

INSTR. NO. 54338595
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EXECUTION _____

DECLARATION OF CONDOMINIUM
OF
HILLTOP TERRACE CONDOMINIUM

This will certify that copies of this Declaration with the following exhibits attached thereto have been filed in the office of the County Auditor of Summit County, Ohio:

1. Exhibit "A" - Legal description of real property of Declaration of Condominium Ownership.
2. Exhibit "B" - Legal description of additional property owned by developer available for future expansion.
3. Exhibit "C" - Architectural Drawings required by Section 531.07 of the Ohio Revised Code together with additional drawings.
4. Exhibit "D" - Schedule of Percentages of Interest.
5. Exhibit "E" - Condominium Association By-laws.

Summit County Prosecutor
By _____
Date _____

Summit County Auditor
By _____
Date _____

This Instrument Prepared By:
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WHEREAS, DaCath Development Company, Inc., an Ohio Corporation, hereinafter referred to as "Developer", is the owner in fee simple of the real property described in Exhibit A, attached hereto and incorporated by reference herein, together with the improvements thereon and the appurtenances thereto; and,

WHEREAS, it is the desire of Developer to submit the real property described in Exhibit A together with the improvements constructed thereon and described herein to the provisions of Chapter 5311 of the Ohio Revised Code for condominium ownership;

WHEREAS, Developer is also the owner of additional real property described in Exhibit B, attached hereto and incorporated by reference herein; and,

WHEREAS, Developer desires to provide, if it chooses, for the expansion of the condominium property by submission of the real property described in Exhibit B or portions thereof from time to time, together with the improvements to be constructed thereon, to the provisions of Chapter 5311 of the Ohio Revised Code;

NOW, THEREFORE, Developer hereby declares:

Article I. Legal Description and Definitions.

A. Legal Description.

The legal description of the real property hereby submitted to the provisions of Chapter 5311 of the Ohio Revised Code is set forth in Exhibit A, attached hereto and incorporated by reference herein.

B. Definitions.

The following terms used herein are defined as follows:

1. Additional Property: means the real property described in Exhibit B and all buildings and other improvements and facilities now or hereafter located thereon, all easements, rights, and appurtenances now or hereafter belonging thereto, and all articles of personal property now or hereafter existing thereon.
2. Articles: means the Articles, filed with the Secretary of the State of Ohio, incorporating Hilltop Terrace Condominium Association, Inc. as a corporation not for profit under the provisions of Chapter 1702 of the Ohio Revised Code, as the same may be amended from time to time.
3. Association - means Hilltop Terrace Condominium Association, Inc., a not for profit corporation, created by the filing of the Articles and also shall mean the same as "unit owners association" as defined by Section 5311.01 (L) of the Ohio Revised Code.
4. Board: means those persons who, as a group, serve as the Board of Trustees of the Association and are also one in the same as the Board of Managers of the Association as defined by Section 5311.08 of the Ohio Revised Code.
5. By-Laws: means the By-Laws of the Association as the same may be lawfully amended from time to time, created under and pursuant to the provisions of Section 5311.08

of the Ohio Revised Code and which also serve as the Code of Regulations of the Association under and pursuant to the provisions of Chapter 1702 of the Ohio Revised Code. A true copy of the By-Laws is attached hereto as Exhibit E and made a part hereof.

6. Common Areas - means "common areas and facilities" as defined in Section 5311.01 (B) of the Ohio Revised Code and is all Condominium Property except the portions thereof constituting Units as defined in this Declaration.
7. Common Expenses - means:
 - i) "common expense" as defined in Section 5311.01 (D) of the Ohio Revised Code, and
 - ii) expenses of administration, and expenses of maintenance, operation, repair or replacement of the Common Areas and of the portions of the Condominium Property to be maintained by the Association, and
 - iii) expenses declared to be common expenses by provisions of this Declaration or the By-Laws, and
 - iv) any valid charge against the Association or Condominium Property a whole.
8. Common Surplus: means "common surplus" as defined in Section 5311.01(F) of the Ohio Revised Code.
9. Common Profits: means "common profits" as defined in Section 5311.01(G) of the Ohio Revised Code.
10. Common Losses: means "common losses" as defined in Section 5311.01(H) of the Ohio Revised Code.

11. Condominium Instruments: means this Declaration and the accompanying plans and Exhibits, the By-Laws, the Drawings, any contracts pertaining to the management of the Condominium Property, and as provided by Section 5311.01(P) of the Ohio Revised Code "all other documents, contracts, or instruments establishing ownership of or exerting control over a condominium property or unit."
12. Condominium Property - means the real property described in Exhibit A and all buildings and other improvements and facilities now or hereafter existing thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property now or hereafter existing thereon for the common use of the Unit Owners.
13. Declaration: means this instrument by which the Condominium property is submitted to Chapter 5311 of the Ohio Revised Code, as this instrument may be amended from time to time.
14. Developer: means DaCath Development Company, Inc., an Ohio Corporation, and its successors and assigns, provided however the rights specifically reserved to Developer in this Declaration shall accrue only to such successors and assigns as are designated in writing by Developer as successors and assigns of such rights.
15. Drawings: means the drawings for the Condominium as defined in Section 5311.07 filed simultaneously with a submission of this Declaration for recording, as the same

may be amended from time to time.

16. Limited Common Areas - means "limited common areas and facilities" as defined in Section 5311.01(K) of the Ohio Revised Code, and is that portion of the Common Areas serving exclusively one particular Unit, the enjoyment, benefit, and use of which is reserved to the lawful occupants of that Unit, and which are so designated on the Drawings as limited common areas and referred to in the Drawings and the Declaration and By-Laws as "LCA".
17. Occupant: means a person lawfully residing in a Unit, regardless of whether that person is a Unit Owner.
18. Unit - means "unit" as defined by Section 5311.01 (I) of the Ohio Revised Code and is that portion of the Condominium Property described herein as a Unit and as shown on the Drawings marked Exhibit C.
19. Unit Owner - means "unit owner" as is defined by Section 5311.01 (J) of the Ohio Revised Code, each of whom is also a "member" of the Association.
20. All terms used herein which are defined in Chapter 5311 of the Ohio Revised Code have the same meaning herein.

Article II. Name and Address.

The name by which this condominium is to be identified is Hilltop Terrace Condominium and its address is

HILLTOP TERRACE CONDO ASSO
PO BOX 9200
AKRON OH 44305

Article III. The Purpose of and Restrictions on Use of Condominium Property.

A. Purpose. This Declaration is being made to establish separate individual parcels from the Condominium Property, to which fee simple interest may be conveyed, for use for single family residential living; to establish the Association to administer the Condominium Property; to provide for the preservation of the values of the 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.

B. Restrictions.

1. Unit Uses. Each Unit shall be used for a single family residence and for no other purpose. A Unit Owner may use a portion of a Unit for an office to maintain a personal or professional library, to keep personal business or professional records and accounts, to conduct personal business, and to make or receive professional telephone calls or correspondence provided that such activities shall not interfere with the quiet enjoyment or comfort of any other Unit Owner or Occupant; and providing further that it does not involve the personal services of any Unit Owner. Notwithstanding the forgoing, one or more Units may be maintained for the use of the Association to fulfill its responsibilities and Developer

may maintain one or more Units as sales models and as an office.

2. Hazardous Uses and Waste - Nothing shall be done or kept in any Unit or in the Common Areas which will increase the rate of insurance of the building or contents thereof, applicable for residential use. No Unit Owner shall permit anything to be done or kept in such Owner's Unit or the LCA appertaining thereto, or in the Common Areas which will result in the cancellation of insurance on the building, or contents thereof. No waste will be committed in any part of the Condominium Property.
3. Exterior Surfaces of Buildings - Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of a building or otherwise outside of a Unit, and no sign, awning, canopy, shutter, radio and/or television antenna, satellite dish, receiver or transmitter, or other device or article of any kind whatsoever shall be affixed to or placed upon the exterior walls or roof of any building or in any Common Areas or LCA or any part thereof, except as may be required by law, without the prior consent of and subject to the reasonable rules and regulations of the Association, other than those originally provided by the Developer.
4. Animals and Pets - No animals, rabbits, livestock, fowl, poultry, reptiles, or amphibians of any kind shall be

raised, bred, or kept in any Unit, any LCA, or on the Common Areas except that dogs, cats, fish, or other common and accepted household pets may be kept in Units, subject to rules and regulations adopted by the Association, provided that they are not kept, bred, or maintained for any commercial purpose, and provided further that when any such pet shall be outside the Unit, the Owner shall at all times have said pet under its control and discipline, and Owners shall clean up after their pets. Without limiting the generality of the foregoing, the regulations promulgated from time to time by the Board may place limitations on the size, number, and type of such pets, may prohibit pets entirely, may provide for the levying of fines against persons who do not clean up after their pets, and may subject the right to maintain a pet to termination if the Board, in its full and complete discretion, determines that the pet constitutes a nuisance or creates a detrimental effect on the Association or other Units or Occupants.

5. Nuisances - No noxious or offensive activity shall be carried on in any Unit, in any LCA, or on the Common Areas, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or Occupants.
6. Impairment of Structural Integrity of Building - Nothing

shall be done in any Unit, any LCA, or in, on or to the Common Areas which will impair the structural integrity of any building or which would structurally change any building.

7. Laundry or Rubbish in Common Areas - No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed on any part of the Common Areas and all Common Areas shall be kept free and clear of rubbish, debris, and other unsightly materials.
8. Use of Common Areas - No part of the Condominium Property shall be used for other than single family housing and the common recreational purposes for which the property was designed. The Common Areas shall be used in common by Unit Owners and Occupants and their agents, servants, invitees, and licensees in accordance with the purposes for which they are intended and as may be required for the purposes of access, ingress, egress, use, occupancy, and enjoyment of the Units, subject however to such rules and regulations as may from time to time be promulgated by the Board. Without limiting the generality of the foregoing, no Unit Owner or Occupant shall obstruct any portion of the Common Areas nor shall any recreational vehicle, boat, vehicle, truck, implement, lawn furniture, trailer, toys, or other similar articles be stored, placed, or parked on any part of the Common Areas or in any LCA, except in accordance

with rules and regulations adopted by the Association.

9. Prohibited Activities - Except as otherwise expressly provided in this Declaration, no industry, business, trade, occupation, or profession of any kind, whether commercial, religious, educational or otherwise, whether designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted in any Unit or on any part of the Condominium Property. Notwithstanding anything contained in the Declaration or these By-laws, Developer shall have the right to use one or more Units for business or promotional purposes, including, but not limited to sales offices and model Units.
10. Alteration of Common Areas - Nothing shall be placed on, constructed in, or removed from the Common Areas except as herein provided and except upon the written consent of the Association. Without limiting the generality of the foregoing, facilities such as swimming pools, outdoor whirlpools, hot tubs, trampolines, and similar recreation facilities are expressly prohibited in the Common Areas, unless the same are constructed and placed by Developer or by the Association for the recreational use and benefit of all Unit Owners.
11. Rental of Units - Unit Owners shall have the right to lease their Units subject to (i) the terms and conditions hereof, and (ii) the By-Laws, and (iii) the rules and

regulations promulgated from time to time by the Board. No Unit shall be rented for transient, hotel, rooming and/or board house regardless of the period of time of any such use or rental purposes. No lease shall be for less than the entire Unit nor for a period of less than one hundred eighty (180) days. Each lease must (i) be in writing, and (ii) require the lessee to abide by the terms of the Declaration, the By-laws, and the rules and regulations of the Association, and (iii) give to the Board the right to dispossess the lessee or otherwise act for the Unit Owner in case of default under the lease or for violation of the Declaration, By-Laws, or the rules and regulations adopted by the Association. A fully executed copy of the lease shall be delivered to the Board prior to the date of the commencement of the tenancy under the lease. Neither the lease of nor the occupancy of any Unit shall be in conformity herewith until all of the requirements herein are met. The Unit Owner shall continue liable for all obligations of ownership of the Unit and shall be responsible to the Association for the conduct of the lessee, and the lessee's guests and invitees.

12. Signs - No sign of any kind shall be displayed to the public view on Condominium Property except (i) on the Common Areas signs regarding and regulating the use of the Common Areas provided such signs are approved by the

Board; (ii) on the interior side of the window of a Unit, one professionally prepared sign advertising the Unit for sale or lease; and (iii) on the Common Areas and model units, signs advertising the sale of Units by the Developer.

13. Compliance with Laws, Rules, and Regulations - A Unit Owner shall not permit anything to be done or kept in such Owner's Unit or the LCA appertaining thereto, or in the Common Areas which would be in violation of any federal, state, or local law, rule, regulation, code, administrative or judicial order, or any duly adopted rule or regulation of the Association. Without limiting the generality of the foregoing, no Unit Owner shall permit anything to be done or kept in such Owner's Unit, the LCA appertaining thereto, or in the Common Areas (i) in violation of any law, rule, regulation, order or code relating to the generation, discharge, or release in, at, on, or under the Unit, the LCA, or any Common Areas of any material or substance determined to be toxic or hazardous under any federal, state, or local law, rule, or regulation; or (ii) in violation of any applicable health, safety, housing, building, zoning, or other applicable governmental law, rule, regulation or code.

Article IV. General Description of Buildings and Improvements.

A. Buildings and Improvements.

1. Except as otherwise restricted in this Declaration, the

Developer has the right to alter the location of the buildings and layout of the Units. Phase I contains 6 buildings with 2 Units in each building. Each building in Phase I is two stories and each Unit within the buildings is two stories. There are no basements in any of the Phase I Units. Units 215 and 217 contain approximately 2000 square feet (1600 in living areas and 400 in garage) and Units 558, 560, 566, 568, 574, 576, 582, 584, 590 and 592 contain approximately 2040 square feet (1600 in living areas and 440 in garage). Also attached hereto as a part of Exhibit C are certain typical architectural views and typical Unit interior layouts which are not intended to be part of the drawings required by Section 5311.07 of the Ohio Revised Code, or amendments thereto, but are intended to be used for an architectural reference.

Each Unit is connected to public water, sanitary sewer and electric and each of these utilities is separately metered to each Unit. Each Unit has its own air conditioning and air handling equipment. Each Unit is heated by electric baseboard heat. Each Unit has the use of a concrete patio immediately off of the living room. The patios are partially enclosed by a stone retaining wall and landscaping. The patio and the stone retaining wall are LCA, not part of the Unit. The Common Areas surrounding each Unit generally consist of lawn, shrubbery, other landscaping, sidewalks, porches, driveways, and parking areas. There is an easement within Phase I designated on the drawings as part of Exhibit C, as a storm water detention area. There is also an easement for access to that area. The storm sewers and the detention ponds are part of the

Common Areas and their repair, replacement and maintenance is a Common Expenses.

The principal materials used to construct the existing buildings and Units are wood, block, and glass. The buildings have vinyl siding and asphalt shingles on the roofs. Outdoor street lighting is located in the Common Areas along the private driveway and is Common Property owned and maintained by the Association. The location, layout, designation and boundaries of the Units and the location, layout, designation, and boundaries of the Common Areas and LCA, in so far as graphically practical, are shown on the set of drawings set forth in Exhibit C attached hereto and incorporated herein by referenced.

B. Paved Areas.

The concrete driveways, sidewalks, front porches, and parking areas are part of the Common Areas and provide each Unit with access through Common Areas and to a private drive which Unit Owners may use for ingress and egress to North Thomas Road, a public road. The private drive is located within the 60 foot right of way shown on Exhibit C as the Hilltop Terrace Utility Right of Way. The private drive is known as Hilltop Terrace Drive and it's location is shown in the drawings attached hereto as Exhibit C. The cost of repairing, replacing and maintaining the driveways (including the private drive to North Thomas Road), sidewalks, front porches, and parking areas is a Common Expense. Unit Owners are hereby deemed to have an easement over said paved driveways and parking areas for ingress and egress and parking subject to

reasonable rules and regulations of Association.

Article V. Information about Condominium Property

A. Units. Each of the Units declared and established by this Declaration is a free-hold estate consisting of all the space bounded by the undecorated surfaces of the perimeter walls, floors, and ceilings of each Unit including the vestibules, balconies, and garages, if any, as designated on the Drawings, projected, if necessary, by partitions or roof rafters to constitute a complete enclosure of space, provided that, wherever such undecorated surfaces or the area immediately adjoining such surfaces consist of plaster or plasterboard or concrete or wooden floor, all of such plaster or plasterboard or concrete or wooden floor contiguous to such surface shall be included within the Unit but excepting the space occupied thereby lying outside the perimeters of the Unit. Each Unit also includes air conditioning equipment located outside and adjacent to the portion of the building occupied by the Unit. The air conditioning equipment is situated on the Common Areas, but the equipment itself and the lines connecting it to the Unit serve only the Unit to which they are connected and are part of that Unit. The dimensions, layouts, and descriptions of each Unit are shown on the Drawings and include without limitation:

1. The decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and any other finishing materials applied to said perimeter walls, floors, and ceilings, and also the aforesaid finishing materials applied to the interior walls, floors, and ceilings.

2. All windows, screens, manddoors, garage doors, inclusive of frames, sashes, and jambs and the space occupied thereby and the hardware therefor.
3. All fixtures and appliances installed for the exclusive use of a particular Unit commencing at the point of disconnection from the structure of the building or the utility line, pipe or system serving the entire building or more than one Unit thereof, the space within such fixtures and appliances, and the space occupied by the fixtures and appliances themselves.
4. All unenclosed space, if any, within or occupied by structural parts of the building which may project into the Unit from the unfinished perimeter floor level to the unfinished perimeter ceiling level and including by way of illustration by not by way of limitation the space between the shelves of built-in bookcases, if any, the space within built-in cabinets, if any, and the hearths lying within fireplaces, if any.
5. All interior walls not necessary for the support of the structure, all space occupied thereby, and all space between interior walls, floors and ceilings, of a Unit including the space occupied by structural and component parts of the building and by utility pipes, lines, wires, ducts, and conduits.
6. All enclosed space, if any, between the roof and finished ceilings which is normally referred to as attic space,

including the space above the garage.

7. All plumbing, electric, heating, cooling, and other utility or service lines, wires, pipes, ducts, dryer vents, or conduits, wherever located, which serve only that Unit.
8. All control knobs, switches, thermostats, and electrical outlets or connections affixed to or projecting from the walls, floors, or ceilings into the Unit.

But excepting therefrom all of the following items located within the bounds of the Unit as defined above:

1. The structural and component parts of all interior walls, floors and ceilings, except the decorated surfaces thereof.
2. All structural portions of the building.
3. All plumbing, electric, heating, cooling, and other utility or service lines, pipes, wires, conduits, or ducts which also service other Units within the Condominium Property.

B. Interest in Common Areas - Each Unit Owner shall own an undivided interest in the Common Areas as a tenant in common with all other Unit Owners, and, except as otherwise limited in this Declaration, the By-Laws, and any rules and regulations adopted by the Association from time to time, if any, shall have the right to use the Common Areas for access to and all purposes incident to the use and occupancy of the Unit as a place of residence and such other uses permitted by this Declaration and the By-Laws, including

the non-exclusive easement, together with other Unit Owners to the use and enjoyment of the Common Areas for ingress and egress to and from the respective Units, which rights shall be appurtenant to and shall run with the Unit.

The percentage of ownership of the Common Areas attributable to each Unit which is also the percentage of interest of the Unit in the Association for voting purposes and for the division of common benefits and expenses is set forth on Exhibit D attached hereto.

The percentage of ownership of the Common Areas of each Unit is determined by the proportion which the square footage of each Unit at the time of recording this Declaration bears to the then aggregate square footage of all Units. The percentage of a Unit's ownership of the Common Areas may only be changed by a unanimous vote of Unit Owners. Except as expressly authorized in this Declaration and in Section 5311.14 of the Ohio Revised Code, there shall be no partition of the Common Areas through judicial proceedings or otherwise until this Declaration is terminated and the Condominium Property is withdrawn from its terms and from the terms of any statute applicable to condominium ownership. Except as otherwise permitted by Chapter 5311 of the Ohio Revised Code, Unit Owners may not waive or release any rights in the Common Areas.

Article VI. General Provisions as to Units and Common Areas.

A. Maintenance of Units.

1. By the Association - Except as otherwise expressly set forth herein, the Association is not responsible for the maintenance, repair and replacement of any portion of any Unit, except a Unit owned by the Association, if any.
2. By the Unit Owner - The responsibility of each Unit Owner shall be as follows:
 - a) To maintain, repair and replace, at the Unit Owner's expense, all portions of the Unit, including by way of illustration but not of limitation all fixtures, appliances, hot water heaters, dryer vents, heating, plumbing, cooling, electrical, and air handling fixtures or installations, and any other utility service facilities forming part of the Unit, and any air conditioning and/or heating apparatus located outside the Unit which apparatus serves only that Unit and all connections to the Unit.
 - b) To maintain, repair and replace at the Unit Owner's expense all, windows, screens, doors, garage doors, including frames, sashes, and jambs and the hardware and operating devices therefor, vestibules and entryways and all associated structures and fixtures therein, which are appurtenances to the Unit. The foregoing includes, without limitation, responsibility for all breakage, damage, malfunctions, and ordinary wear and tear of such appurtenances.
 - c) To keep and maintain Unit and the LCA appertaining thereto clean and sanitary at Unit Owners expense, not allowing rubbish, refuse or garbage to accumulate in an unsightly or unsafe manner.
 - d) To maintain, repair and replace, at Unit Owner's expense, the concrete patio, drain and drain line for the patio, and the stone retaining wall within the LCA for the Unit.

A Unit Owners responsibility to maintain a Unit as provided herein is subject to the following:

- a) A Unit Owner shall perform its responsibilities in such manner so as not unreasonably to disturb other Unit Owners or Occupants.
- b) A Unit Owner shall not paint, or otherwise decorate or

change the appearance of any portion of the building not within the walls of the Unit, unless the written consent of the Association is first obtained.

- c) A Unit Owner shall not paint, or otherwise decorate or change the appearance of any portion of any LCA, unless the written consent of the Association is first obtained.
- d) A Unit Owner shall not to make any alterations in the portions of the Unit or the building which are to be maintained by the Association, nor shall a Unit Owner make any alterations within the LCA appertaining to a Unit or within the Common Areas, without first obtaining the written consent of the Association, nor shall any Unit Owner impair any easement without first obtaining the written consent of the Association and of all Unit Owners for whose benefits such easement exists.

Each Unit Owner shall promptly report to the Association or its agent any defect or need for repairs, the responsibility for the remedying of which is with the Association.

B. Use and Maintenance of Common Areas .

- 1. Regulation by Association - No person shall use the Common Areas or any part thereof in any manner contrary to or not in accordance with this Declaration and such rules and regulations pertaining thereto as from time to time may be adopted by the Association. Without in any manner intending to limit the generality of the foregoing, the Association shall have the right but not the obligation, to promulgate rules and regulations limiting the use of the Common Areas to Unit Owners, Occupants and their lessees, and their respective families, guests, invitees, and servants, as well as to provide for the exclusive use by a Unit Owner, Occupant, lessee, and their guests, for specific occasions, of the recreational areas or other similar facilities. Such use

may be conditioned upon, among other things, the payment by the Unit Owner or lessee of such assessments as may be established by the Association for the purpose of defraying costs thereof.

2. Management, Maintenance, Repairs, Alterations, and Improvements - Except as otherwise provided herein, management, maintenance, repair, replacement, alteration and improvement of the Common Areas, including the LCA, and driveway easement shall be the responsibility of the Association.

C. Repairs to Common Areas Necessitated by Unit Owners Acts.

Each Unit Owner is responsible for any damage or destruction to the Common Areas or driveway easement caused by any act or neglect by the Unit Owner, or any lessee of the Unit Owner, any Occupant, or by the act or neglect of any invitee, licensee, or guest of the Unit Owner or Unit Owner's lessee or any Occupant. Each Unit Owner shall, not more than 10 days after written demand by the Association, reimburse the Association for all costs and expenses incurred by the Association for repairs, replacements or maintenance to the Common Areas or the driveway easement caused by any act or neglect of the Unit Owner, the Unit Owner's lessee, or either of their invitees, licensees or guests.

D. Effect of Construction Defects.

The respective obligations of the Association and Unit Owners to repair, maintain, and replace the portions of the property

for which they are responsible shall not be limited, discharged, or postponed by reason of the fact that any maintenance, repair, or replacement may be necessary to cure any latent or patent defects in material or workmanship in the construction of the property.

E. Effect of Insurance or Construction Guarantees.

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

F. No Severance of Ownership.

No owner shall execute any deed, mortgage, lease or other instrument affecting title to a Unit without including therein both the interest in the Unit and its corresponding percentage of ownership interest in the Common Areas, it being the intention hereof to prevent any severance of such combined ownership. Any deed, mortgage, lease or other instrument purporting to affect one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein. For purposes of conveyance of title to a purchaser

of a Unit, description by setting forth the name of the Condominium Property, the number of the Unit or Units and the numbers of the pages of the Declaration and Drawings shall be adequate to convey the fee simple title thereto together with the percentage in and to the Common Areas.

G. Easements.

1. Enjoyment - Every Unit Owner shall have a non-exclusive right and easement of enjoyment in, over, and upon the Common Areas and the driveway easement and a right of access to and from such Unit Owner's Unit which rights and easements shall be appurtenant to and shall pass with 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, provided that no such rule or regulation shall limit or prohibit the right of ingress and egress to a Unit or any part thereof.
2. Right of Entry for Repair, Maintenance, and Restoration - The Association, its agents and representatives, shall have a right of entry and access to, over, upon, and through all of the Condominium Property and each Unit, to enable the Association to perform its obligations 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, or to preserve and protect any Condominium Property, or to enforce any provision of this Declaration or any rule or

regulation adopted from time to time by the Association or the Board, or to protect the health, safety, and welfare of the Unit Owners.

3. Encroachments - Each Unit including the LCA appertaining thereto and the Common Areas shall be subject to easements for encroachments on any other Unit or the Common Areas by reason of bona fide errors with respect to the design, drawings, construction, or reconstruction of any building, Unit, LCA, or other improvement, or by reason of the settlement or shifting of any building, or other improvement or by reason of overhangs. Valid easements for the maintenance of such encroachments and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit and the Common Areas, as the case may be, so long as all or any part of the building containing such Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Unit Owner or in favor of the Common Areas and facilities if such encroachment occurred due to the willful conduct of any Unit Owner.
4. Maintenance Easements - The Owner of each Unit shall have the permanent right and easement to and through the Common Areas for the use of water, sewer, power, cable television, air conditioning, and other utilities now or hereafter existing and further shall have an easement to

hang pictures, mirrors and the like upon the walls of his Unit.

5. Easements Through Walls Within Units - Easements are hereby declared and granted to install, lay, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the Unit boundaries.
6. Easements for Garages and Parking - Easements are hereby declared and created for ingress and egress into and from each Unit Owner's garage for the benefit of said Unit Owner, Occupants and their guests. No other Unit Owner, Occupant, or their invitees, and/or guests shall block or deny access, ingress, or egress to another Unit Owner to said Unit Owner's garage. Further, easements are hereby declared and created for the benefit of all Unit Owners, Occupants, and their invitees and guests to park automobiles for a period of no more than twenty-four (24) hours in designated parking areas in the Common Areas, subject, however, to the rules and regulations adopted from time to time by the Association.
7. Easements for Utilities - Easements are hereby declared and granted to all utilities, including but not limited to, water, sewer, gas, electric, telephone, security systems, and cable or television systems, for the purpose of constructing, installing, maintaining, operating,

relocating, removing and replacing utility equipment, lines, wires, poles, conduits, manholes, and other appurtenances normally incidental thereto as now exist or may hereafter be installed upon the Condominium Property, wherever situated and within a Unit, with the right of reasonable access thereto. All utilities and any other party granted easements herein and their assigns, shall be responsible, at their expense, for restoring the Condominium Property or Unit disturbed by the exercise of any right with respect to any easement granted herein as closely as may be practicable to its original condition. The Association may grant additional easements for utility purposes for benefit of the Condominium Property, including, but not limited to, the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains and lines, telephone wires and equipment, cable television, master television antennas, and electrical conduits and wires over, under, along and on any portion of the Common Areas together with the right of reasonable access thereto and each Unit Owner hereby grants the Association an irrevocable power of attorney to execute, acknowledge, and record, for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing. Developer, for himself and his successors and assigns, reserves an easement on, across and through the Condominium Property

to extend, relocate, and tie into and use any driveway, road, street, (including Hilltop Terrace Drive) sidewalk, or utility line now or hereafter existing on the Condominium Property and further reserves the right to grant additional easements to any utility for the purpose of extending, relocating, or connecting such utility service. Developer shall be responsible, at his sole expense, for restoring to as close as may be practicable any Condominium Property disturbed by such service extension.

9. Public Utilities Easement - There is a 60 foot wide easement for all public utilities (water, sewer, and electric) shown on Exhibit C as the Hilltop Terrace Utility Right of Way. This easement is for the purpose of supplying public utilities to the Condominium Property. No buildings may be constructed within this easement.

10. Storm Water Easements - There is a storm water easement in Phase I together with an easement for ingress and egress to and from the storm water easement. The storm water easement and the ingress and egress easement are shown on Exhibit C. No buildings may be constructed within these easements. Maintenance of these easements belongs to the Association and the costs of said maintenance are Common Expenses. Within the Condominium Property there are storm water lines which drain to the storm water detention ponds located within the storm water easement. The storm water lines are part of the Common Areas and the costs of

maintenance, repair and replacement of these lines are Common Expenses. Within the Additional Property there are anticipated to be additional storm water easements. These additional easements are shown on Exhibit C.

11. Private Drive - A private drive known as Hilltop Terrace Drive exits within the area designated as Hilltop Terrace Utility Right of Way on Exhibit C. The location of the driveway is shown on Exhibit C. This driveway is concrete and connects the Condominium Property to North Thomas Road, a public highway. All Unit Owners and their tenants, occupants, guests, and invitees are granted an easement over and across the driveway for ingress and egress to North Thomas Road. Developer, for his benefit, and that of his successors and assigns, and for the benefit of the Additional Property retains an easement over, across and through the area designated as the Hilltop Terrace Utility Right of Way on Exhibit C including the driveway located therein (Hilltop Terrace Drive) for a pedestrian and vehicular ingress and egress to North Thomas Road and for the installation, construction, extension, connection to, operation, maintenance, repair, replacement and use of any utility services of any nature whatsoever.

12. Easements to Run with the Land - All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Developer, its successors and assigns, and any Unit Owner, purchasers, mortgagees and other persons having any interest in said land, or any part or portion

thereof.

Article VII. Unit Owners' Association.

A. Formation. Developer shall cause a unit owners association to be formed called Hilltop Terrace Condominium Association (the "Association") to operate, administer, and manage the Condominium Property. The Association shall be established not later than the date of the deed or other evidence of ownership is filed for record following the first sale of a Unit.

B. Membership. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a member of the Association. Membership in the Association shall be limited to Unit Owners and shall be appurtenant to and may not be separated from Unit Ownership. Transfer of a Unit shall automatically transfer membership in the Association to the transferee.

C. The Board of Managers. The Board of the Association shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, and as otherwise specifically provided in this Declaration and the By-Laws which are not specifically reserved to a Unit Owner which shall include but not be limited to full authority to manage, maintain, control, operate, repair, replace, alter, and improve the Common Areas, to administer and operate the Association, including the promulgation of rules and regulations and the enforcement of the law, this Declaration, the By-Laws, and the rules and regulations adopted by the Board and to assess and collect funds therefor. The Unit Owners may, upon

approval of Unit Owners holding not less than Seventy-Five (75%) of the voting power of all Unit Owners adopt rules and regulations with respect to the use of the Common Areas and may rescind or modify any rule or regulation with respect to the use of the Common Areas previously adopted by the Board. Any rule or regulation so adopted or action so taken by the Unit Owners shall have the same force and effect as if such action had been taken by the Board. Except as otherwise expressly provided herein all authority to adopt and enforce rules and regulations pertaining to use of the Common Areas or the management, administration or operation of the Association shall be vested in the Board. The Board may, but shall not be required, to delegate all or any portion of its authority to discharge such responsibility of the Association to one or more managers, managing agents, or a management companies. Such delegation shall be evidenced by one or more management contracts which shall provide for the duties to be performed by such managers. The management contracts may provide for the payment of reasonable compensation to such managing agents as Common Expenses, provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty (30) days written notice, shall be terminable by either party, without penalty, on no more than ninety (90) days written notice, shall not exceed one year in duration 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 Developer, or any other entity designated by Developer, 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 Developer or one or more other firms or corporation affiliated with Developer for providing the same are bona fide and commercially reasonable to the Unit Owners at the time entered into under the circumstances then prevailing and are terminable by the Association, without cause and without penalty, on ninety (90) days written notice. Upon assumption of control of the Association by the Unit Owners, other than the Developer, as provided by the By-Laws, said Unit Owners and the Association will not be bound for more than one (1) year by any management contract or agreement executed prior to said assumption of control unless such contract or agreement is renewed by a vote of the Unit Owners.

The Board shall have the authority to enter into an agreement with adjacent or nearby property owners, including Developer, to lease or otherwise share the use and expenses of certain facilities owned by or under the control of the Association, or the adjacent property owner, including, but not limited to, maintenance facilities and recreation areas.

Until such time as Developer relinquishes control of the Condominium as set forth in the Bylaws, Developer shall have the exclusive right to appoint and remove Board members and Association Officers and Developer shall exercise all powers and responsibilities otherwise assigned by law, the Declaration, and

the Bylaws to the Association, its Officers and the Board.

D. Administration of Condominium Property. The administration of the Condominium Property shall be in accordance with the provisions of this Declaration and the By-Laws. Each Unit Owner, lessee, or Occupant and their respective guests and invitees shall comply with the provisions of this Declaration, the By-Laws, and the rules, regulations, decisions and resolutions of the Association and/or its representatives, as lawfully amended from time to time.

E. Service of Process. The person to receive service of process for the Association shall be David Krummel, P.O. Box 344, Kent, Ohio 44240. In the event David Krummel is not registered with the Secretary of the State of Ohio as Statutory Agent for the Association, the person to receive such services shall be the statutory agent for such corporation as registered with the Secretary of State.

Article VIII. Assessments.

A. General.

Developer covenants, and each Unit Owner by acceptance of a Deed to a Unit (whether or not it shall be expressed in such Deed), is deemed to covenant and agree to pay to the Association (i) annual operating assessments, including assessments for contingencies and replacements (ii) assessments for capital improvements, (iii) special assessments for capital improvements, and (iv) special individual Unit assessments, all of such assessments to be established and collected as provided herein.

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 and shall only be used for the specific purposes for which they were levied.

B. Preparation of Estimated Budget.

Each year on or before December 1st, the Board shall estimate the total amount necessary to pay all Common Expenses during the ensuing calendar year which shall include a reasonable amount for a reserve for contingencies and a separate reasonable amount for capital replacements. Each year on or before December 15th, the Board shall notify each Unit Owner in writing as to the amount of such estimates, with reasonable itemization thereof. Said "estimated cash requirement" shall be assessed to each Unit Owner according to such Owner's percentage of ownership in the Common Areas as set forth in the Declaration. With the notice the Board shall set a schedule for the payment of the amount of the assessment. Each Unit Owner shall be obligated to pay to the Association, or as it may direct, the amount of the assessment made pursuant to this paragraph in accordance with the schedule set by the Board. If said "estimate cash requirement" proves inadequate for any reason, including non-payment of Unit Owners assessments, the Board shall prepare an estimate of the additional cash requirements then necessary, or necessary for the balance of the year, which additional amount of each requirement shall be assessed to each Unit Owner according to such Owner's percentage of ownership in the Common Areas. The Board shall serve notice of

such further assessment on all Unit Owners by a statement in writing giving the amount and reasons therefore, and setting the schedule for the payment of the additional amount. Such further assessment shall become effective ten (10) days after the delivery or mailing of such notice of further assessments. All owners shall be obligated to pay the additional assessment amount.

On or before the date of the annual meeting of Unit Owners each calendar year, the Board shall supply to all Unit Owners an itemized accounting of the Common Expenses for the preceding calendar year actually incurred and paid together with a tabulation of the amounts collected pursuant to the estimates provided and showing the net amount of any Common Surplus or Common Loss, including the reserves. Any Common Surplus, excluding the reserves for capital replacements or improvements, shall be credited to each Unit Owner according to such Owner's percentage of ownership in the Common Areas, and any Common Loss, except the reserve for capital replacements or improvements, shall be added to the assessment due from such Unit Owner according to such Owner's percentage of ownership in the Common Areas.

C. Reserve for Contingencies, and Replacements.

The Association shall build up and maintain separate reasonable reserves for contingencies and capital replacements. Extraordinary Common Expenses not originally included in the annual estimate which may be necessary for the year, shall be charged first against the contingency reserve before any additional assessment is made against Unit Owners. The capital replacements

reserve shall be used only to replace existing capital improvements within the Common Areas. In the event the amount necessary for capital improvements in any year exceeds the amount of the total accumulated reserve for capital replacements, the Board shall assess the amount necessary to make up the shortage to each Unit Owner according to such Owner's percentage of ownership in the Common Areas and shall establish a payment plan for the payment of such shortage and shall notify each Unit Owner of the assessment and payment plan. All Unit Owners shall be obligated to pay the assessment in accordance with the payment plan.

D. Budget for First Year.

When the first Board elected hereunder takes office, it shall determine the "estimated cash requirement", as hereinabove defined, for the period commencing thirty (30) days after said election occurs. Assessments shall be levied against the Unit Owners during said period as provided above in this Article.

E. Failure to Prepare Annual Budget.

The failure or delay of the Board to prepare or serve the annual or adjusted estimate shall not constitute a waiver or release in any manner of all Unit Owner's obligations to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, each Unit Owner shall continue to pay assessments according to the existing schedule established for the previous period until a new annual or adjusted estimate and payment schedule shall have been mailed or delivered.

F. Special Assessments for Capital Improvements. The Board may levy, special assessments to construct additional capital improvements in the Common Areas (capital improvements which are not replacing existing improvements) provided that the improvements to be constructed and the amounts to be assessed therefor are approved by Unit Owners holding no less than Seventy-Five (75%) of the voting power of all Unit Owners. Any such assessment so approved shall be paid by each Unit Owner according to such Owners percentage of ownership interest in the Common Areas in the manner determined by the Board.

G. Special Individual Unit Assessments. The Board may levy an assessment against an individual Unit to reimburse the Association for those costs incurred by the Association in connection with that Unit which costs are by the terms hereof chargeable to a particular Unit (such as, but not limited to, the cost of making repairs which are the responsibility of a Unit Owner). Any such assessment shall become due and payable on such date as the Board determines and gives notice to the Unit Owners subject thereto. Additionally, during the first years of the Condominium's existence, and until such time as the real estate taxes and assessments are split into separate tax bills for each Unit, the Association shall have the right to pay 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 for its share of such real estate taxes and assessments as a special, individual Unit assessment. The share of those taxes and assessments attributable to a Unit

shall be computed by multiplying the total taxes and assessment for all of the Condominium Property by the undivided interest in the Common Areas attributable to that Unit. The calculation by the Association by the Unit's share of taxes and assessments shall be binding on all Unit Owners.

H. Effective Date of Assessment. Any assessment created pursuant hereto shall be effective if written notice of the amount thereof is sent by the Board to the Unit Owner subject thereto at least 10 days prior to the due date thereof, or the due date of the first installment thereof, if to be paid in installments.

I. Effect of Non-Payment of Assessment. If any assessment or any installment of any assessment is not paid within 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 in full, and (ii) charge interest on the entire unpaid balance, (or on an over-due installment alone, if it hasn't 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) exercise and pursue any right or remedy available to the Association herein, or at law or in equity to collect or enforce any assessment. All rights and remedies available to the Association with respect to the collection and enforcement of any assessment are cumulative and may be exercised consecutively or concurrently in any order the Board in its sole discretion determines and as often as the occasion therefore

arises.

J. Non-Use of Facilities. No Unit Owner may exempt himself from liability for his contribution toward any assessment by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of the Unit.

K. Lien of Association. In addition to any other right or remedy which may be available to the Association, the Association shall have a lien upon any Unit and its percentage of interest in the Common Areas for the payment of the portion of the assessment chargeable against such Unit which remain unpaid for ten (10) days after the same have become due and payable from the time a certificate therefor, subscribed by the Association, is filed with the Recorder of Summit County, Ohio, pursuant to authorization given by the Board. Such certificate shall contain a description of the Unit, the name or names of the record owner or owners thereof, and the amount of such unpaid portion of the common expenses and shall be signed by the president or other chief officer of the Association. Such lien shall remain valid for a period of five (5) years from the time of filing thereof, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of the Court in an action brought to discharge such lien as hereinafter provided. In addition, the Unit Owner shall be personally liable for the payment of such expenses chargeable for the period of his ownership. Said

lien shall also operate to secure any unpaid assessments which accrue after the filing of said lien.

L. Priority of Association's Lien. The Association's lien shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association by its president or other chief officer pursuant to authority given such officer by the Board. In addition to any other rights or remedies, the Association shall have rights set forth in Section 5311.18 of the Ohio Revised Code.

M. Non-Liability of judicial Sale Purchaser for Past Due Common Expenses. Where the mortgagee of a first mortgage of record or other purchaser of a Unit acquires title to the Unit as a result of a judicial sale resulting from litigation to which the Association has been made a party, such acquirer of title, his successors and assigns, shall not be liable for the share of assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer beyond the amount bid for such Unit in such judicial proceeding. Such unpaid share of assessments shall be deemed to be Common Expenses collectible from all of the Units, including that of such acquirer, his successor, or assigns.

N. Liability for Assessments Upon Voluntary Conveyance. With respect to any other transfer of any interest in a Unit, whether

voluntary or involuntary, by operation of law or otherwise, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments levied by the Association against the grantor and/or the Unit accruing to the time of the transfer, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Board after demand has been made upon the Association in writing, setting forth the amount of all unpaid assessments against the grantor and or the Unit due to the Association, and such grantee shall not be liable for nor shall the Unit conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement. As used in this paragraph, "grantor" shall include a decedent's estate and "grantee" shall include a devisee or intestate heir of said decedent, receiver, trustee, including a trustee in bankruptcy, and a debtor in possession, but shall exclude a bona fide mortgagee whose interest is merely to secure payment of an indebtedness.

O. Dispute as to Common Expenses. Any Unit Owner who believes that the portion of Common Expenses or other assessments chargeable to the Unit Owner for which a certificate of lien has been filed by the Association, has been improperly charged against the Unit Owner or the Unit may bring action in the Court of Common Pleas of Summit County, Ohio, for the discharge of such lien.

Article IX. Insurance.

A. Fire and Extended Coverage Insurance. The Association shall obtain for the benefit of all Unit Owners insurance on all buildings, structures or other improvements now or at any time hereafter constituting a part of the Condominium Property against loss or damage by vandalism and malicious mischief, fire, lightning, and such other hazards as are at this time comprehended within the term "extended coverage", and in an amount at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable coinsurance clause and not less than the full replacement value thereof. Such insurance shall be written in the name of, and the proceeds thereof, shall be payable to the Association as Trustee for each of the Unit Owners in accordance with their percentage ownership in the Common Areas. Such policy shall provide for built-in or installed fixtures and equipment and shall cover interior walls (but not wall coverings), windows, doors, garage doors, frames, sashes, and jambs and hardware therefor even though these improvements are part of a Unit. Such policy or policies may include such deductible provisions as the Board deems appropriate.

Such Insurance by the Association shall be without prejudice to the right of a Unit Owner or Occupant to obtain individual contents or chattel property insurance, but no Unit Owner may at any time purchase individual policies of insurance on a Unit or any interest in the Common Areas unless the Association shall be named insured on such policy. 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, and said Unit Owner shall be liable to the Association to the extent of any such diminution and/or loss of proceeds.

Insurance policies may contain an endorsement recognizing the interest of any mortgagee of any Unit. Notwithstanding the foregoing, a mortgagee shall not have the right to participate in a claim for loss or damage to a Unit other than a Unit on which said mortgagee holds a lien unless it can be reasonably shown that its security has been affected by the loss or damage. Any mortgagee may waive the provisions of this paragraph.

Such insurance policies shall also provide for the release by the insurer thereof of any and all rights of subrogation or assignment and all causes and rights of recovery against the Association, its officers, the Board, and any Unit Owner, members of a Unit Owners family, a Unit Owners tenants, or other Occupants of the Condominium Property for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under such insurance policy.

B. Public Liability Insurance. The Association shall obtain and maintain a comprehensive public liability insurance insuring itself, its Board members, Unit Owners, tenants, members of their respective families, other Occupants, and all other persons lawfully in possession or control of any part of the Condominium Property against liability for bodily injury, disease, illness or

death and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Common Areas with such deductibles and limits as the Board deems appropriate. The amount of such insurance coverage shall be not less than Three Hundred Thousand Dollars (\$300,000) in respect to bodily injury, disease, illness or death suffered by any one person, and not less than Five Hundred Thousand Dollars (\$500,000) in respect to any one occurrence, and to the limit of not less than Fifty Thousand Dollars (\$50,000) in respect to damage to or destruction of property arising out of any one accident. All such policies of insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association, the Board, or other Unit Owners, or Occupants. Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units.

C. Other Association Insurance. In addition to casualty and liability insurance the Board may, in its discretion, purchase and maintain other types of insurance coverage such as contractual liability insurance, errors and omissions insurance for the Board and officers, and such other insurance as the Board may determine to be necessary or appropriate.

Article X. Damage or Destruction and Restoration of Buildings.

A. Sufficient Insurance. In the event the improvements forming a part of the Condominium Property, 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, restoration, or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied by the Association in payment therefor.

B. Insufficient Insurance. In the event the improvements forming a part of the Condominium Property, 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, taking into account any insurance proceeds attributable to specific Unit Owner improvements and additions, then, unless the Unit Owners shall within ninety (90) days after such damage or destruction elect to withdraw the property from the provisions of this Declaration, such repair, restoration, or reconstruction of the Common Areas so damaged or destroyed shall be undertaken by the Association at the expense of all Unit Owners in the same proportions as their interests in the Common Areas. Should any Unit Owner refuse or fail after reasonable notice to pay such Owners share of such cost in excess of available insurance proceeds, the amount thereof may be advanced by the Association. The amount so advanced by the Association shall be assessed to such Unit Owner as a special individual Unit assessment and such assessment shall have the same force and effect and, if not paid, may be enforced in the same manner as

hereinbefore provided for the non-payment of assessments.

C. Non-Restoration of Damage or Destruction. In the event of substantial damage to or destruction of 70% or more of the Units (rounded to the nearest whole unit) occurs in a particular building, the Association may, with the consent of Unit Owners by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power of Unit Owners, elect not to repair or restore such damage or destruction. Upon such election, all of the Condominium Property shall be subject to an action for sale as upon partition at the suit of any Unit Owner. In the event of any sale of Condominium Property after such election by agreement of all Unit Owners, the net proceeds from the sale, together with the net proceeds of insurance, if any, and all indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Unit Owners and their respective mortgagees or lien holders as their interests appear in proportion to their respective percentages of interest in the Common Areas.

Article XI. Rehabilitation and Other Improvements.

The Association may, by the affirmative vote of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power of Unit Owners determine that the Condominium Property 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. The cost of such renewal and

rehabilitation shall be a common expense assessed to all Unit Owners in proportion to their percentage interest in the Common Areas.

Article XII. Removal from Condominium Ownership.

The Unit Owners, by unanimous vote may elect to remove the Condominium Property from the provisions of Chapter 5311 of the Ohio Revised Code. In the event of such election, all liens and encumbrances except taxes and assessments not then due and payable, upon all or any part of the Condominium Property, shall be paid, released, or discharged, and a certificate setting forth that such election was made shall be filed with the Recorder of Summit County, Ohio. Such certificate shall be signed by the President or other chief officer who shall certify therein under oath that all liens and encumbrances, except any taxes and assessments not then due and payable, upon all or any part of the Common Areas have been paid, released, or discharged. Such certificate shall also be signed by the Unit Owners, each of whom shall certify therein under oath that all liens and encumbrances on each such Owner's Unit have been paid, released or discharged and further, such certificate shall have been signed by the President and Secretary of the Board of Managers on behalf of the Association.

Article XIII. Amendment of Declaration and By-Laws.

A. Procedure. This Declaration and the By-Laws may be amended by an affirmative vote of Unit Owners entitled to exercise seventy-five percent (75%) of the voting power of the Association and the filing with the Recorder of Summit County, Ohio an instrument in

writing setting forth specifically the item or items to be amended and any new matter to be added, which instrument shall have been duly executed by at least two members of the Board. Said instrument shall certify that the Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association have signed a written acceptance of said amendment and that said written acceptance is on file with the Secretary of the Board. Such recorded amendment must be executed by said officers with the same formalities as this instrument and must refer to the volume and page in which this instrument and its attached exhibits are recorded.

B. Developer's Consent. No amendment shall have any effect upon the Developer or the rights of the Developer until and unless the written consent to such amendment is received from the Developer. Such consent shall be retained by the Secretary of the Association and his certification in the instrument of amendment as to the names of the consenting and non-consenting mortgagees of the various Units shall be sufficient for reliance by the general public. The Developer's right to notice of and consent to an amendment shall terminate upon the 5th anniversary of this Declaration, or upon the sale of all of the Units, whichever shall first occur.

Article XIV. Remedies for Breach of Covenants and Regulations.

A. Abatement and Enjoinment. The violation of any restrictions, conditions or regulations adopted by the Association or the breach of any covenants or provisions contained in the Declaration or in

the By-Laws of the Association shall give the Association and/or any Unit Owner the right, in addition to the rights hereinafter set forth in this Article, to take such action as it deems appropriate to cure, prevent, enjoin, abate or remedy any breach or continuance thereof, including appropriate legal proceedings, either at law or in equity.

B. Involuntary Sale. If any Unit Owner or Occupant of such Owner's Unit or any guest or invitee of either shall violate any of the covenants or restrictions or provisions of this Declaration, the By-Laws, or any rule or regulation of the Association, and such violation shall continue for thirty (30) days after notice in writing from the Association, or shall occur repeatedly during any thirty (30) day period after written notice of request from the Association to cure such violation, then the Association shall have the power to issue to the defaulting Owner a ten (10) day notice in writing to terminate the rights of said defaulting Owner to continue as an Owner and to occupy, use or control such Owner's Unit and thereupon an action in equity may be filed by the Association against the defaulting Owner for a decree of mandatory injunction against the Owner and/or Occupant to cure such violation, or, in the alternative, a decree declaring the termination of the defaulting Owner's right to own, occupy, use or control the Unit on account of the breach of covenant and ordering that all the right, title and interest of the Owner in the Unit be sold at a judicial sale upon such notice and terms as the Court shall establish, except that the Court shall enjoin and restrain

the defaulting Owner from re-acquiring his interest at such judicial sale. The Association, however, may acquire said interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, reasonable attorney's fees, and all other expenses of the proceedings, and all such items shall be taxed against the defaulting Owner in said decree. Any balance of proceeds shall be applied to the payment of mortgages and liens, including liens for assessments, against the Unit in the order of their priority as determined by the Court. The balance, if any, shall be subject to the order of the Court. Upon the confirmation of such sale the purchaser shall receive a deed to the Unit and shall be entitled to immediate possession of the Unit and may apply to the Court for an appropriate writ for the purpose of acquiring such possession. It shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the Unit subject to this Declaration and the By-Laws.

Expenses and Legal Fees.

All costs and expenses, including reasonable attorneys fees, incurred by the Association and/or any Unit Owner with respect to (i) remedying a violation of any restriction, condition, rule or regulation adopted by the Association, or (ii) remedying the breach of any covenant, condition, restriction or provision contained in the Declaration or By-Laws, or (iii) enforcing any restriction, condition, rule, regulation, covenant, or provision adopted by the Association or contained in the Declaration or By-Laws shall be the responsibility of and shall be paid by the Unit Owner(s) violating

such restriction, condition, rule, regulation, covenant, or provision. All costs and expenses, including reasonable attorney's fee, incurred by the Association, and or Board Member, or Officer of the Association, as a result of any suit or action against the Association, any Board Member, or Officer, by or on behalf of any Unit Owner, shall be the responsibility of, and shall be paid by the Unit Owner, on whose behalf, such action was instigated, unless a Court of Competent Jurisdiction expressly determines the claim by or on behalf of said Unit Owner against the Association, the Board Member, or Officer, and in favor of said Unit Owner, and in conjunction therewith, expressly finds that the Unit Owner is entitled to reimbursement of cost and expenses, including attorney's fees. In any judicial proceeding, the amount of such fees, costs, and expenses shall be added to and made part of any judgment, whether such judgment is affirmative or is in the negative such as a dismissal of the claim of a Unit Owner against the Association or any Board member. Any costs, expenses, including reasonable legal fees incurred by the Board or the Association in any judicial or non-judicial proceeding to collect, enforce, or defend any right or remedy shall be deemed to be a special individual Unit assessment against the violating Unit Owners involved in the proceeding, allocated among such Unit Owners in proportion that the percentage interest in the Common Areas of each Unit Owners involved bears to the aggregate percentage of Unit Owners involved in the proceeding and will be assessed and enforced as such as provided herein.

Article XV. Additions to Condominium Property.

Developer hereby explicitly reserves the right and option to expand the Condominium Property by submitting the Additional Property or portions thereof from time to time, to the provisions of this Declaration and the By-Laws and Chapter 5311 of the Ohio Revised Code, and to amend this Declaration in such respects as Developer may deem advisable in order to effectuate such submission or submissions, including, without limiting the generality of the foregoing, the right to amend this Declaration so as:

1. To include the Additional Property or portions thereof and the improvements constructed thereon as part of the Condominium Property, and
2. To add Drawings thereof to Exhibit C.
3. To add, expand, adjust, extend, and modify the easements so as to serve and include the Additional Property, and
4. To provide that the Owners of Units on the Additional Property will have an interest in the Common Areas of the Condominium Property and to amend Article V. hereof and Exhibit D, so as to establish the percentage of interest in the Common Areas which the Owners of all Units within the Condominium Property will have at the time of such amendment or amendments. Each percentage shall be, with respect to each Unit, in the proportion that the square footage of each Unit at the date said amendment is filed for record bears to the then aggregate square footage of all Units on the Condominium Property as expanded by the

amendment, which determination shall be made by Developer and shall be conclusive and binding upon all Unit Owners.

Notwithstanding any other provision of this Declaration to the contrary, Developer's option to expand the Condominium Property and to amend the Declaration and By-Laws pursuant to said option does not require the consent of any person or entity. Developer is not subject to any limitations on its option to expand unless said limitation is expressly provided in this Article.

Developer's reservation of rights under this Article shall expire seven (7) years from the date this Declaration is filed for record unless Developer elects to renew his right to expand for an additional seven (7) year period. Said election to renew the right to expand shall be exercised within six (6) months prior to the expiration of the original seven (7) year period. Said election shall be made in writing to the Secretary of the Association. Said written election shall be accompanied by the written consent of the majority of the Unit Owners other than the Developer. The only circumstances that will terminate this expansion option prior to the time limits described above would be completion of the entire projected possible development of this condominium by the inclusion of the maximum number of units or unless Developer, by written notice to the Association, elects to waive said expansion option effective at a time prior to the expiration of said seven (7) year period.

Developer is not required to add all, or any particular portion, of the Additional Property to the Condominium Property.

There are no limitations in regard to which portions of the Additional Property may be added to the Condominium Property and the portions of the Additional Property added to the Condominium Property need not be immediately adjacent to the Condominium Property. Developer is free to fix boundaries of any portion(s) of the Additional Property for the purpose of adding said portion(s) to the Condominium Property, and there are no limitations as to the order in which portions so designated by Developer may be added.

There are no limitations to the location of any improvements that may be made on any portion of the Additional Property added to the Condominium Property. The maximum number of Units that may be created on the Additional Property is 26, making a total of 38 Units in the entire development. The maximum number of Units per acre that may be created on any portion of the Additional Property is 4.32. The foregoing shall neither limit nor restrict nor be so construed as to limit or restrict the number of dwelling units that may be constructed on all or any portion of the Additional Property that is not added to the Condominium Property.

All Units that may be created on the Additional Property and added to the Condominium Property will be restricted exclusively to residential use, except that the Developer shall have the right to use one or more Units for business or promotion purposes, including but not limited to sales offices and model Units.

Any structures erected on any portion of the Additional Property added to the Condominium Property need not be compatible with structures on the previously submitted property in terms of

quality of construction, the principal materials to be used or architectural style. Units created on any portion of the Additional Property need not be substantially identical to Units on previously submitted land. There are no limitations as to what types of Units may be created on the Additional Property and added to the Condominium Property.

In addition to the actual condominium units to be placed upon the Additional Property, sewer, water, gas, electric and other utility lines, road systems and landscaping must be added to the Additional Property to complete any additions. There are no restrictions or limitations upon improvements that may be made on any portion of the Additional Property added to the Condominium Property.

The Developer reserves the right with respect to all or any portion of the Additional Property added to the Condominium Property, to create limited common areas (LCA's). There is no restriction that such LCA's be of substantially the same type, size and number as those then so designated as LCA in the Condominium Property.

Article XVI. Sale of a Unit.

A. Sale. Any Unit Owner other than Developer who wishes to sell a Unit or any interest therein shall give to the Board no less than fifteen (15) days prior written notice of the terms of any contemplated sale, a copy of the proposed purchase agreement which shall include all the material terms of the sale including the name and address of the proposed purchaser. The Board acting on behalf

of all Unit Owners shall at all times have the first right and option to purchase such Unit upon the same terms, which option shall be exercisable for a period of thirty (30) days following the date of receipt of such notice. If said option is not exercised by the Board within the aforesaid period, the Unit Owner may, at the expiration of said period, sell such Unit to the proposed purchaser named in such notices upon exactly the same terms as set forth in the copy of the proposed sale submitted to the Board. If the sale is not so completed or if there is any material deviation in the terms, the altered proposal and any subsequent offer to sell the Unit shall be subject to option in favor of the Board as set forth herein.

B. Release, Waiver, and Exceptions to Option. Upon the written consent of two (2) members of the Board, any of the options contained in this Article may be released or waived. The Board's action to release or waive the operation of this Article as to any Unit is within the sole discretion of the Board, and not subject to review by the Association or any Unit Owner.

C. Financing of Purchase Under Option. Funds for the acquisition of a Unit by the Association under the provisions of this Article may, in the discretion of the Board, be obtained from cash on hand, assessment of all Unit Owners, borrowing, or any combination thereof provided, however, that no financing may be secured by an encumbrance or hypothecation of any portion of the Condominium Property other than the Unit to be acquired. The loans documents evidencing such borrowing may be executed by the members

of the Board, a nominee of the Board, or by a land trust of which the Association shall be the beneficiary.

D. Title to Acquired Interests.

Units acquired pursuant to the terms of this Article shall be held of record in the name of the Association or by a land trust of which the Association shall be the beneficiary. Said Unit may be sold or leased by the Board and the proceeds thereof may thereafter be disbursed at such time and in such manner as the Board may determine.

Article XVII. Condominium Instrument Requirements.

A. General. Chapter 5311 of the Ohio Revised Code requires that certain information be provided in the Condominium Instruments. Much of this is provided elsewhere in the Declaration and By-Laws 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.

B. Deposits. Any deposit or down payment made in connection with a sale of a Unit by Developer 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 purchaser, or forfeited to the Developer. If, in the case of any such sale, a deposit or down payment of Two Thousand Dollars (\$2,000.00) or more is held for more than ninety (90) days, interest at the rate of at least four percent (4%) per annum for any period exceeding ninety (90) days shall be credited to the purchaser at the time of the closing of the sale or upon return or other credit made to the purchaser, or

added to any forfeiture to the Developer. Deposits held in trust or escrow pursuant to sales by Developer or its agent shall not be subject to attachment by creditors of Developer or the purchaser.

C. Association Control. Except in its capacity as a Unit Owner of unsold Units and consistent with this Declaration as is necessary to insure ingress and egress to and from Common Areas by prospective Unit Owners in the Additional Property, Developer or its agent will not retain a property interest in any of the Common Areas after control of the Condominium Property is assumed by the Association. The Owners of Units that have been sold by Developer or its agent will assume control of the Association and the Common Areas, as elsewhere provided herein and in compliance with the requirements of Section 5311.08 of the Ohio Revised Code. 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 Unit Owners other than Developer for more than one (1) 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 By-Laws as required by Section 5311.08 of the Ohio Revised Code.

D. Limited Warranty. The following are the limited warranties (and limitations thereon) which Developer gives to persons who purchase Units constructed by Developer directly from Developer, which are not enforceable by the purchasers unless and until the sale of the Unit to the purchasers is closed.

1. Units. Except as provided in subparagraph 3 below,

Developer 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 each Unit occasioned or necessitated by defects in material or workmanship that arise within a period of one (1) year from the date the deed to the purchasers for that Unit is filed for record to good faith.

2. Common Areas Developer 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 Property or Additional Property as a whole, occasioned or necessitated by defects in material or workmanship that arise within a period of two (2) years as set forth herein. With respect to Condominium Property described on Exhibit A hereto the two (2) year period shall commence on the date the deed is filed for record following the sale of the first Unit in the condominium to a purchaser in good faith for value. With respect to Additional Property or any portion thereof the two (2) year period shall commence on the date the deed is filed for record following the sale of the first Unit in the portion of the Additional Property added to the condominium to a purchaser in good faith for value.
3. Appliances, etc. In the case of ranges, refrigerators,

washing machines, clothes dryers, hot water heaters and other similar appliances, if any, installed and furnished by Developer as part of the Unit, Developer assigns to the purchasers all express and implied warranties of the manufacturer, and Developer's warranty with respect to such items is limited to Developer's warranty that the same have been properly installed.

4. Extended Warranties. Developer assigns to the purchasers any warranties made to Developer that exceed the time period for warranties the Developer has given to the purchasers by this limited warranty.
5. Limitations.
 - a. No responsibility is assumed for damage from any cause, whatsoever, other than to repair or replace, at Developer's costs, items containing defects covered by Developer's warranty.
 - b. No responsibility is assumed for consequential or incidental damage except to the extent, if any, not permitted to be excluded or limited by law.
 - c. Implied warranties, if any, including any implied warranties of merchantability or fitness for any particular purpose, are limited to two (2) years from the date on which the Unit is deeded to the purchaser, except to the extent, if any, that limitation is not lawful.
 - d. These written warranties are the only express warranties Developer gives to the purchaser unless additional warranties are included in a written contract between Developer and the purchasers.
 - e. Any request for service must be sent in writing to the Developer at P.O. Box 344, Kent, Ohio 44240 or at such other address as Developer may designate, from time to time, in writing to the purchasers. Developer or Developer's designated representative will commence performance of Developer's obligations under this warranty within thirty (30)

days after receipt of the purchaser's request for service, and complete the same as soon as reasonable possible. All repairs and adjustments will be made Monday through Friday, 8:00 a.m. to 5:00 p.m.

6. Other Rights. This written limited warranty gives the purchasers specific legal rights and the purchasers may also have other legal rights under law.

E. Developer's Obligations. Developer 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 the date this Declaration is filed for record.

Article XVIII. Miscellaneous Provisions.

A. Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges and the jurisdiction, rights and powers created or reserved by this Declaration and the By-Laws, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land and shall inure to the benefit of such owner in like manner as though the provisions of the Declaration and the By-Laws were recited and stipulated at length in each and every deed of conveyance.

B. No covenant, restrictions, conditions, obligations or


provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any delay or failure to enforce the same irrespective of the number of violations or breaches which may occur.

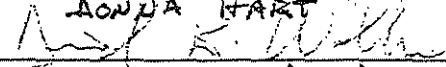
C. The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration or the By-Laws or any part of the same shall not impair or effect in any manner the validity, enforceability or effect of the rest of this Declaration.

D. The headings set forth in this Declaration are inserted as a matter of convenience only and are for reference and in no way define, limit, or describe the scope or intent of this Declaration nor in any way effect this Declaration.

E. All rights and remedies available to the Association, the Board, or any Officer, whether contained in this Declaration, the Bylaws, any rule or regulation adopted by the Board or the Association, or at law, or in equity, are cumulative and maybe exercised concurrently, or consecutively, and as often as the occasion therefore arises.

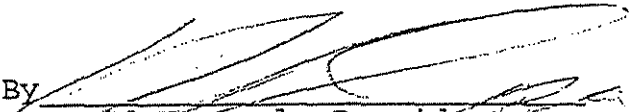
IN WITNESS WHEREOF, this Declaration is made this 24 day of August, 1999.



AONUA HART


DAVID K. WILLIAMS

DACATH DEVELOPMENT COMPANY, INC.

By 

David Krummel, President

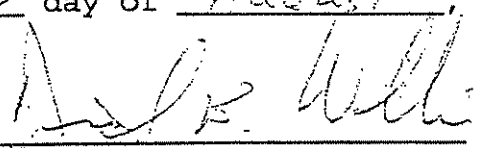
STATE OF OHIO

SS

COUNTY

Before me, a Notary Public in and for said County and State, personally appeared the above named DACATH DEVELOPMENT COMPANY, INC., by DAVID KRUMMEL its PRESIDENT who acknowledged that he did sign the foregoing instrument, and that the same is the free act and deed of said Corporation, and free act and deed of him personally and as such officer.

In Testimony Whereof, I have hereunto set my hand and official seal, at , Ohio, this 20 day of August, 1999.


Notary Public

David E. Williams

Notary Public for State of Ohio
My commission bears expiration date.
R.C. 147.03

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EXHIBIT E

HILLTOP TERRACE CONDOMINIUM ASSOCIATION, INC.

BY-LAWS

ARTICLE I

INTRODUCTION AND DEFINITIONS

Section 1.1 Introduction.

The within By-Laws are for Hilltop Terrace Condominium Association, Inc., a not for profit Ohio Corporation created pursuant to the provisions of Chapter 1702 of the Ohio Revised Code.

Section 1.2 Definitions.

All of the terms used herein have the same meaning as set forth in the Declaration of Condominium for Hilltop Terrace Condominium, as amended, recorded with the Summit County Ohio Recorders Office.

Section 1.3 Applicable Laws.

The Association shall be subject to and governed by the provisions of any statute adopted at any time and applicable to Chapter 1702 of the Ohio Revised Code; provided however, that all inconsistencies between or among the permissive provisions of any statute and any provision of the Declaration and these By-Laws, shall be resolved in favor of the Declaration and these By-Laws, and any inconsistencies between any provision of the Declaration and these By-Laws and the mandatory provisions of any statute shall be resolved in favor of the statute. In the event of any conflict or inconsistency between the provisions of the Declaration and the Articles or By-Laws of the Association, the terms and provisions of

the Declaration shall prevail.

ARTICLE II

THE ASSOCIATION

Section 2.1 Name and Purpose of the Association.

The name of this Association shall be Hilltop Terrace Condominium Association, Inc., and its sole purpose shall be to manage, govern, administer, operate, and control the Hilltop Terrace Condominium in accordance with the Declaration, these By-Laws, the Articles, and applicable law.

Section 2.2 Membership.

Each Unit Owner, upon acquisition of title to a Unit within the Condominium, shall be a member of the Association. Such membership shall terminate upon the sale or other disposition of the Unit by such Unit Owner, at which time the new Unit Owner of such Unit shall become a member of the Association.

Section 2.3 Voting Power.

Each Unit shall have one vote, the voting power of which shall be equal to said Unit's percentage interest in the Common Areas. If two or more persons own undivided interests in a Unit, each may exercise the proportion of the voting power equivalent to such persons proportionate interest in the Unit.

Section 2.4 Annual Meeting of Unit Owners.

The first meeting of the Unit Owners shall be held in Summit County, Ohio, at a place and time determined by Developer. There shall be annual meetings of the Unit Owners held in Summit County, Ohio, in the first calendar quarter of each year unless a different

time is established by a vote of a majority of the Unit Owners at an annual meeting. The Board shall set the date, place, and hour of the annual meeting and shall notify Unit Owners as required herein. The purpose of the annual meeting is to elect the necessary members to the Board for the year ensuing and to transact any other business authorized to be transacted by Unit Owners. At the annual meeting, the President and Treasurer shall submit reports in writing for the year ending. The order of business at the annual meeting shall be:

- a. election of a chairperson of the meeting
- b. calling of the roll and certifying proxies
- c. proof of notice of the meeting or waiver of notice
- d. reading and disposal of any unapproved minutes
- e. reports of officers
- f. reports of committees
- g. election of inspectors of election
- h. election of directors
- i. old business
- j. new business
- k. adjournment

2.5 Special Meetings of Unit Owners.

A special meeting may be called by the President, by the Board, by Unit Owners constituting at least twenty-five percent (25%) of the voting power, and when required by Chapter 1702 of the Ohio Revised Code. Any business to be transacted at any special meeting shall be set forth in the notice of such meeting.

2.6 Quorum.

To constitute a quorum at the annual or any special meeting, at least fifty percent (50%) of the voting power of all Unit Owners must be present at such meeting in person or by proxy. At any meeting at which a quorum is present, all questions and business shall be determined by a majority vote of those present, in person or by proxy, except as may be otherwise expressly provided in the Articles, Declaration, these By-Laws, or required by law.

2.7 Proxy.

Unit Owners may vote or act in person or by proxy. The person appointed as proxy need not be an Unit Owner. Designation by an Unit Owner of a proxy to vote or act on such Owner's behalf shall be in writing, shall be filed with the Secretary of the Association at or before the meeting in which such proxy is to be used, and shall be revocable at any time; provided, however, that revocation of a proxy shall not effect any vote or act previously taken or authorized.

2.8 Actions Without a Meeting.

All actions which may be taken at a meeting of the Association may be taken without a meeting provided written notice of the action to be taken is given ten (10) days in advance to all Unit Owners. Any action taken shall be evidenced by a written consent of the Unit Owners with the requisite percentage of Unit Owners approving such action as is required by the Articles, Declaration and By-Laws. Such writing shall be filed with the minutes and proceedings of the Association. Such writing may be circulated and

signed by the Unit Owners in counterparts.

2.9 Notice.

Written notice of any meeting of the Unit Owners shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by (i) mailing a copy of such notice, postage prepaid, addressed to the Unit Owner's residence within the Condominium or to such other address as such Unit Owner has supplied to the Association in writing for the purpose of notice, (ii) hand delivering a copy of such notice to such Unit Owner, or (iii) electronically transmitting such notice to the Unit Owner at such address as the Unit Owner has designated in writing to the Association for the receipt of notice. The notice shall be sent, delivered or transmitted at least 10 days prior to the date of the meeting and shall specify the place, day, and hour of the meeting, and shall include the agenda for the meeting. The attendance of any Unit Owner at any meeting, without protesting lack of proper notice prior to or at the commencement of the meeting, shall be deemed to be a waiver by such Unit Owner of notice of such meeting. Such notice may also be waived in writing, either before or after the holding of such meeting by any Unit Owner, which writing shall be filed with or entered upon the records of the meeting.

ARTICLE III

BOARD OF MANAGERS

Section 3.1 Structure.

The Board initially shall be those three (3) persons named as

the initial Trustees pursuant to the provisions of the Articles of the Association. At the first annual meeting of the Owners, five (5) Board members shall be elected to replace all of those Board members earlier appointed by Developer. The term of office of the five (5) Board members so elected shall be as follows:

Two (2) Board members shall be elected for a term to expire at the annual meeting following his election.

Two (2) Board members shall be elected for a term to expire at the second annual meeting following his election.

One (1) Board member shall be elected for a term to expire at the third annual meeting following his election.

Thereafter, all Board members elected shall serve three (3) year terms.

Section 3.2 Number and Qualifications.

The Board shall consist of five (5) persons, all of whom, except as otherwise provided, must be Unit Owners. The spouse of an Unit Owner who is not the Unit Owner of any fee interest may serve as a member of the Board. No Board member appointed by Developer need be an Unit Owner.

Section 3.3 Election of Board Members; Vacancies.

The Board members shall be elected at each annual meeting of Unit Owners or at a special meeting called for the purpose of electing Board members. At a meeting of Unit Owners at which Board members are to be elected, only persons nominated as candidates shall be eligible for election as Board members and the candidates receiving the greatest number of votes shall be elected. Election of Board members shall be by secret written ballot. In the event of any vacancy the remaining Board members shall, by majority vote,

elect a person to fill the vacancy. Such person selected by the Board to fill the vacancy shall serve until the next annual meeting of Unit Owners, at which time the Unit Owners shall elect on a person to fill the unexpired term of the Board member causing the vacancy.

Section 3.4 Term of Office; Resignation.

Each Board member shall hold office until a successor is elected and takes office, or until resignation, removal from office, or death, whichever is earlier. Any Board member may resign at any time by a writing to that effect delivered to the Secretary of the Association. Members of the Board shall serve without compensation, however, Board members may be reimbursed for actual expenses incurred in the performance of duties.

Section 3.5 Organizational Meeting.

Immediately after each annual meeting of Unit Owners, the newly elected Board members and those Board members whose terms hold over shall hold an organizational meeting for the purpose of electing Officers and transacting any other business. Notice of such meeting need not be given.

Section 3.6 Regular Meetings.

Regular meetings of the Board shall be held at least once each calendar quarter at such times and places as shall be determined by a majority of the Board members.

Section 3.7 Special Meeting.

Special meetings of the Board may be held at any time upon call by the President or any three (3) Board members. Written

notice of the time and place of each such meeting shall be given to each Board member, either by personal delivery or by mail, telegram, electronically including telefax or e-mail, or telephone at least twenty-four (24) hours before the meeting, which notice shall specify the purposes of the meeting. The attendance of any Board member at any such meeting, without protesting lack of proper notice prior to or at the commencement of the meeting, shall be deemed to be a waiver by such Board member of notice of such meeting. Such notice may also be waived in writing, either before or after the holding of such meeting by any Board member, which writing shall be filed with or entered upon the records of the meeting. Provided the notice as required herein is given and minutes of the meeting are kept and journalized in the Board Minute Book, meetings may be conducted by telephone or other process allowing communication among all parties present.

Section 3.8 Actions Without a Meeting.

All actions which may be taken at a meeting of the Board, may be taken without a meeting with the unanimous consent in writing of all of the Board members. Such writing or writings, signed by each Board member shall be filed with the minutes and proceedings of the Board.

Section 3.9 Quorum.

A quorum of the Board shall consist of a majority of the Board members then in office; provided that a majority of the Board members present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time. If any

meeting is adjourned, notice of such adjournment shall be given to all Board members. At each meeting of the Board at which a quorum is present, all questions and business shall be determined by a majority vote of those present, in person or by proxy, except as may be otherwise expressly provided in the Articles, Declaration, these By-Laws, or required by law.

Section 3.10 Removal.

At any regular or special meeting of the Unit Owners duly called, at which a quorum shall be present, any one or more of the Board members may be removed, with or without cause, upon the affirmative vote of the majority of voting power the Unit Owners present in person or by proxy at such meeting. Any Board member whose removal has been proposed shall be given an opportunity to be heard at such meeting.

Section 3.11 Powers of the Board.

The Board shall exercise all powers and authority of the Association under law, and as otherwise provided in the Articles, these By-Laws and the Declaration, and as shall be delegated to it by the Association. By way of illustration and without limiting the generality of the foregoing, the Board shall have the right, power, and authority to:

- a. Take all actions deemed necessary or desirable to comply with the law, the Articles, the Declaration, and these By-Laws;
- b. Enforce the covenants, restrictions, and conditions set forth in the Declaration and these Bylaws;
- c. Establish, enforce, levy, and collect assessments as provided in the Declaration and these By-Laws;

- d. Delegate management of the Association to the extent and in the manner authorized by the Articles, and Declaration and authorize the officers to enter into one or more management agreements in order to facilitate the efficient operation of the Association;
- e. Procure and maintain insurance as provided in the Articles.

Section 3.12 Duties of the Board.

It shall be the duty of the Board to:

- a. Cause to be kept a complete record of all of 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 where such statement is requested in writing by Unit Owners representing at least fifty percent (50%) of the voting power of all Unit Owners.
- b. Supervise all officers, agents, contractors, and employees of the Association and see that their duties are properly performed;
- c. Establish, enforce, levy, and collect assessments as provided in the Declaration;
- d. Cause all covenants, conditions, and restrictions set forth in the Declaration to be enforced;
- e. Take all other actions required to comply with all requirements of the law, the Articles, the Declaration, and these By-Laws.

ARTICLE IV

OFFICERS

Section 4.1 Election and Designation of Officers; Committees.

At the first meeting of the Board in each year held after the annual meeting of the Unit Owners, the Board shall elect officers and designate such employees as it shall determine. The Board may also appoint an executive committee or special committees. The officers of the Association shall be a President, Vice President,

Secretary, and Treasurer, and such other officers as the Board shall determine. Board members may be officers but officers need not be members of the Board. An officer must be an Unit Owner, or the spouse of an Unit Owner. One person may hold more than one office.

Section 4.2 Term of Office, Removal, Vacancies.

The officers of the Association shall be elected for a term of one (1) year by the Board and serve until their successors are elected and take office, resignation, removal, or death, whichever is earlier. Any officer or employee elected or appointed by the Board may be removed at any time upon a vote of a majority of the whole Board. Any vacancy in any office may be filled by a vote of the majority of the remaining Board.

Section 4.3 Duties of Officers.

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 Unit Owners, shall have authority to see that all orders and resolutions of the Board and Unit Owners are carried out, and shall sign all legal instruments on behalf of the Association.
- b. Vice President. In the absence or disability of the President, the Vice President will perform all the duties of the President, and when so acting will have all the powers of the President.
- c. Secretary. The Secretary shall record the votes and keep the minutes and proceedings of the meetings of the Board and of the Unit Owners, serve notices of meetings of the Board and of the Unit Owners, and keep appropriate, current records showing the names of Unit Owners of the Association together with their addresses.

- d. Treasurer. The Treasurer shall assume the responsibility of the receipt and deposit of all monies of the Association, the disbursement of such funds as directed by resolution of the Board, the keeping of proper books of account, the preparation of an annual budget and a statement of income and expenditures to be presented to the Unit Owners at the annual meetings, and the delivery or mailings of a copy of each to each of the Unit Owners.

ARTICLE V

GENERAL PROVISIONS

Section 5.1 Books and Records of Association.

The Association shall keep full and correct books of account and the same shall be open for inspection by any Unit Owner or any representative of any Unit Owner duly authorized in writing, at reasonable times. Upon ten (10) days notice to the Board any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

Section 5.2 Annual Audit.

The books of the Association shall be reviewed once a year by the Board prior to the annual meeting. If requested by two (2) members of the Board, a review or an audit, as deemed necessary by the Board, shall be made by a certified public accountant. In addition and at any time requested by the Unit Owners holding at least fifty percent (50%) of the voting power, the Board shall cause an audit or a review (as requested) to be made by a certified public accountant or other person designated by the persons requesting the review or audit. The cost of any review or audit shall be part of the Common Expenses.

Section 5.3 Copies of Notice to Mortgage Lenders.

Upon written request to the Board, the holder of any recorded mortgage against any Unit within the Condominium shall be given a copy of any or all notices permitted or required by the Declaration or these By-Laws to be given to the Unit Owner whose Unit subject to such mortgage. The Association shall incur no liability for failure to provide mortgagees with copies of such notices.

Section 5.4 Non-waiver of Covenants.

No covenants, restrictions, conditions, obligations or provisions contained in the Declaration, the Articles, or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 5.5 Severability.

The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these By-Laws.

Section 5.6 Amendment.

These By-Laws may be amended by the affirmative vote of a majority of the Unit Owners.