in the Additional Property added to the Condominium Property shall be substantially completed prior to the addition. There are no limitations fixing the boundaries of portions added, or regulating the order in which portions are added.

**Section 6. Time for Adding Portions.** Portions of the Additional Property may be added to the Condominium Property from time to time, and at different times, within the time limits previously described.

**Section 7. Improvement Location Limitations.** There are no established or defined limitations as to the location of any improvements that may be made to any portion of the Additional Property added to the Condominium Property except such limitations as may then be in effect by reason of the laws and lawful rules and regulations of the appropriate governmental bodies and authorities having jurisdiction.

**Section 8. Maximum Number of Units.** The maximum total number of Units that may be created on the Additional Property and added to the Condominium Property is four (4), provided, that the foregoing shall neither limit nor restrict nor be so construed as to limit or restrict the number of units or other improvements that may be constructed on all or any portion of the Additional Property that is not added to the Condominium Property. Subject to the

foregoing total maximum of Units that may be added to the Condominium Property, there is no limit as to the maximum number of units per acre that may be created on any portion of the Additional Property added to the Condominium Property other than as may, from time to time, be imposed by law.

**Section 9. Non-Commercial Uses.** No Units may be created on the Additional Property or portions thereof and added to the Condominium Property that are not restricted exclusively to the same commercial uses as set out for the Condominium herein.

**Section 10. Compatibility of Structures.** All structures erected on all or any portion of the Additional Property and added to the Condominium Property will be consistent and compatible with structures then on the Condominium Property in terms of quality of construction, the principal materials to be used, and architectural style, and design. Comparable style and design shall be deemed to exist if the exterior appearance of the structures on the Additional Property is compatible and harmonious with those then on the Condominium Property. Design shall not be deemed to be incompatible or not comparable because of variances in setbacks or locations of structures in relation to other improvements, or minor changes in design or finish detail.

**Section 11. Improvements Other than Structures.** If all or a portion of the Additional Property is added to the Condominium Property, drives, sidewalks, yard areas, and other improvements similar to those then on the Condominium Property shall be constructed on that Additional Property, and no other non-structural improvements, except as noted in Section 14 of this Article. Other than as described therein, improvements other than structures added to the Condominium Property shall not include improvements except of substantially the same kind, style, design, and quality as those improvements then on the Condominium Property.

**Section 12. Types of Units.** All Units that are created on all or any portion of the Additional Property and added to the Condominium Property shall be of the same types as the types of Units then on the Condominium Property, or as otherwise described herein, provided, however, that any such Unit shall be deemed of the same type, notwithstanding changes in the footprint layout, or minor changes in design or finish detail.

**Section 13. Limited Common Areas.** Declarant reserves the right with respect to all or any portion of the Additional Property added to the Condominium Property to create Limited Common Areas therein as noted below, and of substantially the same type and size as those areas then so designated as such in the

Condominium Property. The precise size and number of such newly created Limited Common Areas cannot be ascertained precisely, because those facts will depend on how large each portion added may be, the size and location of the buildings and other improvements on each portion, and other factors presently undetermined.

**Section 14. Recreation Facilities.** No recreation facilities will be built as part of the Additional Property.

**Section 15. Supplementary Drawings.** Attached hereto and marked "Exhibit F" is a plot plan showing the location and dimensions of the Condominium Property and the Additional Property dimensions of the Condominium Property and the Additional Property. Declarant does not consider any other drawings or plans presently appropriate in supplementing the foregoing provisions of this Article. However, at such time as Declarant adds all or any portion of the Additional Property to the Condominium Property it shall file drawings with respect to the Additional Property as required by the Condominium Act.

**Section 16. Procedure for Expansion.** All or any portion of the Additional Property shall be added to the Condominium Property by the execution and filing for record by the Declaration, or its successor as owner of the portion added and as assignee of the right to expand the Condominium, in the manner provided by the Condominium Act, of an amendment to the Declaration that contains the information and drawings with respect to the Additional Property and improvements thereon added required by the Condominium Act.

**Section 17. Effects of Expansion.** Except as hereinafter specifically provided otherwise, upon the recording with appropriate county recorder of an amendment to the Declaration adding all or any portion of the Additional Property to the Condominium Property:

- (A) the added portion shall thereafter be subject to and benefited by all of the terms and provisions hereof, to the same extent and with the same effect as if that added portion has been provided herein as constituting part of the Condominium Property, that is, the rights, easements, covenants, restrictions, and assessment plan set forth herein shall run with, bind, and benefit the added portion in the same manner, to the same extent, and with the same force and effect as the terms of this Declaration apply to the Condominium Property, provided, that non-exclusive easements are reserved to Declarant, its successors and assigns over and upon the Common Areas and Limited Common Areas in property added to the Condominium (a) for a two year period of time from the date of the closing by Declarant of

the first sale of a Unit in that property added to a bona fide purchaser, for access to and for the purpose of completing improvements in that portion added, (b) for the periods provided for warranties, or by law, for purposes of making repairs required pursuant to warranties, and (c) for the initial sales and rental period for Units in that property added, but for no longer than two years from the time of closing of the first sale of a Unit in that property added to a bona fide purchaser, to maintain and utilize one or more of those Units and appurtenances thereto, for sales and management offices and for storage and maintenance, and model Units, parking areas for sales and rental purposes, and advertising signs.

- (B) the owner or owners of a Unit in the added portion shall thereupon become members, to the same extent, with the same effect, subject to the same obligations, and imbued with the same rights, as all other members, including, without limiting the generality of the foregoing, one vote for each Unit owned by that owner or owners; and
- (C) the undivided interests of Units in the Common Areas, as so expanded, shall be reallocated as provided in Section 3 of Article VI of this Declaration; and
- (D) in all other respects, all of the provisions of this Declaration shall include and apply to such additional portions, and to the owners, mortgagees, and lessees thereof, with equal meaning and of like force and effect.

Notwithstanding the foregoing, for administrative convenience, assessments with respect to Units added to the Condominium shall not commence until the calendar month next following the calendar month in which the amendment adding those Units is recorded with the appropriate County Recorder.

#### ARTICLE XVIII

##### NOTICES TO AND VOTING RIGHTS OF LENDING INSTITUTIONS

**Section 1. Notices.** Any eligible mortgagee, upon written request to the Association, (which request states the name and address of such eligible mortgagee and the Unit designation), shall be entitled to timely written notice by the Association of:

- (A) any proposed addition to, change in, or amendment of the Condominium organizational documents of a material nature,

including any addition to, change in, or amendment of any provision establishing, providing for, governing, or regulating: (i) voting rights; (ii) assessments, assessment liens, or priority of such liens; (iii) reserves for maintenance, repair, and replacement of Common Areas; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Areas (including the Limited Common Areas), or rights to their use; (vi) boundaries of any Unit; (vii) convertibility of Units into Common Areas or vice versa; (viii) expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium; (ix) insurance or fidelity bonds; (x) leasing of Units, (xi) imposition of any restrictions on a Unit owner's right to sell or transfer that owner's Unit; (xii) professional management; (xiii) restoration or repair of the Condominium Property; (xiv) termination of the legal status of the Condominium after substantial destruction to condemnation occurs; or (xv) expressly benefitting mortgage holders, insurers, or guarantors. No addition to, change in, or amendment of the Condominium organizational documents shall be considered material if it is for the purpose of correcting technical errors, or for clarification only.

- (B) any proposed decision or action that: (i) terminates professional management and establishes self management when professional management has been required previously by an eligible holder of a first mortgage lien; (ii) caused restoration or repair of the Condominium Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium organizational documents; (iii) substantial damage or destruction not be restored; (iv) the Condominium Property be renewed or rehabilitated; (v) significant new capital improvements not replacing existing improvements be constructed; or (vi) would, without addition to, change in, or amendment of the Condominium organizational documents, make any change with respect to the items described in subparagraph (a) of Section 1 of this Article.
- (C) (i) any condemnation or casualty loss that affects either a material portion of the Condominium Property or the Unit securing its mortgage; (ii) any default under the Condominium organizational documents which gives rise to a cause of action against a Unit owner whose Unit is subject to its mortgage, when the default remains uncured for a period for sixty (60) days; (iii) any delinquency for sixty (60) days in the payment of assessments or charges owed by the owner of any Unit on which it holds the mortgage; (iv) any lapse.

cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and (v) times and places of Unit owners' meetings. An insurer or guarantor of a first mortgage lien on a Unit which has sent a written request to the Association stating both its name and address and the Unit designation or address of the Unit on which it insures or guarantees the mortgage shall be entitled to timely written notices of the events described in this subsection (c) and of any proposed action that requires the consent of a specified percentage of eligible mortgagees.

**Section 2.** Voting Rights. No action with respect to which eligible mortgagees are entitled to notice, as provided in subparagraphs (a) or (b) of Section 1 of this Article, may be taken without the consent of the eligible mortgagees of Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by eligible mortgagees appertain, provided further, that no action to terminate the Condominium or that would have that effect shall be taken without the consent of eligible mortgagees of Units to which at least seventy-five percent (75%) of the votes of Units subject to mortgages held by eligible mortgagees appertain.

#### ARTICLE XIX AMENDMENTS

**Section 1.** Power to Amend. Except as otherwise specifically provided herein, additions to, changes in, or amendment of this Declaration (or the other Condominium organizational documents) shall in addition to the consents required of eligible mortgagees, if any, as hereinbefore provided, require the consent of Unit owners exercising not less than seventy-five percent (75%) of the voting power of Unit owners. Notwithstanding the foregoing:

- (A) the consent of all Unit owners shall be required for any amendment effecting a change in:
- (i) the boundaries of any Unit;
  - (ii) the undivided interest in the Common Areas appertaining to a Unit or the liability for common expenses appertaining thereto;
  - (iii) the number of votes in the Association appertaining to any Unit; or
  - (iv) the fundamental purposes to which any Unit or the Common Areas are restricted;

- (B) the consent of Unit owners exercising not less than eighty percent (80%) of the voting power of Unit owners shall be required to terminate the Condominium;
- (C) in any event, Declarant reserves the right and power, and each Unit owner by acceptance of a deed to a Unit is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable (except by Declarant), for a period of three (3) years from the date of the filing of the Declaration, to amend the Condominium organizational documents, to the extent necessary to (i) conform to the requirements then governing the making of a mortgage loan or the purchase, guaranty, or insurance of mortgages by an institutional lender of an institutional guarantor or insurer of a mortgage on a Unit, provided that the appropriate percentage (as described elsewhere herein) of eligible mortgagees is obtained (if required), or (ii) correct typographical errors or obvious factual errors or omissions the correction of which would not impair the interest of any Unit owner, mortgagee, insurer, or guarantor, provided, further, that if there is a Unit owner other than the Declarant, the Declaration shall not be amended to increase the scope or the period of control of the Declarant.

An eligible mortgagee of a Unit who receives a written request to approve changes, additions, or amendments sent by certified or registered mail, return receipt requested, and who does not deliver or post to the requesting party a negative response within thirty (30) days after receipt of the same, shall be deemed to have approved such request.

**Section 2. Method to Amend.** An amendment to this Declaration (or the Drawings or the Bylaws), adopted with the consents of Unit owners and eligible mortgagees hereinbefore required, shall be executed with the same formalities as to execution as this Declaration by two officers of the Association and shall contain their certification that such amendment was duly adopted in accordance with the foregoing provisions. Any amendment adopted by the Declarant or a duly empowered successor Declarant pursuant to authority granted it pursuant to the Declaration shall be duly executed by it with the same formalities as to execution as this Declaration and shall contain the certification of such signor or signors that such amendment is made pursuant to authority vested in Declarant or any duly empowered successor Declarant by the Declaration. Any amendment adopted by the Declarant or a duly empowered successor Declarant pursuant to authority granted it pursuant to the Declaration shall be duly executed by it with the same formality as to execution as this Declaration and shall contain the certification of such signor or signors that such amendment is made pursuant to authority vested in Declarant or any duly empowered successor Declarant

by the Declaration. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the auditor and recorder of the county in which the Condominium Property is located.

## ARTICLE XX

### GENERAL PROVISIONS

- Section 1. Covenants Running with the Land.** The covenants, conditions, restrictions, easements, reservations, liens and charges created hereunder or hereby shall run with and bind the land, and each part thereof and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Condominium Property, and the Association, and their respective heirs, executors, administrators, successors and assigns.
- Section 2. Actions.** In addition to any other remedies provided in this Declaration, Declarant (only with respect to those rights directly benefitting the Declarant, (the Association, and each Unit owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or in the Bylaws or now or hereafter imposed by or through the Association's rules and regulations. Failure by Declarant, the Association or by any Unit owner to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction condition, covenant, reservation, easement, lien or charge. Further, the Association and each Unit owner shall have rights of action against each other for failure to comply with the provisions of the Condominium organizational documents, rules and regulations, and applicable law, and with respect to decisions made pursuant to authority granted thereunder, and the Association shall have the right to assess reasonable charges against a Unit owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration. Notwithstanding the foregoing, in the event of any dispute between the Association and any Unit owner or occupant, other than with regard to assessments, that cannot be settled by agreement between them, the matter shall first be submitted to arbitration in accordance with and pursuant to the arbitration law of Ohio then in effect (presently Chapter 2711 of the Revised Code of Ohio), by a single independent arbitrator selected by the Board. Nothing contained herein shall prevent or prohibit the Association from using summary abatement or similar means to enforce any provisions

hereof or restrictions against the Unit or its use, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished by summary means.

**Section 3. Severability.** Invalidity of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect. In the event any language of this Declaration conflicts with mandatory provisions of the Condominium Act, the latter's requirements shall prevail and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall in no wise affect any other provisions of this Declaration, which provisions shall remain in full force and effect.

**Section 4. Gender and Grammar.** The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, partnership, men or women, shall in all cases be assumed as though in such case fully expressed.

**Section 5. Captions.** The captions of the various provisions of this Declaration are on the part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 18<sup>th</sup> day of August, 1999.

Signed and acknowledged by  
all in the presence of:

CANTINI & PELLECCCHIA, INC.

Charles T. Williams

By: [Signature] President  
LORENZO V. CANTINI

Charles T. Williams  
Print Name

Thomas L. Boscow

Thomas L. Boscow  
Print Name

This instrument was acknowledged before me by LORENZO V. CANINI,  
\* President of Canini & Pellicchi, Inc., an Ohio corporation, on its behalf,  
this 1st day of March, 1999.

CHARLES T. ...  
ATTY. ...  
NOTARY ...  
L...

**EXHIBIT A**  
**LEGAL DESCRIPTION, CONDOMINIUM PROPERTY**  
**1.094 ACRES ATTACHED**

EXHIBIT "A"  
BEECHER RIDGE OFFICE PARK CONDOMINIUM

Situated in the State of Ohio, County of Franklin, City of Oshanna, being located in Quarter Township 2, Township 1, Range 16, United States Military Lands and being 3.094 acres of those tracts conveyed to Canini and Pellicchia, Inc. by deed of record in Official Record 34230114 (2.692 acres) and Instrument Number 199801200012302 (0.402 acres), all references being to those of record in the Recorder's Office, Franklin County, Ohio and more particularly described as follows:

Beginning at an iron pin located South  $3^{\circ} 34' 35''$  West, a distance of 1483.81 feet and North  $67^{\circ} 03' 24''$  East, a distance of 67.06 feet from F.C.G.S. Monument No. 8817, said iron pin also being the southwesterly corner of that tract conveyed to Donald R. Jr. and Mary C. Bentley by deed of record in Official Record 7941E191;

thence North  $67^{\circ} 03' 24''$  East, along the southerly line of the said Bentley tract, a distance of 143.87 feet to an iron pin found;

thence South  $76^{\circ} 30' 53''$  East, a distance of 77.19 feet to an iron pin found at the southeasterly corner of the said Bentley tract, said iron pin also being on the westerly line of that 3.05 acre tract conveyed to Ruth F. Cadot by deed of record in Deed Book 3616, Page 721;

thence South  $3^{\circ} 37' 56''$  West, along said westerly line of the Ruth F. Cadot 3.05 acre tract, a distance of 100.00 feet to an iron pin set at the southwesterly corner of said tract;

thence South  $85^{\circ} 48' 47''$  East, along the southerly line of said Ruth F. Cadot 3.05 acre tract, a distance of 212.25 feet to an iron pin set;

thence South  $3^{\circ} 34' 35''$  West, a distance of 347.87 feet to an iron pin set;

thence North  $86^{\circ} 25' 25''$  West, a distance of 185.82 feet to a point;

thence South  $3^{\circ} 06' 05''$  West, a distance of 99.84 feet to an iron pin set in the northerly right-of-way line of Beecher Road (60 feet in width);

thence along said right-of-way line, being the arc of a curve to the left (Delta =  $4^{\circ} 59' 31''$ , Radius = 280.00 feet), a chord bearing and distance of North  $84^{\circ} 01' 15''$  West, 24.39 feet to an iron pin set at a point of tangency;

thence North  $86^{\circ} 31' 00''$  West, continuing along said right-of-way line of Beecher Road, a distance of 5.63 feet to an iron pin set;

Continued.....

EXHIBIT "A"  
BEECHER RIDGE OFFICE PARK CONDOMINIUM

- 2 -

thence North 3° 34' 35" East, a distance of 107.85 feet to a point;

thence North 86° 25' 25" West, a distance of 86.00 feet to a point;

thence North 3° 34' 35" East, a distance of 260.57 feet to a point;

thence North 83° 16' 20" West, a distance of 116.17 feet to an iron pin set in the easterly right-of-way line of Hamilton Road;

thence North 3° 34' 35" East, along said right-of-way line of Hamilton Road (being 60 feet easterly from, as measured at right angles and parallel with said centerline), a distance of 122.75 feet to the place of beginning, containing 3.094 acres, more or less.

Subject, however, to all legal rights-of-ways and/or easements, if any, of previous record.

The bearings contained herein are based on the Ohio State Plane Coordinate System as per NAD 83. Control for bearings was from Coordinates of Monuments Frank 69 and 169 having a bearing of South 88° 02' 16" East, established by the Franklin County Engineering Department.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

By Thomas D. Sibbalds  
Thomas D. Sibbalds *March 5, 1999*  
Registered Surveyor No. 5908

TDS/mf

**EXHIBIT B**  
**SKETCH PLOT PLAN, CONDOMINIUM PROPERTY**

Florida County  
Marion  
FCS 1212

**BASES OF BEARINGS:** Bearings shown herein are based on the Ohio State Plane Coordinate System as per NAD83 Control for bearings was from coordinates of monuments from 59 and 142, having a bearing of S 89°33'78" East, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

Arrest not designated as MURDER or DOMESTIC VIOLENCE  
ARREST AND CHARGE(S) MUST BE SPECIFIED

→ United Common Area

Auth F. Code:  
103 44  
DR MIC Pt 727



MARCH 4, 1990

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**EXHIBIT C  
UNIT INFORMATION SHEET**

<b><u>INITIAL STAGE</u></b>			
<b><u>Unit Designation</u></b>	<b><u>Number of Rooms*</u></b>	<b><u>Usable Gross Interior Square Feet</u></b>	<b><u>Undivided Interest</u></b>
428	one	7300	.42
430	one	4070	.23
438	one	2665	.14
440	one	3750	.21

\* Includes utility room.

EXHIBIT D  
DECLARATION OF CONDOMINIUM  
BEECHER RIDGE OFFICE PARK CONDOMINIUM

UNIT TYPE DESCRIPTIONS

SIZES AND ROOMS

<u>Type</u>	<u>Approximate Useable Gross Interior Square Feet</u>	<u>Undivided Interest</u>
Unit 428, two story with basement walk out	7300	.42
Unit 430, single story	4070**	.23
Unit 438, single story	2665	.14
Unit 440, single story	3750	.21

It is anticipated that all expansion units will be single story, free standing units of the same construction, basic design, colors, and materials as the original units. All expansion units will have between approximately 2,300 and 4,300 square feet of Useable Gross Interior space. Unit 430 contains a partial basement and crawl space, not intended for commercial usage, considered not useable.

\*\* - excludes partial basement and crawl space.

**EXHIBIT E**

**LEGAL DESCRIPTION  
ADDITIONAL PROPERTY**

**1.137 ACRE TRACT ATTACHED  
0.622 ACRE TRACT ATTACHED**

1.137 ACRE TRACT  
ADDITIONAL PROPERTY

Situated in the State of Ohio, County of Franklin, City of Gahanna, being located in Quarter Township 2, Township 1, Range 16, United States Military Lands and being 1.137 acres of those tracts conveyed to Canini and Pellicchia, Inc. by deed of record in Official Record 34230/14 (0.613 acre) and Instrument Number 199801200012302 (0.524 acre), all references being to records in the Recorder's Office, Franklin County, Ohio and bounded and described as follows:

Beginning at an iron pin set in the easterly right-of-way line of Hamilton Road, that is located South 3° 34' 35" West, a distance of 1573.31 feet and South 83° 16' 20" East, a distance of 60.10 feet from Franklin County Monument FCOS 8817;

thence South 83° 16' 20" East, a distance of 116.17 feet to a point;

thence South 3° 34' 35" West, a distance of 260.57 feet to a point;

thence South 86° 25' 25" East, a distance of 86.00 feet to a point;

thence South 3° 34' 35" West, a distance of 107.85 feet to an iron pin set in the northerly right-of-way line of Beecher Road (60 feet in width);

thence along said right-of-way line of Beecher Road, being the arc of a curve to the right (Sub Delta = 5° 30' 50", Radius = 232.49 feet), a chord bearing and distance of North 45° 54' 46" West, 22.36 feet to an iron pin set at a point of reverse curvature;

thence continuing along said right-of-way line of Beecher Road, being the arc of a curve to the left (Delta = 43° 21' 39", Radius = 280.00 feet), a chord bearing and distance of North 64° 50' 10" West, 206.88 feet to an iron pin set at a point of tangency;

thence North 86° 31' 00" West, continuing along said right-of-way line of Beecher Road, a distance of 187.59 feet to an iron pin set at a point of curvature of a curve to the right;

thence along the arc of said curve (Delta = 90° 05' 35", Radius = 20.00 feet), a chord bearing and distance of North 41° 28' 12" West, 28.31 feet to an iron pin set in the easterly right-of-way line of Hamilton Road;

thence North 3° 34' 35" East, along said right-of-way line of Hamilton Road (being 60 feet easterly from, as measured at right angles and parallel with the centerline of Hamilton Road), a distance of 355.10 feet to the place of beginning, containing 1.137 acres, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Continued.....

1.137 ACRE TRACT  
ADDITIONAL PROPERTY  
-2-

The bearings contained herein are based on the Ohio State Plane Coordinate System as per NAD 83. Control for bearings was from Coordinates of Monuments Frank 69 and 169 having a bearing of South 88° 02' 16" East, established by the Franklin County Engineering Department.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

By Thomas D. Sibbalds  
Thomas D. Sibbalds July 4, 1998  
Registered Survey No. 5908

TDS:kd

0.622 ACRE TRACT  
ADDITIONAL PROPERTY

Situated in the State of Ohio, County of Franklin, City of Gahanna, being located in Quarter Township 2, Township 1, Range 16, United States Military Lands and being 0.622 acre of those tracts conveyed to Canini and Pellicchia, Inc. by deed of record in Official Record 34230114 (0.222 acre) and Instrument Number 199801200012302 (0.400 acre), all references being to records in the Recorder's Office, Franklin County, Ohio and bounded and described as follows:

Beginning at an iron pin set in the northerly right-of-way line of Beecher Road (60 feet in width) that is located North 85° 48' 47" West, a distance of 179.85 feet and South 3° 34' 35" West, a distance of 537.33 feet from an iron pin at the northeasterly corner of said Canini and Pellicchia tract (Official Record 34230114);

thence along said right-of-way line of Beecher Road, being the arc of a curve to the right (Sub Delta = 5° 30' 50", Radius = 232.49 feet), a chord bearing and distance of North 45° 54' 46" West, 22.36 feet to an iron pin set at a point of reverse curvature;

thence continuing along said right-of-way line of Beecher Road, being the arc of a curve to the left (Sub Delta = 38° 22' 08", Radius = 280.00 feet), a chord bearing and distance of North 62° 20' 25" West, 184.02 feet to an iron pin set;

thence North 3° 06' 05" East, a distance of 99.84 feet to a point;

thence South 86° 25' 25" East, a distance of 185.82 feet to a point;

thence South 3° 34' 35" West, a distance of 189.46 feet to the point of beginning, containing 0.622 acre, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

The bearings contained herein are based on the Ohio State Plane Coordinate System as per NAD 83. Control for bearings was from Coordinates of Monuments Frank 69 and 169 having a bearing of South 88° 02' 16" East, established by the Franklin County Engineering Department.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

By Thomas D. Sibbalds  
Thomas D. Sibbalds July 2, 1998  
Registered Survey No. 5908

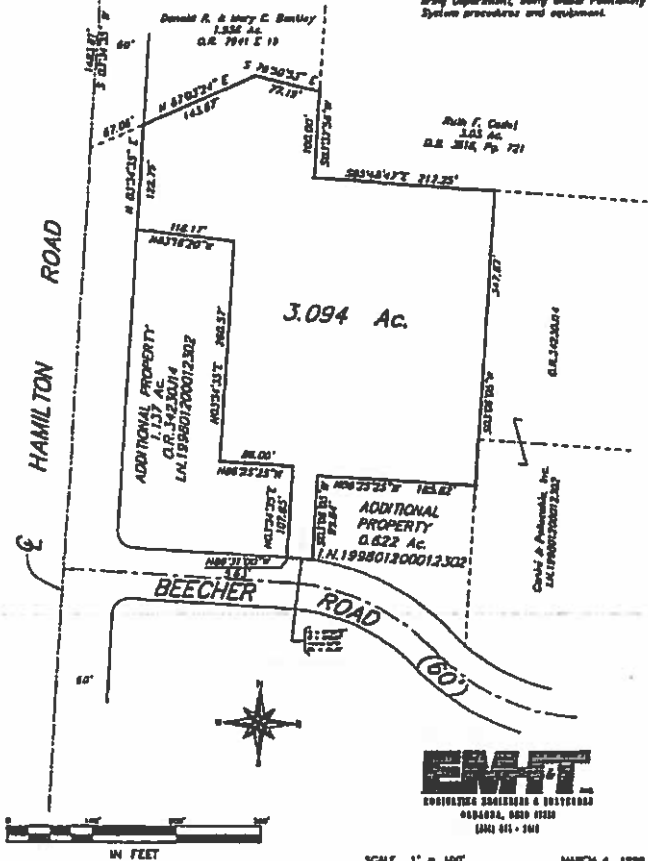
TDS:ld

**EXHIBIT F**  
**PLOT PLAN, ENTIRE TRACT**

**EXHIBIT "F"**  
**DECLARATION OF CONDOMINIUM**  
**BEECHER RIDGE OFFICE PARK CONDOMINIUM**  
**PLOT PLAN, PROPERTY ADDED**

Franklin County  
 Map No. 1  
 Page 2 of 2

**BASE OF BEARINGS:** Bearings shown herein are based on the Ohio State Plane Coordinate System as per NAD83 datum for bearings was from coordinates of Monument from 89 and 198, being a bearing of South 88°27'11" East, as established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.



**EWAT**  
 ENGINEERING & ARCHITECTURE  
 6000000, 6000 0000  
 (200) 015 - 200

SCALE 1" = 100' MARCH 4, 1998  
 G = 100' PM

**BYLAWS**  
**(CODE OF REGULATIONS)**  
**BEECHER RIDGE OFFICE PARK CONDOMINIUM ASSOCIATION**

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**BYLAWS  
(CODE OF REGULATIONS)**

**OF  
BEECHER RIDGE OFFICE PARK CONDOMINIUM ASSOCIATION**

---

**ARTICLE I**

**NAME AND LOCATION**

Then name of the Association is Beecher Ridge Office Park Condominium Association, ("the Association"), which corporation, not-for-profit, is created pursuant to the provisions of Chapter 1702 of the Revised Code of Ohio, and which Association is also created pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio as the unit owners' association for Beecher Ridge Office Park Condominium. The principal office of the Association shall be as set forth in its Articles of Incorporation, ("the Articles"), and the place of meetings of Unit owners (members) and of the Trustees (Board of Managers) of the Association shall be at such place in the county in which the Condominium Property is located 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 Beecher Ridge Office Park Condominium, ("the Declaration"), recorded simultaneously herewith with the Recorder of Franklin County, Ohio.

**ARTICLE III**

**UNIT OWNERS (MEMBERS)**

- Section 1. Composition.** Each Unit owner, as defined in the Declaration, is a member of the Association.
- Section 2. Annual Meetings.** Regular annual meetings of the Unit owners shall be held in the second 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 by the president or by the Board, upon written request of Unit owners entitled to exercise one-fourth (1/4) or more of the voting power of Unit owners, and when required by the Condominium Act.

**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 days before such meeting, to each Unit owner entitled to vote at such meeting, 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; Adjournment.** The Unit owners present, in person or by proxy, at any duly called and noticed meeting of Unit owners, shall constitute a quorum for such meeting. Unit owners entitled to exercise a majority of the voting power of Unit owners represented at a meeting may, at any time, adjourn such meeting. If any meeting is so adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

**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 his, her or its Unit.

**Section 7. Voting Power.** Except as otherwise provided in the Condominium organizational documents, or by law, a majority of the voting power of Unit owners voting on any matter that may be determined by the Unit owners at a duly called and noticed meeting shall be sufficient to determine that matter. The rules of Roberts Rules of Order shall apply to the conduct of all meetings of Unit owners except as otherwise specifically provided in the Condominium organizational documents or by law.

**Section 8. Action in Writing Without Meeting.** Any action that could be taken by Unit owners at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of Unit owners having not less than seventy-five percent (75%) of the voting power of Unit owners, or such greater proportion of the voting power as may be required by the Condominium organizational documents, or by law.

#### ARTICLE IV

##### BOARD OF TRUSTEES: (BOARD OF MANAGERS)

- Section 1. Initial Trustees.** The initial trustees shall be those three persons named as the initial Trustees in the Articles, or such other person or persons as may from time to time be substituted by the Declarant.
- Section 2. Successor Trustees.** The number, times of election, and terms of office of those who will serve as Trustees of the Association to succeed the initial Trustees, shall be as provided in the Declaration.
- Section 3. Removal.** Excepting only Trustees named in the Articles or selected by Declarant, any Trustee may be removed from the Board with or without cause, by a majority vote of the Unit owners. In the event of the death, resignation or removal of a Trustee other than one named in the Articles or a substitute selected by the Declarant, that Trustee's successor shall be selected by the remaining members of the Board and shall serve until the next annual meeting of Unit owners, when a Trustee shall be elected to complete the term of such deceased, resigned, or removed Trustee. Declarant shall have the sole right to remove, with or without cause, any Trustee designated in the Articles, or a substitute selected by the Declarant, and select the successor of any Trustee so selected who dies, resigns, is removed or leaves office for any reason before the election of Trustees by all of the Unit owners as provided in the Declaration.
- Section 4. Nomination.** Nominations for the election of Trustees to be elected by the Unit owners may be made by a nominating committee appointed by the Board. Nominations may also be made from the floor at the meetings. The nominating committee, if constituted, shall consist of a chairman, who shall be a member of the Board, and two or more Unit owners, who are not members of the Board, appointed by the Board. The nominating committee, if constituted, shall make as many nominations for election to the Board as it shall, in its discretion, determine, but no less than the number of vacancies that are to be filled.
- Section 5. Election.** Election to the Board by the Unit owners shall be by secret written ballot. At such elections, the Unit owners or their proxies may cast, in respect to each vacancy, such number of votes as they are entitled to under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected, and, likewise, those receiving the largest number of votes shall be elected to the longest terms. In cases of ties, the winner shall be determined by lot. Cumulative voting is not permitted.

- Section 6. 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 7. Regular Meetings.** Regular meetings of the Board shall be held on such dates and at such places and times as may be fixed from time to time by resolution of the Board.
- Section 8. Special Meetings.** Special meetings of the Board shall be held when called by the president of the Board, or by a majority of the Trustees, after not less than three days notice to each Trustee.
- Section 9. Quorum.** The presence at any duly called and noticed meeting, in person or by proxy, of Trustees entitled to cast a majority of the voting power of Trustees shall constitute a quorum for such meeting.
- Section 10. Voting Power.** Each Trustee shall be entitled to a single vote, and, except as otherwise provided in the Condominium organizational documents, or by law, the vote of a majority of the Trustees voting on any matter that may be determined by the Board at a duly called and noticed meeting at which a quorum is present shall be sufficient to determine that matter.
- Section 11. 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.
- Section 12. Powers.** The Board shall exercise all powers and authority, under law, and under the provisions of the Condominium organizational documents, that are not specifically and exclusively reserved to the Unit owners by law or by other provisions thereof, and without limiting the generality to 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 Condominium organizational documents;
  - (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 Areas;
- (E) establish, enforce, levy and collect assessments, late fees, delinquent interest, and such other charges as are provided for in the Declaration;
- (F) adopt and publish rules and regulations governing the use of the Common Areas and the personal conduct of Unit owners, occupants and their guests thereon, and establish and levy enforcement charges for the infraction thereof;
- (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 charge levied by the Association (such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for each infraction of published rules and regulations or of any provisions of the Condominium organizational documents);
- (H) declare the office of a member of the Board to be vacant in the event such Trustee shall be absent from three consecutive regular meetings of the Board or be in default of payment of any charge levied by the Association for more than sixty (60) days;
- (I) subject to such approvals, if any, as may be required pursuant to the provisions of Condominium organizational documents, authorize the officers to enter into one or more agreements necessary or desirable to fulfill the purposes and objectives of the Association, including, without limitation, management agreements, purchase agreements and loan documents, all on such terms and conditions as the Board in its sole and absolute discretion may determine;
- (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; and
- (L) do all things and take all actions permitted to be taken by the Association by law, or the Condominium organizational documents not specifically reserved thereby to others.

**Section 13. 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 Unit owners representing one-half (1/2) or more of the voting power of Unit owners;
- (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 establish, levy, enforce, and collect assessments;
- (D) issue, or to cause an appropriate representative to issue, upon demand by any person and for a reasonable fee, 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 Condominium organizational documents.

#### ARTICLE V

##### OFFICERS

- Section 1. Enumeration of Officers.** The officers of this Association shall be a president, a secretary, a treasurer and such other officers as the Board may from time to time determine. No officer need be a member of the Association nor need any officer be a Trustee. The same person may hold more than one office.
- 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.** The secretary 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.
- (C) **Treasurer.** The treasurer shall assume responsibility for all 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 book 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**

##### **COMMITTEES**

The Board may appoint such committees as it deems appropriate in carrying out its purposes.

## ARTICLE VII

### BOOKS AND RECORDS

The books, records, and financial statements of the Association, including annual audited financial statements when such are prepared, shall be available during normal business hours or under other reasonable circumstances, upon request to the Association, for inspection by Unit owners and the holders, insurers and guarantors of first mortgages on Units. Likewise, during normal business hours or under other reasonable circumstances, the Association shall have available for inspection by Unit owners, holders, insurers, and guarantors of first mortgages on Units, and prospective purchasers, current copies of the Condominium organizational documents and the rules and regulations governing operation of the Condominium. The Association may charge a reasonable fee to any Unit owner or other party entitled to inspect the said records for the costs of copying, time for supervision and assembly, and such other charges as may reasonably be associated with any inspection.

## ARTICLE VIII

### AUDITS

The Board shall cause the preparation and furnishing of an audited financial statement for the immediately preceding fiscal year, within a reasonable time following request (provided that no such statement need be furnished earlier than ninety days following the end of such fiscal year), in the following circumstances:

1. to each requesting Unit owner, at the expense of the Association, upon the affirmative vote of Unit owners exercising a majority of the voting power of Unit owners;
2. to each holder, insurer, or guarantor of a first mortgage upon a Unit who requests the same, in writing, provided the audit, if an audited statement is not already available, shall be prepared at the expense of such requesting party; and

## 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 of the 31<sup>st</sup> day of December of every year, except that the first fiscal year shall begin on the date of incorporation of this Association.

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 Recorder of the county in which the Condominium is located.

IN TESTIMONY WHEREOF, the undersigned, the sole member of the Association, has caused these Bylaws to be duly adopted on or as of the 10<sup>th</sup> day of March, 1999.

CANINI & PELLECCIA, INC.

By: [Signature] President  
(Name) Lorenzo V. Canini (Title)  
Sole Member

EXHIBIT "A"  
BEECHER RIDGE OFFICE PARK CONDOMINIUM  
FIRST AMENDMENT

Situated in the State of Ohio, County of Franklin, City of Gahanna, being located in Quarter Township 2, Township 1, Range 16, United States Military Lands and being part of the 7.221 acre tract of land conveyed to Canini & Pellecchia, Inc. by deed of record in Instrument Number 199801200012302, all references being to records in the Recorder's Office, Franklin County, Ohio and bounded and described as follows:

Beginning for reference at the intersection of the centerline of Hamilton Road with the centerline of Beecher Road (60 feet in width), said intersection being located South 3° 34' 35" West, a distance of 1981.85 feet from Franklin County Monument FCGS 8817;

thence South 86° 31' 00" East, along the centerline of Beecher Road, a distance of 79.92 feet to a point;

thence North 3° 29' 00" East, crossing Beecher Road, a distance of 30.00 feet to an iron pin found in the northerly right-of-way line of Beecher Road at the TRUE POINT OF BEGINNING of the tract herein intended to be described;

thence along the arc of a curve to the right (Delta = 90° 05' 35", Radius = 20.00 feet), a chord bearing and distance of North 41° 28' 12" West, 28.31 feet to an iron pin set in the easterly right-of-way line of Hamilton Road;

thence North 3° 34' 35" East, along said right-of-way line of Hamilton Road (being 60 feet easterly from, as measured at right angles and parallel with the centerline of Hamilton Road), a distance of 143.00 feet to an iron pin set;

thence South 86° 25' 25" East, a distance of 116.00 feet to a point in the westerly line of "BEECHER RIDGE OFFICE PARK CONDOMINIUM";

thence South 3° 34' 35" West, being in part along said westerly line of "BEECHER RIDGE OFFICE PARK CONDOMINIUM", a distance of 162.84 feet to an iron pin found in the northerly right-of-way line of Beecher Road;

thence North 86° 31' 00" West, along said right-of-way line of Beecher Road, a distance of 95.97 feet to the place of beginning, containing 0.432 acre, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings contained herein are based on the Ohio State Plane Coordinate System, as per NAD 83. Control for bearings was from coordinates of Monuments, Frank 69 and 169, having a bearing of South 88° 02' 16" East, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

By Thomas D. Sibbalds  
Thomas D. Sibbalds January 10, 2000  
Registered Surveyor No. 5908

TDS/mlf

# **EXHIBIT "B"** **DECLARATION OF CONDOMINIUM** **BEECHER RIDGE OFFICE PARK CONDOMINIUM** **FIRST AMENDMENT**

Franklin County  
Monument  
FCGS # 8817

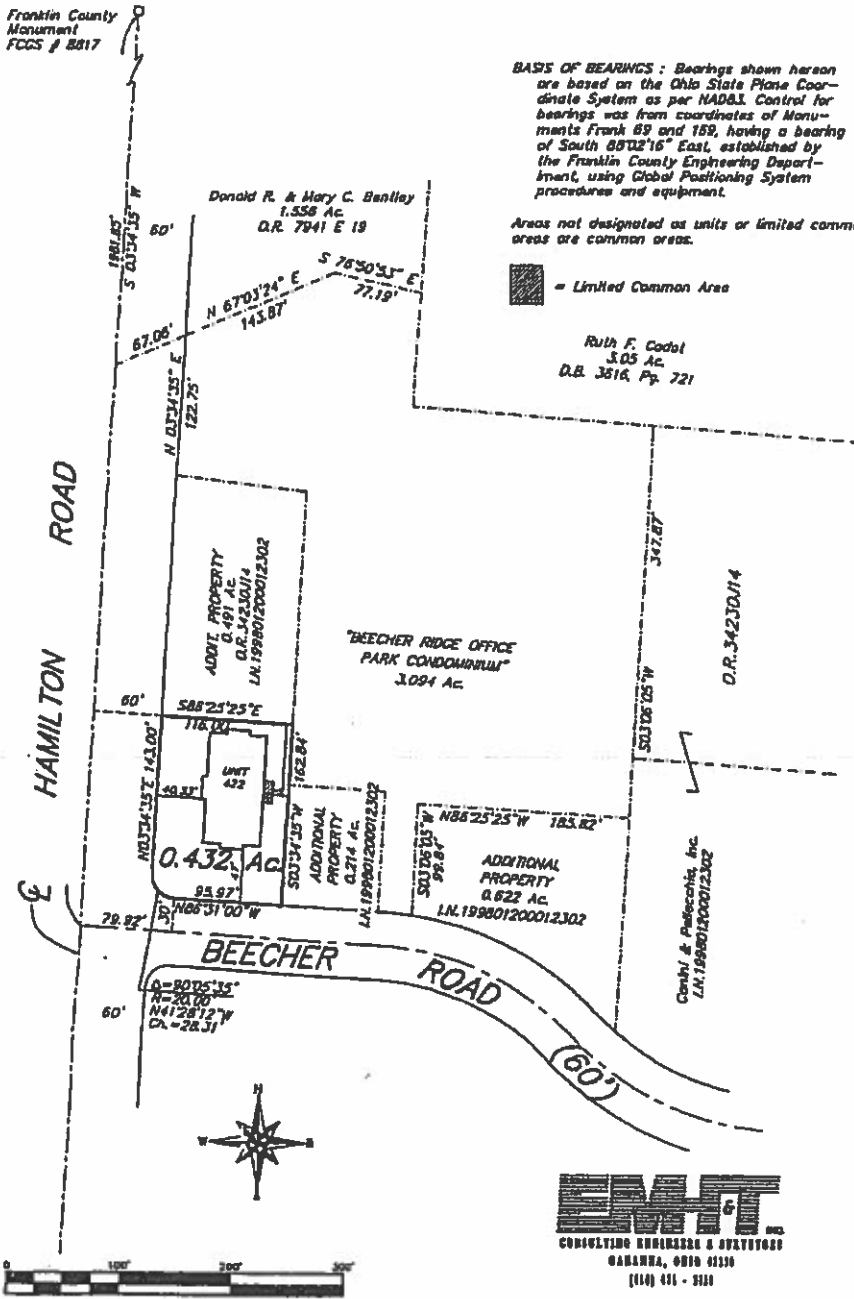
**BASIS OF BEARINGS:** Bearings shown hereon are based on the Ohio State Plane Coordinate System as per NAD83. Control for bearings was from coordinates of Monuments Frank 69 and 159, having a bearing of South 88°2'16" East, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

Areas not designated as units or limited common areas are common areas.



= Limited Common Area

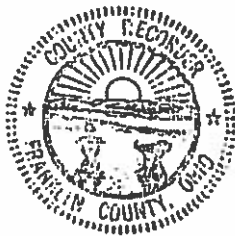
Ruth F. Cadot  
3.05 Ac.  
D.B. 3816, Pp. 721



**EMT**  
CONSULTING ENGINEERS & SURVEYORS  
COLUMBUS, OHIO 43260  
(614) 451-3110

This is to certify that the foregoing is a true and correct copy c.  
a CONDO on record in Recorder's Office, Franklin County,  
Ohio, Instrument # 1999032500 73854 in testimony  
whereof I have hereunto subscribed my name and affixed my  
official seal this 13<sup>th</sup> day of APRIL 1999

RICHARD B. METCALF, Recorder  
By Monica Egan Deputy



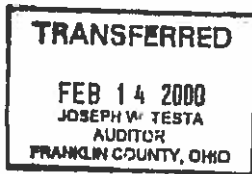
Instr: 200002140030278 02/14/2000  
Pages: 9 Fee: \$105.00 2:10PM  
Richard B. Melcalf T20000018757  
Franklin County Recorder HAC

**FIRST AMENDMENT TO THE DECLARATION OF  
BEECHER RIDGE OFFICE PARK CONDOMINIUM**

**Auditor's Certificate**

This is to certify that a copy of this Amendment to the Declaration of Beecher Ridge Office Park Condominium has been filed with the Auditor of Franklin County, Ohio, this 14<sup>th</sup> day of February 2000.

AUDITOR OF FRANKLIN COUNTY,  
OHIO



*Joseph W. Testa*  
By: *James S. Penning*

This Instrument prepared by Charles T. Williams, Attorney at Law, Treneff & Williams, 555 S. Front St., Ste. 320, Columbus, Ohio 43215-5626.

FOR REFERENCE PLEASE SEE  
CONDOMINIUM PLAT BOOK NO. 75 PAGE 30-31

**FIRST AMENDMENT  
TO  
DECLARATION OF CONDOMINIUM  
BEECHER RIDGE OFFICE PARK CONDOMINIUM**

This first amendment to the Declaration of BEECHER RIDGE OFFICE PARK CONDOMINIUM is made on or as of the 3<sup>rd</sup> day of January, 2000.

**Recitals**

- A. Beecher Ridge Office Park Condominium is a condominium created pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio ("the Condominium Act") by the filing of the Declaration of Beecher Ridge Office Park Condominium and the Drawings thereof, recorded, respectively, in Official Record 199903250073854, et seq., and Condominium Plat Book 82, at Page 7, et seq., both of the records of the Recorder of Franklin County, Ohio.
- B. Pursuant to the provisions of Article XVII of the Declaration, and the provisions of the Condominium Act, Declarant, Canini & Pellicchia, Inc., desires by this amendment to add a portion of the Additional Property to the Condominium, which Additional Property, hereinafter described, meets all of the criteria and qualifications for addition to the Condominium described in that Article.

**Declaration**

NOW THEREFORE, Declarant, the sole creator of the Condominium and the sole owner of the property hereinafter described to be added to the Condominium, hereby declares the Property of the Condominium to be expanded by addition of the property hereinafter described, as follows:

1. **Definitions.** All terms used herein shall have the same meanings as those terms have as used and defined in the Declaration.
2. **Additional Property Added.** Legal descriptions of the portions of the property added hereby to the Condominium Property, consisting of one parcel, containing 0.432 acre, more or less, as described in the attachment hereto, marked "Exhibit A", and hereby made a part hereof. A sketch site plan showing the composition of the property added hereby is attached hereto, marked "Exhibit B", and hereby made a part hereof.
3. **Name.** The Condominium, as expanded hereby, shall continue to be named "Beecher Ridge Office Park Condominium".
4. **Purposes.** The purposes of the Condominium shall continue to be as set forth in the Declaration (encompassing the additional property added hereby).

5. Improvement Description. The Additional Property added to the Condominium Property hereby contains one (1) building constituting one (1) unit, and expanding the Condominium to contain a total of five (5) units, each of which is reserved exclusively for business and professional purposes and uses customarily incidental thereto. The building is unfinished, unpartitioned, sprinkled in the utility rooms only, a one story office building, built on a concrete foundation, of block construction, with fieldstone and stucco veneer, and cedar trim, and has an asphalt shingle roof. The principal materials of which this building is constructed are wood, glass, steel, concrete, concrete block, cedar, fieldstone, stucco, asphalt shingle, and drywall. The building is located as shown on the Drawings. This Unit has direct access to the parking areas and from there to Beecher Road. All improvements on the property added hereby are compatible in terms of quality of construction, principal materials used, and architectural style and design to the improvements now a part of the Condominium property.
6. Added Unit.
- a. Unit Designation. The Unit added to the Condominium hereby is designated on the amendment to the Drawings filed simultaneously herewith, and attached hereto (although the same may be detached here from upon filing by the Franklin County Recorder and filed in separate records), labeled "First Amendment Condominium Drawings Beecher Ridge Office Park Condominium", by a Unit designation, which is a number corresponding with the street address of that Unit. The Unit designation of each Unit added hereby and of each Unit heretofore part of the Condominium is set forth on "Exhibit C", attached hereto and hereby made a part hereof.
- b. Composition of Unit. The Unit added hereby consists of an entire free standing building and includes all the space in the building designated on the amendment to the Drawings filed simultaneously herewith with that Unit's designation, including and excluding, as appropriate, those same items as are described and defined in the description of a Unit as set forth in the original Declaration. A floor plan layout and elevation drawings for the Unit added hereby are shown on the amendment to the Drawings filed simultaneously herewith.
- c. Unit Location. The location of the Unit added hereby is shown on the amendment to the Drawings filed simultaneously herewith, and is also shown on Exhibit B. The Unit added hereby has direct access to Common Areas, leading directly to Beecher Road, a public street.
7. Common and Limited Common Areas.

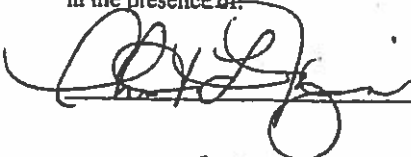
- a. Common Areas. All of the additional property hereby added hereto, including all of the land and all improvements thereon and appurtenances thereto, except those portions labeled or described herein or in the amendment to the Drawings filed herewith as a part of a Unit, are Common Areas.
  - b. Limited Common Areas. Those portions of the Common Areas that are added hereby that are labeled or designated "limited common areas" on the amendment to the Drawings filed herewith are Limited Common Areas. In the case of each Unit, those Limited Common Areas consist of a front entrance portico, and a rear entrance stoop and steps, service walk from the parking areas, service walk from front to rear, deck, and patio, as the case may be, as shown on the drawings. Each such Limited Common Area is reserved for the exclusive use of the owners and occupants of the Unit to which it is appurtenant.
  - c. Undivided Interests. The undivided interest in the Common Areas of each Unit in the Condominium, as expanded hereby, and as thereby allocated and reallocated, are as designated on the attached Exhibit D, and, Undivided interests have also been adjusted as necessary to make the total of undivided interests equal exactly one hundred percent, rounded to hundredths of a percent. This exhibit supersedes, in its entirety, Exhibit D of the Declaration, and all amendments thereto. The Common Areas shall be owned by the Unit owners as tenants in common, and ownership thereof shall remain undivided. No Unit owners may waive or release any rights in the Common Areas. Further, the undivided interest of a Unit in the Common Areas shall not be separated from the Unit to which it appertains.
8. Effects of Expansion. Upon the filing for record of this amendment to the Declaration adding additional property to the Condominium Property:
- a. The added portion shall thereafter be subject to and benefitted by all of the terms and provisions of the Declaration, to the same extent and with the same effect as if that added portion had been provided herein as constituting part of the Condominium Property, that is, the rights, easements, covenants, restrictions and assessment plan set forth therein shall run with, bind and benefit the added portion in the same manner, to the same extent, and with the same force and effect as the terms of the Declaration apply to the Condominium Property;
  - b. the owner or owners of the added portion shall thereupon become members, to the same extent, with the same effect, subject to the same obligations, and imbued with the same rights, as all other

members; and

- c. In all other respects, all of the provisions of the Declaration shall include and apply to such additional portion, and to the owners, mortgagees and lessees thereof, with equal meaning and of like force and effect.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 3<sup>rd</sup> day of January, 2000.

Signed and acknowledged  
in the presence of:

  
\_\_\_\_\_

Print Name Christina L. Frazier

  
\_\_\_\_\_

Print Name Kimberly A. Brown

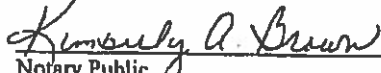
CANINI & PELLECCCHIA, INC.,  
an Ohio corporation

By:   
\_\_\_\_\_

Loreto V. Canini, President

STATE OF OHIO  
COUNTY OF FRANKLIN, SS:

This instrument was acknowledged before me by Loreto V. Canini, President of Canini & Pellecchia, Inc., an Ohio corporation, on behalf of that corporation and as the act and deed of that corporation, this 3<sup>rd</sup> day of January, 2000.

  
\_\_\_\_\_

Notary Public

KIMBERLY A. BROWN  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES 08-19-04

**EXHIBIT C  
UNIT INFORMATION SHEET**

**INITIAL STAGE**

<b><u>Unit Designation</u></b>	<b><u>Number of Rooms*</u></b>	<b><u>Gross Interior Square Feet</u></b>	<b><u>Undivided Interest</u></b>
428	one	7300	.32
430	one	4070	.18
438	one	2665	.11
440	one	3750	.16

**FIRST AMENDMENT**

422	one	5216	.23
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\* Includes utility room.

**EXHIBIT D**  
**DECLARATION OF CONDOMINIUM**  
**BEECHER RIDGE OFFICE PARK CONDOMINIUM**

**UNIT TYPE DESCRIPTIONS**

**SIZES AND ROOMS**

<u>Type</u>	<u>Approximate Useable Gross Interior Square Feet</u>	<u>Undivided Interest</u>
Unit 428*, two story with basement walk out	7300**	.32
Unit 430*, single story	4070	.18
Unit 438, single story	2665	.11
Unit 440, single story	3750	.16
Unit 422, single story	5216	.23

\* - Units 428 and 430 are attached with a common fire-rated wall. It is anticipated that all expansion units will be single story, free standing units of the same construction, basic design, colors, and materials as the original units. Unit 430 contains a partial basement and crawl space, not intended for commercial usage, considered not useable.

\*\* - excludes partial basement and crawl space.