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MONTGOMERY CO., OHIO

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FIFTH AMENDMENT

TO THE DECLARATION OF CONDOMINIUM
WHICH ESTABLISHED A PLAN FOR CONDOMINIUM OWNERSHIP
AND IMPOSED
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE PROJECT KNOWN AS

TIMBERLODGE CONDOMINIUM

A copy of this Fifth Amendment
has been filed with the office
of the Auditor of Montgomery
County, Ohio

Auditor should place his
filing stamp here.

Prepared by:

box
JAMES R. GOULD
of the law firm of
Altick & Corwin
1300 Talbott Tower
Dayton, Ohio 45402
Telephone: 513/223-1201

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MONTGOMERY COUNTY
AUDITOR
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**FIFTH AMENDMENT
TO THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR
TIMBERLODGE CONDOMINIUM**

This Fifth Amendment is made and entered into for the purpose of amending the condominium Declaration for Timberlodge Condominium.

(A) Previous Recording Information. The original condominium documents and subsequent amendments to those documents, have been recorded in the Deed and Plat Records of Montgomery County, Ohio, as follows:

<u>Item Recorded</u>	<u>Date</u>	<u>Microfiche</u>	<u>Plat Book, Page</u>
Declaration, By-Laws, Articles of Incorporation and Drawings of this Development while it was known as Woodbridge Condominium	6/3/74	<u>74 253A01</u>	B. 97, P. 13
Amendment No. 1 to Woodbridge Condominium	7/31/78	78 405C07	None
Declaration, By-Laws Articles of Incorporation and Drawings which completely revised Woodbridge and changed it to Timberlodge Condominium	9/29/78	78 551A01	B. 106, P. 41
First Amendment to Declaration of Condominium for Timberlodge	1/4/79	79 007B08	B. 107, P. 5
Affidavit for First Amendment	1/29/79	79 041E02	None

Second Amendment to the Declaration of Condominium	6/12/79	79 292A08	B. 107, P.61
Third Amendment to the Declaration of Condominium	10/30/79	79 581C02	B. 107, P.21
Fourth Amendment to the Declaration of Condominium	7/17/81	81 305D01	B. 117, P.4-

(B) Purpose of this Fifth Amendment to Timberlodge Condominium. The purpose of this Fifth Amendment is not to add or annex any land or buildings whatsoever. Instead, it is to improve the procedures available to collect assessments, to assist the unit owners association (Timberlodge Homeowners' Association) in enforcing the documents by providing an additional penalty applicable to violations, and to add a first refusal clause for conveyances of condominium units giving the Association the right to match any offer from an outside purchaser.

(C) Compliance with Requirements of the Declaration as to Amendments. This Fifth Amendment is made under the provisions of Section 23.15 on page 57 of the original Declaration which grants to the Association the power to amend the Declaration by the affirmative vote, or by written consent, of those persons holding not less than eighty percent of the voting power of the Association. This condominium was created by a Declaration filed September 29, 1978, and under the language of Sections 12.2 and 12.3 on pages 21-22 of that Declaration the Declarant, as the sole Class B member, holds ninety percent of the total voting power of all association members until September 29, 1985 or when all units have been conveyed to owners other than the Declarant and not controlled by the Declarant, whichever occurs earlier. The Declarant has cast its ninety percent of the votes in favor of this Fifth Amendment and has also signed this Fifth Amendment.

(D) Amendment of Section 13.5 of the Declaration (acceleration of unpaid assessments). At the present time the Declaration provides that if the monthly assessment for any unit is not paid in full in sixty days, the Association has the right to declare the assessments for all remaining months of that year for that unit to be due and payable immediately. Through this amendment

that time period of sixty days would be shortened to thirty days, in order to assist the Association's efforts to collect assessments on time and thus have sufficient funds to operate this condominium without borrowing money from banks. As amended this Section 13.5 is set forth below, with any new words being typed in CAPITAL LETTERS and with any words deleted being typed with dashes through them (words-deleted):

"Section 13.5 When Monthly Assessments are Payable. The monthly assessment amounts to be paid with regard to each unit shall be due and payable in advance on or before the first day of each calendar month. If any monthly assessments for any unit is not paid in full within THIRTY (30) ~~sixty (60)~~ days after said due date, then, at the option of the Association, AND WITHOUT NECESSITY OF PRIOR NOTICE, the assessments for the remaining months of the fiscal year, with regard to that unit, shall accelerate so that the total amount of assessments for said unit in that fiscal year of the Association shall be considered to be due and payable immediately."

(E) Amendment of Section 13.10 of the Declaration (interest on delinquent assessments). The Declaration now provides that assessments not paid within thirty days after the due date are to bear interest at eight percent. That interest rate is unrealistic in the present economy, and if assessments are not paid when due the Association may be required to borrow from banks at much higher interest rates in order to have sufficient working capital. Accordingly, this Section 13.10 of the Declaration is hereby amended to change the interest rate from "...eight (8%) percent per annum..." to the interest rate formula set forth below:

"...an interest rate equal to the prime rate then charged by Winters National Bank and Trust Co. (its successors and assigns) for its operations in the area of Dayton, Ohio, with the interest rate thus applicable on the thirty-first day after the due date of an unpaid assessment to remain in effect until the delinquency is corrected,..."

State of Ohio, County of Montgomery, ss:

The foregoing document was acknowledged before me on
this 26 day of June, 1981 by Donald A. Moeller
as President and by Marvin Shultz
as Vice President-Secretary of Timberlodge Homeowners
Association, an Ohio corporation, on behalf of that corporation.



Jeffrey S. Hendrickson
Notary Public

JEFFREY S. HENDRICKSON, Notary Public
In and for the State of Ohio
My Commission Expires May 30, 1983

ASSIGNMENT

In consideration of \$1.00 and other good and valuable considerations paid by 33-A Corp. to Terra Firma Buildings Contractors, Inc. (Terra Firma), the receipt and sufficiency of which is hereby acknowledged, Terra Firma hereby assigns, transfers and conveys to 33-A Corp. all right, title and interest of Terra Firma as the Declarant under the Declaration of Condominium that established Timberlodge Condominium in Washington Township, Montgomery County, Ohio. By executing this Assignment Terra Firma intends to transfer, and does so transfer, its status as Declarant of Timberlodge Condominium to 33-A Corp. from the date of this Assignment onward.

IN WITNESS WHEREOF, Terra Firma Building Contractors, Inc. and Ohio corporation, has executed this Assignment on this 26th day of JUNE, 1981.

Signed and Acknowledged
in the presence of:

TERRA FIRMA BUILDING
CONTRACTORS, INC.

[Signature]

BY [Signature]
Donald R. Moultney, President

[Signature]

State of Ohio, County of Montgomery, ss:

The foregoing Assignment was acknowledged before me this 26 day of JUNE, 1981, by Terra Firma Building Contractors, Inc., an Ohio corporation, through Donald R. Moultney, its President, acting on behalf of the corporation.

[Signature]
Notary Public

Notary Public
in the State of Ohio
My Commission Expires May 3, 1986

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EXHIBIT A-4

Description of Real Estate that Constitutes Section Four of
Timberlodge Condominium.

Situated in Section 36, Town 3, Range 5 MRs, Washington Township, County of Montgomery, State of Ohio, and being a part of Lot 1 Woodbridge as recorded in book 94, page 40 in the Plat Records of Montgomery County, Ohio, and being more particularly described as follows:

Beginning at the southeast corner of said Lot 1 Woodbridge; thence with the south line of said Lot 1 Woodbridge, South eighty-seven degrees five minutes forty-five seconds ($87^{\circ} 05' 45''$) West for two hundred twenty-nine and $86/100$ (229.86) feet; thence North three degrees seven minutes forty-five seconds ($3^{\circ} 07' 45''$) East for one hundred eighty-five and $19/100$ (185.19) feet; thence North eighty-seven degrees forty minutes thirty seconds ($87^{\circ} 40' 30''$) East for twenty-five and $00/100$ (25.00) feet; thence North three degrees seven minutes forty-five seconds ($3^{\circ} 07' 45''$) East for one hundred forty and $00/100$ (140.00) feet; thence North eighty-seven degrees forty minutes thirty seconds ($87^{\circ} 40' 30''$) East for seventy-five and $00/100$ (75.00) feet; thence South three degrees seven minutes forty-five seconds ($3^{\circ} 07' 45''$) West for one hundred eighty-four and $17/100$ (184.17) feet; thence North eighty-seven degrees five minutes forty-five seconds ($87^{\circ} 05' 45''$) East for one hundred twenty-nine and $76/100$ (129.76) feet to a point in the east line of said Lot 1 Woodbridge; thence with the east line of said Lot 1 Woodbridge, South three degrees seven minutes forty-five seconds ($3^{\circ} 07' 45''$) West for one hundred forty and $00/100$ (140.00) feet to the point of beginning, containing 1.077 acres more or less and subject to all legal highways, easements, restrictions and agreements of record, according to a survey of said premises by Don F. Meek, Registered Surveyor, State of Ohio.

Subject to all conditions, limitations, restrictions and easements of record and to all legal highways.

Prior Deed Reference: Microfiche 80 572A03

Through this Exhibit A-4 it is noted that additional property in the form of easement rights has already been made a part of Timberlodge Condominium by the grant of easements to Timberlodge Homeowners' Association. These additional easement rights are as follows:

- (1) a non-exclusive perpetual easement granted over land lying west of this condominium development, so as to provide ingress and egress from and to Garnet Drive, by a Deed of Easement recorded at Microfiche 79 001D08;
- (2) a non-exclusive perpetual easement granted over land lying east of this condominium development, so as to connect a private driveway already included in the condominium (which driveway provides the access to State Route 725, sometimes referred to as West Centerville Road) with the rear or southern parts of Timberlodge Condominium by a private drive that curves to the east over the adjoining land and then bends back to the west and joins the easement to Garnet Drive referred to above, by a Deed of Easement recorded at Microfiche 81-242E03.

These easement rights, since they are owned by the Association, constitute Association Property as defined in Section 3.7 on page 8 of the Declaration. They are depicted in a drawing attached as page 5 of Exhibit B-4.

interest in a particular unit, or by any persons residing in that unit, or by any agents or employees or independent contractors or invitees of a person holding such an ownership interest shall be attributed to all of the owners of that particular unit."

(G) Enactment of New Section 23.19 of the Declaration (Association to have first refusal right to purchase resold units)
In order to protect the living environment of those persons who are presently owners of units in this condominium development the following language is added to the Declaration to give the Association the right to match any offer from an outside purchaser on the resale of any unit:

"Section 23.19. Right of First Refusal.
(a) Interdependence of Unit Owners. The success of this condominium project will depend in large part upon the various unit owners forming a congenial community, and it is hereby specifically recognized that the close proximity of one condominium unit to another will create an interdependence among owners of a substantial degree.

(b) Transfers subject to Right of First Refusal. Every sale, lease, rental, gift, devise, inheritance, mortgage or other transfer of any portion of or interest in a condominium unit shall be subject to the right of first refusal of the Association, except as provided in (c) immediately below.

(c) Mortgages and other Exempted Transfers. The right of first refusal created by this section of the Declaration shall not apply to the following types of transfer of any portion of or interest in a unit:

(1) To mortgages made to one of the following mortgagees: a life insurance company which has been licensed by the Ohio Department of Insurance to do business in this state, a savings and loan

(F) Amendment of Section 23.7 of the Declaration (additional penalties for violations). To provide the Association with additional penalties to use in obtaining compliance with the condominium documents, the following paragraph is hereby added to said Section 23.7:

"In addition to any other remedies provided in this Declaration for violation of or failure to comply with any term or condition of the condominium plan including the Association's rules and regulations (hereinafter referred to as a "violation") the Association shall have the right to levy and collect the Special Individual Unit Assessments set forth below, such assessments against particular units being described in Section 13.8 of this Declaration: (1) for the first violation occurring in a calendar year and attributed to the owner of a particular unit, such an assessment shall be levied against that unit in an amount from \$0 to \$50 as may be determined by the Board of Trustees, (2) for the second violation occurring in a calendar year and attributed to the same owner of that particular unit (whether or not it involved the same type of violation as the first or was a continuation or repetition of acts which constituted the first violation) such an assessment shall be levied against that unit in an amount from \$50 to \$100, (3) for the third violation occurring in a calendar year and attributed to the same owner of that particular unit (whether or not it involved the same type of violation as the first or second or was a continuation or repetition of acts which constituted the first or second violation) such an assessment shall be levied against that unit in an amount from \$100 to \$200, (4) for the fourth violation and every subsequent violation occurring in a calendar year and attributed to the same owner of that particular unit (whether or not it involved the same type of violation as any previous violation or was a continuation or repetition of acts which constituted any previous violation) such an assessment shall be levied against that unit in an amount from \$200 to \$300.
A violation by any person holding an ownership

association or a bank chartered or licensed by the federal government or by the State of Ohio, or a credit union with an office in and licensed to do business in the State of Ohio, or some other form of professional lending organization which has an office in and is licensed to do business in the State of Ohio.

(2) To foreclosure sales pursuant to a foreclosure by such an exempted mortgagee;

(3) To any transfer of title to such an exempted mortgagee pursuant to the remedies provided in the mortgage, or to transfers to an exempted mortgagee in lieu of foreclosure in the event of default by the mortgagor;

(4) To a transfer by sale or lease by an exempt mortgagee, after that mortgagee acquired an interest in a unit through one of the procedures described above as being exempt from the right of first refusal;

(5) To transfers made by the Declarant as long as the Declarant is conducting a marketing program to sell one or more units in this condominium development;

(6) To transfers by one joint tenant or tenant in common of his or her interest in a unit to another person or entity who already holds a co-ownership in that unit.

(7) To transfers to a spouse and/or to other members of the immediate family of an owner.

(d) Gift, Devise, Inheritance. Every record and/or beneficial owner who has obtained title to or an interest in a unit by gift, devise or inheritance shall give to the Association written notice of such acquisition of title or interest, including his or her name and address, each address where such party has resided during

the immediately preceding three years, a certified copy of the instrument evidencing such owner's title or interest, and such other information concerning the transaction and the parties as the Association may reasonably require prior to or upon receiving such notice. This notice shall be given to the Association no later than thirty days after such owner has obtained title to or an interest in a unit by gift, devise or inheritance.

For a period of forty-five days following its receipt of the notice referred to above and of all additional information reasonably required by the Association, the Association shall have a first refusal right and option to acquire such title to or interest in the unit as was transferred to the Owner by gift, devise or inheritance by purchasing such title or interest at its fair market value. This right and option may be exercised upon the same two-thirds vote or consent required under Section 13.7 for Special Assessments. This first refusal option must be exercised by the Association giving to the owner within said period of forty-five days written notice of such exercise, executed on behalf of the Association, and such notice of exercise shall constitute an agreement by the Association to make such purchase under the terms of this Declaration.

If the parties cannot agree on the fair market value within fifteen days after the written notice of exercise was given, it shall be determined by one appraiser selected and paid by the Association and a second appraiser selected and paid by the owner. Such appraisers shall be appointed within an additional period of ten days after the expiration of said fifteen days, and they shall make their agreed decision as to fair market value within an additional period of twenty days. If either party fails or refuses to designate an appraiser within the time period mentioned above, the fair market value shall be determined solely by the appraiser

selected by the other party. If said two appraisers cannot agree on the fair market value within the twenty day period of time, they shall select immediately a third appraiser whose fee shall be divided between the Association and the owner, and the decision as to fair market value shall be made by a majority vote of the three appraisers within an additional ten days.

The closing date shall be within thirty days from the agreement of the parties as to fair market value or from the determination by the appraisers of fair market value, with the exact date and hour, and the place (within Montgomery County, Ohio), to be designated by the Association. At the closing title shall be conveyed by a good and sufficient deed of general warranty so as to transfer merchantable title free and clear of all liens and encumbrances and rights to take such liens and encumbrances, excepting easements, restrictions and limitations of record at the time the Association gave its notice of exercise, excepting legal highways, all provisions of the condominium plan, and the installment of real estate taxes and assessments becoming due and payable for the first time next after the closing (which shall be prorated between the parties as of the date of closing) and all subsequent installments of real estate taxes and assessments which shall be assumed by the Association. Possession shall be given at the date of closing and the purchase price shall be paid in cash at the closing, with the selling owner to pay for the preparation of the deed and to pay the deed transfer fee or other conveyance fee levied by appropriate government authorities, and with the Association to pay all other closing expenses.

(e) Sale, Lease, Rental, Mortgage of Other Transfer. An owner intending to make a bona fide sale, lease, rental, mortgage

or other transfer of his unit or any interest therein shall give to the Association written notice of such intention, together with the name and address of the intended record and beneficial purchaser, lessee, tenant, mortgagee or other holder of title or such an interest, the address of such person for the previous three years, a true copy of the bona fide contract, offer and all other documents concerning such sale, lease, rental, mortgage or other transaction containing all the terms, conditions and details of the proposed transaction, certified by the owner to be true and complete terms, conditions and details, plus any other information concerning the proposed transaction and the parties involved as the Association may reasonably require. Any such transaction must have been accepted by both the owner and the proposed transferee of an interest in the unit, and the documents supplied to the Association must include copies of instruments signed by both the owner and the proposed transferee evidencing their agreement.

The notice referred to above shall be given to the Association in writing as soon as reasonably possible after the owner and the intended transferee have reached written agreement concerning the proposed transaction, and in any event within fifteen days after such agreement has been reached.

For a period of forty-five days following its receipt of the notice referred to above, and of all additional information reasonably required by the Association, the Association shall have a first refusal right and option to acquire such title to or interest in a unit as is proposed to be transferred by matching the terms of the offer, contract, commitment or other documents regarding the sale, lease, rental, mortgage or other transfer of the unit or an interest therein.

This first refusal option may be exercised only upon the same two-thirds

vote or consent required under Section 13.7 for Special Assessments. Said right and option must be exercised by the Association giving the owner, within said period of forty-five days, written notice of such exercise executed on behalf of the Association, and such notice of exercise shall constitute an agreement by the Association to make such a purchase, lease, rental, mortgage or other transfer under the terms of this Declaration and on the basis of matching the terms and conditions of the offer, contract, commitment or other documents.

The closing date shall be within thirty days after the notice of exercise was given by the Association, or on such date as was designated in the documents regarding the proposed sale, lease, rental, etc., whichever is later, with the exact date and hour and the place (within Montgomery County, Ohio) to be designated by the Association.

At the closing title to or the interest in the unit shall be conveyed or transferred free and clear of liens and encumbrances and rights to take such liens and encumbrances excepting easement, restrictions and limitations of record at the time the Association gave its notice of exercise, excepting legal highways, all provisions of the condominium plan, and the installment of real estate taxes and assessments becoming due and payable for the first time next after the closing (which shall be prorated between the parties as of the closing date in the event of a sale) and all subsequent installments of real estate taxes and assessments (which shall be assumed by the Association in the event of a sale).

Possession shall be given at the date of the closing or at such later date as provided in the documents regarding the proposed transaction (if possession is involved at all), whichever is later. Unless provided to the contrary in the documents regarding the transaction, the closing costs and expenses regarding conveyance of title or an interest in the unit shall be divided

between the parties as is customary in Montgomery County, Ohio, in transactions of the same type.

(f) Unauthorized and Invalid Transactions. Any sale, mortgage, lease, rental or other transfer referred to in these sections of the Declaration regarding the right of first refusal shall be unauthorized unless conducted pursuant to the terms of these sections and no such purported transfer of any interest in or to a unit shall be valid or shall effectively convey or transfer such an interest unless made in accordance with the provisions in these sections.

(g) Investigation by the Association of Bona Fide Status of Sale, Lease, Rental, Mortgage or other Transactions. In the event the Association fails to exercise its right of first refusal with regard to a proposed sale, lease, rental, mortgage or other transaction, the proposed transfer of title to or any interest in a unit may be completed in accordance with the exact terms of the contract, offer, commitment or other instrument or agreement, a true copy of which was delivered to the Association along with the notice referred to above. The Association shall have full power and authority to investigate the bona fide status of such sale, lease, rental, mortgage or other transaction. The Association shall be notified of the date, hour and place of closing of the proposed transaction not less than seven days prior to said closing, for the purpose of enabling the Association to arrange for a representative to attend the closing on its behalf. In the event any sale, lease, rental, mortgage or other transfer of an interest in or title to a unit shall be made under terms, conditions or at a price or for considerations different from, or in addition to the terms, conditions, price and considerations set forth in the documents and notice delivered to the Association, no valid title to or interest in the unit

may be conveyed, and the right of first refusal shall arise again and the Association shall have the right to match such different or additional terms, conditions, price or consideration in the same manner as provided in these sections of the Declaration.

(h) Certificate of Compliance. The Association shall upon demand and from time to time furnish to any owner, member or other party having a bona fide interest in a unit a certificate in writing signed by an officer of the Association stating on knowledge and belief whether or not the requirements of these sections dealing with the right of first refusal have been complied with as to that unit. Such a certificate shall be made available at the closing of any sale, lease, rental, mortgage or other transfer of an interest in or title to a unit, after a representative of the Association has been satisfied that such transfer has been made in a bona fide fashion and on the same terms, conditions, price and considerations as to which the Association was previously given notice. Such a certificate shall be conclusive evidence as to all persons who rely thereon in good faith; shall contain a description of the unit involved; shall be prepared and executed so as to fulfill the then requirements for recording; and shall be recorded in the miscellaneous or other appropriate records of the recorder of the county in which this condominium development is situated. The Association may impose a reasonable fee for the issuance of each such certificate. Whenever the Association decides not to exercise its right of first refusal, it may issue a certificate of compliance on its own motion so as to permit a proposed conveyance to be completed without delay.

(i) Renewal of Rights of First Refusal. If the Association does not exercise its right of first refusal as to any transaction

made subject to those rights by these sections of the Declaration, the unit in question shall not be released from the future application of these rights of first refusal, and instead all such first refusal rights shall continue to apply with regard to any and all subsequent non-exempt transactions involving an interest in or title to such unit.

(j) Special Assessment to Obtain Funds to Implement Rights of First Refusal. Although not mentioned in Section 13.7 dealing with Special Assessments, such an assessment may be levied for the purpose of obtaining funds necessary to implement exercise of the rights of first refusal described in these sections of the Declaration. In order to provide any lending institution with evidence that the Association has security for its receipt of the funds to be raised by such a special assessment, it is hereby provided that the Association shall be authorized to file a certificate of lien for such a special assessment immediately upon the action of the Association in levying such assessment (even though Section 13.12 normally would require that the assessment remain unpaid for fifteen days after its due date before such a certificate of lien may be filed). Such special assessment may be levied only under the same two-thirds vote or written consent required under Section 13.7.

(k) Nominee, or Third-Party Designee acting instead of the Association. The Association may exercise its rights of first refusal in its own name or in the name of a nominee. Further, these rights of first refusal may be exercised in the name of and by a third-party designee of the Association who has taken an assignment of a right of first refusal from the Association and who is acting on his or her own behalf and not as a nominee of the Association."

(H) No Other Changes. No changes or revisions are made in the Declaration for Timberlodge Condominium other than those set forth above in this Fifth Amendment.

IN WITNESS WHEREOF, this Fifth Amendment to the Declaration has been executed as of the 12th day of July, 1982, by 33-A Corp. as the Declarant and by Timberlodge Homeowners' Association. Those officers who have executed this Fifth Amendment on behalf of the Association hereby represent and affirm that the Association has been authorized to make these amendments by the affirmative vote or written consent of persons who hold not less than eighty percent of the voting power of the Association.

Signed and Acknowledged in the presence of:

Donna J. Alderson
As to 33-A Corp.

Joseph B. Humber
As to 33-A Corp.

C. Philip Schmidt
As to Association

Kimberly A. West
As to Association

33-A CORP. (an Ohio corporation)

By Douglas A. Mueller
President

By Marvin Schultz
Vice President

TIMBERLODGE HOMEOWNERS' ASSOCIATION (an Ohio non-profit corporation)

By Jonathan Tratt
Jonathan Tratt, President

By Thomas A. Flagg
Thomas A. Flagg, Vice President and Secretary

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing document was acknowledged before me on this 12th day of July, 1982, by Douglas A. Mueller as President and by MARVIN SCHULTZ as Vice President of 33-A CORP., an Ohio corporation, on behalf of that corporation.

- 82 269E07 -

Larry E. Schuman
Notary Public

LARRY E. SCHUMAN, Notary Public
In and for the State of Ohio
My Commission Expires May 26, 1986

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing document was acknowledged before me on this 9th day of July, 1982, by Jonathan Tratt as President and by Thomas A. Flagg as Vice President-Secretary of TIMBERLODGE HOMEOWNERS' ASSOCIATION, an Ohio corporation, on behalf of that corporation.



Notary Public

C. PHILIP SCHMIDT, Notary Public
In and for the State of Ohio
My Commission Expires Sept. 25, 1984

JUL 14 1982

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MONTGOMERY COUNTY, OHIO
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NOTARY PUBLIC

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VICKI D. PEGG
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SECOND AMENDMENT MONTGOMERY COUNTY, OHIO
RECORDED

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TO THE DECLARATION OF CONDOMINIUM
WHICH ESTABLISHED A PLAN FOR CONDOMINIUM OWNERSHIP
AND IMPOSED
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE PROJECT KNOWN AS

TIMBERLODGE CONDOMINIUM

292A03

JUN 12 '79

RECORDED
MONTGOMERY COUNTY, OHIO

A copy of the condominium documents and drawings has been filed with the office of the Auditor of Montgomery County, Ohio on this 12 day of June, 1979.

Montgomery County Auditor

By 

Prepared by:

JAMES R. GOULD
of the law firm of
Brumbaugh, Corwin & Gould
1300 Talbott Tower
Dayton, Ohio 45402
Telephone: 513/223-1201

Condominium drawings for this Second Amendment are recorded in Plat Book 107 at Page 65 thru 65C

SECOND AMENDMENT
 TO THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR
 TIMBERLODGE CONDOMINIUM

This Second Amendment is made and entered into this 25th day of MAY, 1979, for the purpose of amending the condominium Declaration for Timberlodge Condominium.

(A) Previous Recording Information. The original condominium documents, and subsequent amendments to those documents, have been recorded in the Deed and Plat Records of Montgomery County, Ohio as follows:

<u>Item Recorded</u>	<u>Date</u>	<u>Microfiche</u>	<u>Plat Book, Page</u>
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Declaration, By-Laws, Articles of Incorporation and Drawings which completely revised Woodbridge and changed it to Timberlodge Condominium	9/29/78	78 551A01	B. 106, P. 41
Amendment No. 1 to Timberlodge Condominium	1/4/79	79 007B08	B. 107, P. 5
Affidavit for 1st Amendment	1/29/79	79 41E02	None

(B) Purpose of this Second Amendment to Timberlodge Condominium

The original Declaration for Timberlodge Condominium was executed and recorded as to certain ~~land~~ buildings referred to therein as Section One. Said Declaration provided for the subsequent addition or annexation

TRANSFERRED
 ROBERT L. RODERER
 COUNTY AUDITOR

of additional property to the condominium plan. The purpose of this Second Amendment is to add and annex to this condominium plan certain land and buildings which are referred to herein as Section Two.

This Second Amendment adds a portion of the land described in Exhibit "C" (to the original Declaration) together with certain units constructed thereon to the condominium plan. Accordingly, this Second Amendment is also made under the provisions of Sections 22 through 22.16 on pages forty-seven through fifty-two of the Declaration which pages and sections grant to the Declarant the power to annex additional land and buildings to the condominium plan for Timberlodge Condominium within seven years from the date the original declaration was recorded.

(C) Additional Exhibits. The Declaration is hereby amended by the addition thereto of Exhibit A-2 which constitutes the legal description of the real property being annexed to the condominium plan by this Second Amendment, and by the addition of Exhibit B-2 which constitutes the plot plan and floor plan drawings of the real property and residential dwelling units being annexed to the condominium plan by this Second Amendment. Said Exhibits are attached hereto and made a part hereof and are also recorded in the Plat Records of Montgomery County, Ohio as required by law.

(D) References to Exhibits A-1 and B-1. The Declaration is hereby further amended so as to provide that each and every reference therein to Exhibit A-1 shall be deemed to read, "Exhibits A-1 and A-2 of this Declaration as amended."

The Declaration is hereby further amended so as to provide that each and every reference therein to Exhibit B-1 shall be deemed to read, "Exhibits B-1 and B-2 of this Declaration as amended."

(E) Number of Buildings. Section 4.1 on page 9 of the Declaration is hereby amended to read as follows:

There are four residential buildings contained in this condominium plan, as set forth below:

<u>building identification</u>	<u>units</u>
A	1 through 5
B	6 through 9
C	10 through 14
D	15 through 19

There is also a community building which is designated as a clubhouse on the drawings attached as Exhibit B-1."

(F) Garages. Section 4.6 on page 9 of the Declaration is hereby amended to eliminate use of the word "fourteen" because this condominium plan has now been expanded to include nineteen units. Accordingly, said section is revised to read as follows:

"Each unit which is a part of this condominium plan includes an attached one-car garage, and Exhibit B-1 sets forth graphic information with regard to the location and layout of each such garage."

(G) Number of Units. Section 5.6 on page 10 is hereby amended to read as follows:

"The total number of units is nineteen."

(H) Patios. Section 7.5 is hereby amended so as to cause it to refer to the patios accompanying certain of the units which are now added to the condominium plan by this Second Amendment. Accordingly, said section is hereby amended to read as follows:

"Each of the units included in this condominium plan (excepting Units 5, 9, 14, and 19) has immediate and private access through a doorway through the outside structural walls surrounding that unit to an outside patio or patios immediately adjoining that unit and situated on the first or ground floor level. Each such concrete slab patio shall constitute limited common area reserved for the exclusive use of the unit which it adjoins and to which it has such access. All such patios are depicted in Exhibit B-1 attached to this Declaration."

(I) Sundecks. Section 7.6 is hereby amended to read as follows, for the purpose of expanding the explanation regarding sundecks to include the five units now being added to the condominium plan through this Second Amendment:

"The following units contained in this condominium plan have, on the second floor thereof, immediate and private access through a doorway in the outside structural walls surrounding said unit to an outside sundeck immediately adjoining that unit and situated on the second floor level: 2, 5, 9, 10, 11, 12, 14, and 19. Each such sundeck shall constitute limited common area reserved for the exclusive use of the unit which it adjoins and to which it has such access. All such sundecks are depicted on Exhibit B-1 attached to this Declaration."

(J) Percentage Interest Held by Each Unit. In Section 8.5 on page 13 of the Declaration, the number "fourteen" (representing the total number of units included in the condominium plan is hereby amended to read "nineteen". Further, the numerical listing of units and percentage interest in the common area now set forth in said Section 8.5 is hereby amended to read as follows, with such percentages being computed on the fair value of each unit (based on the size of that unit) compared to the value of all units (based on the combined size of all units):

<u>Unit</u>	<u>Percent</u>	<u>Unit</u>	<u>Percent</u>
1	5.48	11	5.48
2	5.48	12	5.48
3	5.61	13	4.82
4	4.82	14	4.98
5	4.98	15	5.48
6	5.61	16	5.48
7	5.61	17	5.61
8	4.82	18	4.82
9	4.98	19	4.98
10	5.48		<u>100.00</u>

(K) Commencement of Assessments for Newly Added Units. In order to comply with the requirements of 5311.25 (F) which specifies that the declarant must pay a full share of all common expense assessments levied against condominium units brought into existence on and after October 1, 1978, Section 13.9 on page 26 of the Declaration is hereby amended so as to make it clear that the sixty-five percent of assessment rate on units owned by the declarant is applicable only to Units 1 through 14.

"The monthly assessments provided for herein shall commence as to all units included in this condominium plan on the first day of the first calendar month following the first transfer of title to a unit to an owner other than the Declarant. From and after that commencement date the Association also shall have the power to levy special and special individual unit, assessments. Monthly assessments for any of Units 1 through 14 owned by the Declarant but not occupied by anyone, shall be levied at sixty-five percent of the full monthly assessments applicable to occupied or sold units because the absence of occupants will reduce use of water and common areas, thereby reducing the common expenses attributable to any such unit, and this reduced rate of assessments shall continue for a period no longer than eighteen months from the date this amended condominium declaration was recorded and shall terminate with regard to any unit as soon as title is conveyed to a purchaser and, for units owned by Declarant during any periods such units are occupied. All other units owned by the Declarant shall pay the full rate of assessments.

(L) No Other Changes. No changes or revisions are hereby made in the Declaration for Timberlodge Condominium with the exception of those set forth above.

IN WITNESS WHEREOF, this Second Amendment to the Timberlodge Declaration has been executed on the date set forth on the first page hereof by Timberlodge Homeowners' Association and also by Terra Firma Building Contractors, Inc., an Ohio corporation which constitutes the Declarant under this condominium plan.

Signed and acknowledged in the presence of:

[Handwritten signatures]

TIMBERLODGE HOMEOWNERS' ASSOCIATION

By *[Signature]*
Donald R. Moultney, President
By *[Signature]*
William A. Rogers, Exec. Vice President

State of Ohio, County of Montgomery, ss:

Before me, a notary public in and for said county and state, personally appeared Timberlodge Homeowners' Association, an Ohio non-profit corporation, by and through Donald R. Moultney, its President and William A. Rogers, its Treasurer, who acknowledged, being first duly cautioned and sworn, that they executed the foregoing Second Amendment for and on behalf of said Association and that the same is the free act and deed of said Association and of themselves individually and as such officers for the uses and purposes therein mentioned, and that the holders of not less than eighty percent of the voting power of the Association have given written consent to this action of the Association in amending certain terms and provisions of the Declaration.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal in Montgomery County, Ohio, on this 25th day of May, 1979

[Signature]
Notary Public

JOSEPH P. ...
In and for the State of Ohio
My Commission Expires Oct. 22, 1980

JUN 12 1979

RECORDED
MAY 23 1979
MONTGOMERY COUNTY, OHIO

7-295B02

Signed and acknowledged
in the presence of:

TERRA FIRMA BUILDING
CONTRACTORS, INC.

Walter R. Bricker
William A. Rogers

By *Donald R. Moultney*
Donald R. Moultney, President
By *William A. Rogers*
William A. Rogers, Exec. Vice Presi

State of Ohio, County of Montgomery, ss:

Before me, a notary public in and for said county and state, personally appeared Terra Firma Building Contractors, Inc., an Ohio corporation, by and through Donald R. Moultney, its President and William A. Rogers, its Vice President, who acknowledged that they did execute the foregoing Second Amendment for and on behalf of said corporation and that the same is the free act and deed of said corporation and of themselves individually and as such officers for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal in Montgomery County, Ohio on this 15th day of May, 1979.

Joseph P. McLaughlin
Notary Public

JOSEPH P. McLAUGHLIN, Notary Public
In and for the State of Ohio
My Commission Expires Oct. 31, 1980

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JUN 12 1979

RECORDED
MAY 15 1979
MONTGOMERY COUNTY, OHIO