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DECLARATION OF CONDOMINIUM PROPERTY

FOR

TIMBERLINE OFFICE PARK CONDOMINIUM

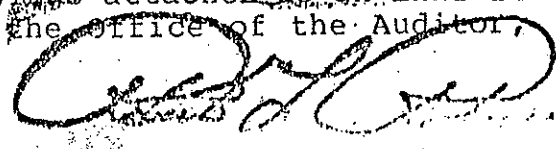
VICKIE EGG  
RECORDER

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MONTGOMERY CO. OHIO  
RECORDED

I hereby certify that copies of the within Declaration, together with the drawings attached as an Exhibit thereto, have been filed in the office of the Auditor, Montgomery County, Ohio.



MAY 28, 1981  
Dated

By Montgomery County Auditor

Plat Reference: Book 113, Page 27-27C

This Instrument Prepared By:

HANS H. SOLTAU  
Attorney-at-Law  
367 West Second Street  
Dayton, Ohio 45402

MAY 28 1981

ROBERT HANSEN  
RECORDED  
MAY 28 1981

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TABLE OF CONTENTS

Declaration

	<u>PAGE</u>
RECITALS . . . . .	1
DECLARATIONS . . . . .	1
1. DEFINITIONS . . . . .	2
A. Association . . . . .	2
B. Common Areas and Facilities . . . . .	2
C. Common Assessments . . . . .	2
D. Common Expenses . . . . .	2
E. Common Losses . . . . .	2
F. Common Profits . . . . .	2
G. Common Surplus . . . . .	2
H. Condominium Ownership Interest . . . . .	2
I. Condominium Property . . . . .	2
J. Declarant . . . . .	2
K. Declaration . . . . .	2
L. Limited Common Areas and Facilities . . . . .	3
M. Unit . . . . .	3
N. Unit Owner . . . . .	3
) 2. NAME, PURPOSE AND USE . . . . .	3
A. Name . . . . .	3
B. Purpose and Use . . . . .	3
3. LEGAL DESCRIPTION OF PREMISES . . . . .	3
4. DESCRIPTION AND LOCATIONS OF BUILDING . . . . .	3
A. Description . . . . .	3
B. Location . . . . .	3
5. DESCRIPTION OF UNITS . . . . .	3
A. General . . . . .	4
B. Types of Units . . . . .	4
6. DESCRIPTION OF COMMON AREAS AND FACILITIES . . . . .	4
7. DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES . . . . .	5
A. Specific Uses . . . . .	5
B. General Uses . . . . .	5
8. USE OF COMMON AREAS AND FACILITIES . . . . .	5



	OWNERSHIP OF COMMON AREAS AND FACILITIES . . . . .	5
	A. Percentage of Ownership . . . . .	5
	B. Computation . . . . .	6
	C. Amendment . . . . .	6
10.	REGULATION OF COMMON AREAS AND FACILITIES . . . . .	6
11.	RESTRICTIONS ON THE USE OF CONDOMINIUM PROPERTY . . . . .	6
	A. Obstruction of Common Areas and Facilities . . . . .	6
	B. Hazardous Uses and Waste . . . . .	7
	C. Exterior Surfaces of Building . . . . .	7
	D. Nuisances . . . . .	7
	E. Impairment of Structural Integrity of Building . . . . .	7
	F. Alteration of Common Areas & Facilities . . . . .	7
	G. Prohibited Activities . . . . .	7
	H. Parking . . . . .	7
	I. Parking Lot . . . . .	8
	J. Conduct of Business . . . . .	8
	K. Additional Structure . . . . .	8
	L. Animals and Pets . . . . .	8
	M. Trash and Storage . . . . .	8
	N. Signs . . . . .	9
	O. Fencing . . . . .	9
	P. Architectural Control . . . . .	9
	Q. Declarant . . . . .	9
12.	UNIT OWNER'S ASSOCIATION . . . . .	9
	A. General . . . . .	9
	B. Membership in the Association . . . . .	10
	C. Administration of Condominium Property . . . . .	10
	D. Service of Process . . . . .	10
	E. Declarant's Rights . . . . .	10
	F. Turnover . . . . .	10
13.	AMENDMENT OF DECLARATION AND BY-LAWS . . . . .	10
14.	MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS . . . . .	11
	A. Association . . . . .	11
	B. Delegation to Managing Agent . . . . .	11
	C. Mortgagee . . . . .	11
	D. Unit Owner . . . . .	12
	E. Construction Defects . . . . .	12
	F. Effect of Insurance or Construction Guarantees . . . . .	12
15.	EASEMENTS . . . . .	12
	A. Encroachments . . . . .	12
	B. Easements for Repair, Maintenance & Restoration . . . . .	13
	C. Easements through Walls within Units . . . . .	13
	D. Easements for Certain Utilities . . . . .	13
	E. Easements Shall Run With Land . . . . .	13



	HAZARD INSURANCE . . . . .	14
	A. Fire & Extended Coverage Insurance . . . . .	14
	B. Sufficient Insurance . . . . .	15
	C. Insufficient Insurance . . . . .	15
	D. Procedure for Reconstruction or Repair . . . . .	16
	E. Nonrestoration of Damage or Destruction . . . . .	17
17.	LIABILITY INSURANCE . . . . .	17
18.	REHABILITATION & RENEWAL OF OBSOLETE PROPERTY . . . . .	18
19.	REMEDIES FOR BREACH OF COVENANTS & REGULATIONS . . . . .	18
	A. Abotement and Enjoyment . . . . .	18
	B. Involuntary Sale . . . . .	18
	C. Civil Action . . . . .	19
20.	ASSESSMENTS AND LIEN OF ASSOCIATION . . . . .	20
	A. General . . . . .	20
	B. Division of Common Profits & Common Expenses . . . . .	20
	C. Non-Use of Facilities . . . . .	20
	D. Lien of Association . . . . .	20
	E. Priority of Association's Lien . . . . .	20
	F. Dispute as to Common Expenses . . . . .	20
	G. Non-Liability of Foreclosure Sale Purchaser or an Acquirer of Title in Lieu of Foreclosure for Past Due Common Expenses . . . . .	21
	H. Liability for Assessments Upon Voluntary Conveyance . . . . .	21
21.	COMBINATION, SUBDIVISION OR REALIGNMENT OF UNITS . . . . .	21
	A. Unit Owner . . . . .	21
	B. Declarant . . . . .	22
	C. Restrictions . . . . .	22
	D. Amendments . . . . .	22
22.	SALE, LEASE, RENTAL OR OTHER DISPOSITION . . . . .	22
	A. Sale or Lease . . . . .	23
	B. Gift . . . . .	23
	C. Devise . . . . .	24
	D. Involuntary Sale . . . . .	25
	E. Consent of Voting Members . . . . .	25
	F. Release, Waiver and Exception to Option . . . . .	25
	G. Proof of Termination of Option . . . . .	25
	H. Financing of Purchase Under Option . . . . .	26
	I. Title to Acquired Interests . . . . .	26
	J. Protection of First Mortgage . . . . .	26





ITEM

PAGE

23.	ADDITIONAL PROPERTY . . . . .	26
A.	Contemplated Annexation by Declarant . . . . .	26
B.	Reservation of Option to Expand . . . . .	27
C.	Limitation on Declarant's Option . . . . .	27
D.	Additional Property . . . . .	27
E.	Location and Type of Improvements . . . . .	27
F.	Structure . . . . .	27
G.	Units . . . . .	27
H.	Limited Common Areas and Facilities . . . . .	27
I.	Reservation of Right to Amend Declaration . . . . .	27
J.	Consent and Approval for Annexation Amendments . . . . .	28
K.	Power of Attorney, Coupled with an Interest . . . . .	28
L.	Description . . . . .	28
24.	MISCELLANEOUS PROVISIONS . . . . .	28



DECLARATION OF CONDOMINIUM OWNERSHIP

THIS DECLARATION, made on the date hereinafter set forth by the CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, hereinafter referred to as the "Declarant";

RECITALS

A. Declarant is the Owner of the real property hereinbelow described and it is his desire and intention to enable said real property, together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind situated thereon and all privileges belonging or in anywise appertaining thereto, to be owned under and pursuant to that certain type of ownership commonly known as "Condominium," and to subject and submit such property to the provisions of Chapter 5311 of the Ohio Revised Code.

B. Declarant is further desirous of establishing for the mutual benefit of all future Owners, mortgagees or occupants of the Condominium Property or any part thereof, which shall be known as TIMBERLINE OFFICE PARK CONDOMINIUM, certain easements and rights in, over and upon such Condominium Property and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof.

C. Declarant desires and intends that the several Owners, mortgagees, occupants and other persons hereafter acquiring an interest in the Condominium Property shall at all times enjoy the benefits of, and shall hold their interests therein subject to, the rights, easements, privileges and restrictions hereinafter set forth in this Declaration and in the By-Laws of Timberline Office Park Condominium Association, Inc., attached hereto as Exhibit "B".

D. Declarant is also the owner of real property adjacent and adjoining the real property submitted hereby, and contemplates submitting such property to the provision of this Declaration, by an amendment or amendments hereto.

DECLARATIONS

NOW, THEREFORE, Declarant hereby makes the following Declaration as to the covenants, restrictions, limitations, conditions and uses to which the Condominium Property may be put, hereby specifying that said Declaration shall constitute covenants to run with the land and shall be binding on Declarant, its successors and assigns, and all subsequent Owners of all or any part of the Condominium Property, together with their respective grantees, heirs, executors, administrators, devisees, successors or assigns.



1. DEFINITIONS

The following terms used herein are defined as follows:

A. Association, shall mean TIMBERLINE OFFICE PARK CONDOMINIUM ASSOCIATION, INC., an Ohio not-for-profit corporation, its successors and assigns.

B. Common Areas and Facilities, shall mean all the Condominium Property except that which is specifically defined and referred to as a Unit.

C. Common Assessments, means the assessments charged proportionately on the basis of percentage of interest against all Units for common purposes.

D. Common Expenses, means those expenses designated as such by Chapter 5311 of the Ohio Revised Code or in accordance with the provisions of this Declaration, or both.

E. Common Losses, means the amount by which the Common Expenses during any period of time exceeds Common Assessments and Common Profits during that period.

F. Common Profits, means the amount by which the total income received from assessments charged for special benefits to specific Units, rents received from rentals of equipment or space in Common Areas and Facilities and any other fee, charge or income other than Common Assessments exceeds expenses allocable to the income, rental, fee or charge.

G. Common Surplus, means the amount by which Common Assessments collected during any period exceeds Common Expenses.

H. Condominium Ownership Interest, means a fee simple estate or a 99-year leasehold estate, renewable forever, in a Unit, together with its appurtenant undivided interest in the Common Areas and Facilities.

I. Condominium Property, means land, all buildings, improvements and structures on the land, all easements, rights and appurtenances belonging to the land, and all articles of personal property submitted to the provisions of Chapter 5311 of the Ohio Revised Code by this Declaration.

J. Declarant, shall mean CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, its successors and assigns.

K. Declaration, shall mean the instrument by which the hereinafter described property is submitted to the provisions of Chapter 5311 of the Ohio Revised Code and any and all amendments thereto.

L. Limited Common Areas and Facilities, means and includes the Common Areas and Facilities designated in this Declaration as



reserved for the use of a certain Unit or Units to the exclusion of the other Units.

M. Unit, shall mean a part of the Condominium Property consisting of one or more rooms on one or more floors of a building, which are designated a Unit by this Declaration or amendment thereto, and are delineated on the drawings in Exhibit "A" attached hereto.

N. Unit Owner, means a person who owns a Condominium Ownership Interest in a Unit.

## 2. NAME, PURPOSE AND USE

A. Name. The Condominium Property shall be known as TIMBERLINE OFFICE CONDOMINIUM PARK.

B. Purpose. The Condominium Property shall be used for business and professional office purposes, and for any purposes incident thereto.

## 3. LEGAL DESCRIPTION OF PREMISES

The legal description of the real property subject to this plan for Condominium ownership is described as follows:

Situate in the Township of Miami, County of Montgomery, State of Ohio and being Lot Numbered 77 of Timberline Section 3 as recorded in Plat Book 112, Page 14 of the Plat Records of Montgomery County, Ohio.

## 4. DESCRIPTION AND LOCATION OF BUILDING

A. Description. Unless or until amended, there is one (1) building located on the Condominium Property which is generally described as a two (2) story building in height, containing ten (10) Units; two (2) of which are ground floor Units, two (2) of which are second floor Units and six (6) of which are two (2) story Units. The building is built on a concrete foundation with frame exterior walls, with some brick or stone veneer, stucco and siding, windows, a wood truss roof with asphalt shingle covering, wood floor joists, wall studs and drywall.

B. Location. The building faces Orchard Run Road, a public street.

## 5. DESCRIPTION OF UNITS

A. General. Each of the Units within this Declaration shall consist of all of the space bounded by the undecorated surfaces of the perimeter walls, floors and ceilings of each such Unit to constitute a complete enclosure of space, the dimensions, layouts and descriptions of each such Unit being shown on the drawings attached hereto as Exhibit "A" and including, without limitation:





(1) the decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and any other finishing materials applied to the interior surfaces of such perimeter walls, floors and ceilings;

(2) all windows, screens and doors, including the frames, sashes and jams and the space occupied thereby;

(3) all fixtures located within the bounds of a Unit installed in and for the exclusive use of said Unit, commencing at the point of disconnection from the structural body of the building or from the point of disconnection of utility pipes, lines or systems serving the entire building or more than one Unit thereof, whichever may be applicable;

(4) all control knobs, switches, thermostats and base plugs, floor plugs and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein;

(5) all interior walls, floors and ceilings;

(6) all plumbing, electrical, heating, cooling and other utility service lines, pipes, wires, ducts and conduits which exclusively serve either the Unit or the fixtures located therein and which are located within the bounds of the Unit but excepting therefrom all plumbing, electrical, heating, cooling and other utility service lines, pipes, wires, ducts or conduits which are located within the bounds of a Unit but which do not exclusively serve such Unit.

B. Types of Units. There are several different types of Units which are generally described as follows:

1) Type A is a ground floor Unit containing approximately 2,137 square feet.

2) Type B is a second floor Unit containing approximately 1,336 square feet.

3) Type C is a two (2) story Unit. The square footage in such Unit varies from approximately 1,484 square feet to 1,585 square feet.

## 6. DESCRIPTION OF COMMON AREAS AND FACILITIES

The entire balance of the land and improvements thereon, including but not limited to, all buildings, foundations, roofs, main and supporting walls, walkways, driveways, parking areas, pumps, trees, lawns, stoops, wires, conduits, utility lines and ducts now or hereafter situated on the Condominium Property, are hereby declared and established as the Common Areas and Facilities.



## 7. DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES

A. Specific Uses. The areas hereinafter described, included within the Common Areas and Facilities appurtenant to a Unit, are deemed Limited Common Areas and Facilities designated as reserved for the exclusive use of the appurtenant Unit or Units as hereinafter set forth.

1. The entranceway, walkways or sidewalks, and stoops are designated as Limited Common Areas and Facilities for the Unit or Units adjoining such entranceway, walkways and stoops.

2. The entranceway, hallway and stairs serving more than one (1) Unit are designated as Limited Common Areas and Facilities for the Units adjoining and being serviced by such entranceway, hallway and stairs.

3. The air conditioning pad, compressor, duct and conduits thereto are designated as Limited Common Areas and Facilities for the Unit being serviced by such equipment.

B. General Uses. All plumbing, electrical, heating, cooling and other utility service lines, pipes, wires, ducts and conduits which serve only one Unit shall be Limited Common Areas and Facilities for the exclusive use of the Unit served thereby.

## 8. USE OF COMMON AREAS AND FACILITIES

Each Unit Owner shall own an undivided interest in the Common Areas and Facilities as a tenant in common with all other such Unit Owners and, except as otherwise limited in this Declaration and in the By-Laws attached hereto as Exhibit "B", shall have the right to use the Common Areas and Facilities for all purposes incident to the use and occupancy of his Unit as a place of business and such other incidental uses as 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 and Facilities and for ingress and egress to and from their respective Units, which right shall be appurtenant to and shall run with his Unit. The extent of such ownership in the Common Areas and Facilities is hereby deemed and expressed by the percentage amount set forth in Item 9 hereof, which shall remain constant and shall not be changed except by an amendment to this Declaration pursuant to the provisions of Section C of Item 9, and Item 23 hereof.

## 9. OWNERSHIP OF COMMON AREAS AND FACILITIES

A. Percentage of Ownership. The percentage of ownership of the Common Areas and Facilities attributable to the Ownership Interest in each Unit and for the division of Common Profits, Common Surplus and Common Expenses, is as follows:



UNIT DESIGNATIONPERCENTAGE

1	13.26
1A	8.28
2	9.33
3	9.80
4	9.33
5	9.82
6	9.20
7	9.44
8	13.26
8A	8.28

B. Computation. Each Unit's percentage of ownership as herein set forth, was determined by comparing the total square footage of such Unit to the aggregate square footage of all of the Units on the date when this Declaration is filed for record, or stated in another way, the percentage of ownership of a particular Unit is equal to a fraction, the numerator of which is the square footage of such Unit and the denominator of which is the total square footage of all of the Units.

C. Amendment. Except as provided for in Item 23 hereof, the percentage of ownership as set herein forth, shall not be altered except by an amendment to the Declaration unanimously approved by all Unit Owners.

#### 10. REGULATION OF COMMON AREAS AND FACILITIES

No person shall use the Common Areas and Facilities or any part thereof in any manner contrary or not in accordance with such rules and regulations pertaining thereto as from time to time may be adopted by the Board of Managers of the Association. Without in any manner intending to limit the generality of the foregoing, the Board of Managers shall have the right, but not the obligation, to promulgate rules and regulations limiting the use of the Common Areas and Facilities by members of the Association and their respective employees, invitees and servants.

#### 11. RESTRICTIONS ON THE USE OF CONDOMINIUM PROPERTY

A. Obstruction of Common Areas and Facilities. There shall be no obstruction of the Common Areas and Facilities nor shall anything be stored in the Common Areas and Facilities without the prior consent of the Board of Managers of the Association, except as hereinafter expressly provided. Each Unit Owner shall be obligated to maintain, keep in good order and repair his own Unit.



B. Hazardous Uses and Waste. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance of the building or contents thereof without the prior written consent of the Board of Managers of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities which will result in the cancellation of insurance on the building or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Areas and Facilities.

C. Exterior Surfaces of Building. Unit Owners shall not cause or permit anything to be hung or displayed on the outside or inside of windows or placed on the outside walls of the building, and no sign, awning, canopy, shutter or radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Board of Managers of the Association, other than those originally provided by Declarant.

D. Nuisances. No noxious or offensive activity shall be carried on in any Unit or in the Common Areas and Facilities, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or occupants.

E. Impairment of Structural Integrity of Building. Nothing shall be done in any Unit or in, on or to the Common Areas and Facilities which will impair the structural integrity of the building or which would change the building.

F. Alteration of Common Areas and Facilities. Nothing shall be altered, constructed in or removed from the Common Areas and Facilities except as hereinafter provided, and except upon the written consent of the Board of Managers.

G. Prohibited Uses. The Units will be used for office-type uses as opposed to commercial uses involving the sale of goods and merchandise to the general public at retail prices; the Units will not be used for residential use, for the sale or dispensing of alcoholic beverages, as a beauty shop, as a barber shop, or for wholesale or retail distribution.

H. Parking. Business uses that generate a large volume of traffic should be discouraged, there being a limited number of parking spaces for the Condominium Property. The Association may assign a designated number of parking spaces for each Unit and has the right to enforce such parking restrictions, rules and regulations that are made.

I. Parking Lot. No vehicle of any kind shall be stored in the parking lot or on the Common Areas and Facilities. The term "stored" means that a vehicle remains in the parking lot for more than seventy-two (72) hours.





J. Conduct of Business. All business uses will be conducted within the confines of the Unit, and the Common Areas and Facilities will not be used for display or sale of any merchandise or services.

K. Additional Structures. No additional or accessory structures of any nature whatsoever shall be erected or constructed upon the Common Areas and Facilities, including the Limited Common Areas and Facilities, except as originally designated or contemplated by the Declarant unless approved in advance by the Association.

L. Animals and Pets. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas and Facilities or Limited Common Areas and Facilities.

M. Trash and Storage. All trash, rubbish, garbage or other materials being thrown away or disposed of by Unit Owners, their guests, tenants or invitees, must be placed in private trash containers which shall be supplied by the Association or through the Owner of each Unit. All such trash, rubbish, garbage or other materials and the method of their collection from the private trash containers, together with various other matters such as type and size of the private trash containers and whether such trash containers may be located outside of a Unit on days other than collection day, shall be subject to the rules and regulations adopted by the Association. The Association shall have control over all aspects of the method and manner by which trash, rubbish, garbage or other materials are to be removed from the premises and shall have control of the selection of the organization, agent or independent contractor to be responsible for the collection and removal.

N. Signs. No signs or other displays of advertising shall be maintained or permitted on any part of the Condominium Property except:

- (1) Business signs as approved by the Association;
- (2) The right is reserved by Declarant to place "For Sale" or "For Rent" signs on any unsold or unoccupied Unit;
- (3) The right is hereby given to the Unit Owner, or its representative, to place "For Sale" or "For Rent" signs of not more than five (5) square feet in size, on any Unit for the purpose of facilitating the disposal of Units by any Owner.



O. Fencing. No fencing or walls shall be permitted on the Common Areas or the Limited Common Areas, with the exception of those installed by the Declarant.

P. Architectural Control. No building or other structure shall be commenced, directed or maintained upon the Condominium Property nor shall any exterior addition to, change or alteration therein be made except by the Declarant, until the plans and specifications showing the nature, kind, shape, height, color, materials and location of the same, shall have been submitted to and approved in writing by the Association. Nothing in this Item 11 shall be deemed to authorize any construction on, addition to or change in the Condominium Property which would be prohibited by the provisions of this Declaration.

Q. Declarant. Notwithstanding the above, the Declarant may do what is reasonably necessary to complete additional buildings on the Additional Property, including the storage of construction materials, construction office on location, and what is reasonably necessary to promote and sell the Units constructed.

## 12. UNIT OWNERS' ASSOCIATION

A. General. Declarant has caused to be formed an Ohio not-for-profit corporation called Timberline Office Park Condominium Association, Inc., which shall administer the Condominium Property. Such Association shall be governed by this Declaration and its By-Laws, which are attached hereto as Exhibit "B". A Board of Managers and the officers of the Association elected as provided by the By-Laws, shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, by the By-Laws and by this Declaration, upon the Association except as otherwise specifically provided; provided, however, that in the event any such power, duty or right shall be deemed exercisable or dischargeable by or vested in an officer or member of the Board of Managers, he shall be deemed to act in such capacity to the extent required to authenticate his acts and to carry out the purposes of this Declaration and the By-Laws attached hereto as Exhibit "B".

B. Membership in the Association. Membership in the Association is limited to Unit Owners. Each Unit Owner upon acquisition of title to a Unit shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of a Condominium Ownership Interest, at which time the new Owner of such Unit automatically shall become a member of the Association. Declarant shall be a member of such Association as long as it retains title to any Unit. Each Unit Owner shall be entitled to vote in accordance with the percentage of interest of its Unit as set forth in Item 9 hereof.



C. Administration of Condominium Property. The administration of the Condominium Property shall be in accordance with the provisions of this Declaration and the By-Laws of the Association, which are attached hereto as Exhibit "B". Each Owner, tenant or occupant of a Unit shall comply with the provisions of this Declaration, the By-Laws, decisions and resolutions of the Association or its representatives, as lawfully amended from time to time, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief.

D. Service of Process. The person to receive service of process for the Association shall be the President of the Association. Until such time as a President is elected, service may be made upon Hans H. Soltau at 367 West Second Street, Dayton, Ohio, 45402.

E. Declarant's Rights. Until such time as Declarant shall have sold and conveyed seventy-five percent (75%) of the Condominium Ownership Interests or for a period of five (5) years from the date on which this Declaration is filed for record, whichever first occurs, the powers, rights, duties and functions of the Association shall be exercised by a Board of Managers selected by the Declarant.

F. Turnover. Within thirty (30) days after the expiration of any period during which the Developer exercises control over the Association pursuant to Section E of this Item 12, the Association shall meet and elect all members of the Board of Managers and all other officers of the Association. The persons so elected shall take office immediately from such election. After said meeting, the Declarant shall deliver to such Board of Managers or officers, correct and complete books and records of account as provided by the By-Laws and Section 5311.09(A) of the Ohio Revised Code.

### 13. AMENDMENT OF DECLARATION AND BY-LAWS

Unless otherwise specifically provided for herein, this Declaration and the By-Laws attached hereto as Exhibit "B", may be amended only upon the affirmative vote of the Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Any amendment of this Declaration or the By-Laws attached hereto as Exhibit "B", must be filed for record with the Recorder of Montgomery County, Ohio. Such amendment must be executed with the same formalities as this instrument and must refer to the microfiche number in which this instrument and its attached exhibits are recorded. Provided, however, that if any amendment adversely affects the value or priority or the security of any mortgagee of record, the written consent of said mortgagee to that amendment shall be required; and any amendment of language specifically referring to mortgagees shall require the written consent of all mortgagees of record.



14. MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS

A. Association. Except as otherwise provided herein, management, maintenance, repairs, alterations and improvements of the Common Areas and Facilities shall be the responsibility of the Association.

B. Delegation to Managing Agent. The Association may delegate all or any portion of its authority to discharge its responsibility pursuant to Section A of this Item 14 to a Manager or Managing Agent; subject to the limitation that any such delegation be by a written contract of no longer than one (1) year in duration. At the filing date of this Declaration no such contract has been entered into.

C. Mortgagee. A Manager or Managing Agent may be required by any lending institution holding mortgages on over fifty-one percent (51%) of the Units, or by any group of lending institutions who in the aggregate hold mortgages on over fifty-one percent (51%) of the Units. The Association shall provide such mortgagee or mortgagees, as the case may be, with a copy of any management agreement entered into by the Association and such Manager or management company.

D. Unit Owner. The responsibility of each Unit Owner shall be as follows:

(1) To maintain, repair and replace at his expense all portions of his Unit and all internal installations of such Unit such as heating, plumbing, electrical and air conditioning fixtures or installations, and any portion of any other utility service facilities located within the Unit boundaries and which exclusively serve such Unit.

(2) To maintain the air conditioning pad, compressor, duct and conduits thereto which are designated by this Declaration as Limited Common Areas and Facilities for the exclusive use of such Unit Owner.

(3) To maintain, repair and replace at his expense all portions of the Common Areas and Facilities which may be damaged or destroyed by reason of the willful or uninsured negligent act or neglect of himself, or by the willful or uninsured negligent act or neglect of any invitee, licensee or guest of such Owner.

(4) To maintain and repair all windows and doors of his Unit and of all associated structures and fixtures therein which are appurtenances to his Unit. The foregoing includes, without limitation, responsibility for all breakage, damage, malfunctions and ordinary wear and tear of such appurtenances.

(5) To perform his responsibilities in such a manner so as not to unreasonably disturb other persons residing within the building.

(6) Not to paint or otherwise decorate so as to change





the appearance of any portion of the building not within the walls of the Unit unless the written consent of the Board of Managers of the Association is obtained.

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

(8) Not to make any alterations in the portions of the Unit or the building which are to be maintained by the Association, or remove any portion thereof or make any addition thereto, or do anything which would or might jeopardize or impair the safety or soundness of the building, without first obtaining the written consent of the Board of Managers of the Association, and not to impair any easement without first obtaining the written consents of the Association and of the Owner or Owners for whose benefit such easement exists.

E. Construction Defects. The obligation of the Association and of the Unit Owners to repair, maintain and replace the portions of the property for which they are respectively 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. The undertaking of repair, maintenance or replacement by the Association or the Unit Owners shall not constitute a waiver of any rights against any warrantor, but such rights shall be specifically reserved.

F. 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 guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of a construction guarantee or insurance coverage shall not excuse any delay by the Association or any Unit Owner in performing his obligation hereunder.

## 15. EASEMENTS

A. Encroachments. In the event that by reason of the construction, settlement or shifting of the building, or by reason of the partial or total destruction and rebuilding of the building, any part of the Common Areas and Facilities presently encroaches or shall hereafter encroach upon any part of a Unit, or any part of a Unit presently encroaches or shall hereafter encroach upon any part of the Common Areas and Facilities, or if by reason of the design or construction of any Unit it shall be necessary or advantageous to an Owner to use or occupy for formal uses and purposes any portions of the Common Areas and Facilities consisting of unoccupied space within the building and adjoining his Unit, or if by reason of the design or construction of utility systems any main pipes, ducts or conduits serving either any other Unit or more than one Unit, presently encroaches or shall hereafter encroach upon any part of any Unit, then valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby



established and shall exist for the benefit of such Unit and the Common Areas and Facilities, as the case may be, so long as all or any part of the building containing such Unit shall remain standing; provided, however, that no valid easement for any encroachment shall be created in favor of the Owner of any Unit or in favor of the Common Areas and Facilities, if such encroachment is caused by the willful conduct of said Owner.

B. Easements for Repair, Maintenance and Restoration. The Association shall have a right of access and an easement to, over and through all of the Condominium Property, including each Unit, for ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties with regard to maintenance, repair and restoration, provided that exercise of this easement, as it affects the individual Units, shall be at reasonable times with reasonable notice to the individual Unit Owners. Any damage resulting to a particular Unit through the provisions of this Item 15 shall be repaired by the Association, the cost of which will be a Common Expense to all of the Unit Owners.

C. Easements Through Walls Within Units. Easements are hereby declared and granted to the Association 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 be in whole or in part within the Unit boundaries. The Owner of each Unit shall have the permanent right and easement to and through the Common Areas and Facilities and walls to the use of water, sewer, power, television antenna and other utilities now or hereafter existing within the walls, and further shall have an easement to hang pictures, mirrors and the like upon the walls of the Unit. Any damage resulting to a particular Unit as a result of the easement herein granted to the Association shall be repaired by the Association, the cost of which will be a Common Expense to all of the Unit Owners.

D. Easements for Certain Utilities. The Association may hereafter grant easements on behalf of Unit Owners to entities for utility purposes for the benefit of the Condominium Property. Each Unit Owner hereby grants and the transfer of title to a Unit Owner shall be deemed to grant 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.

E. Easements Shall Run With Land. All easements and rights herein described 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 Declarant, its successors and assigns and any Owner, purchaser, mortgagee and any other person having an interest in said land or any part or portion thereof. Failure to refer specifically to any or all of the easements described in this Declaration in any deed of conveyance or in any mortgage or trust deed or other evidence of obligation, shall not defeat or fail to reserve said easements, but same shall be



deemed conveyed or encumbered along with the Unit.

16. HAZARD INSURANCE

A. Fire and Extended Coverage Insurance. The Association shall obtain and maintain for the benefit of all Owners and mortgagees, 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 fire, lightning and such perils as are at this time comprehended within the term "extended coverage", with no coinsurance and in an amount not less than one hundred percent (100%) of the replacement value thereof. In the event such policy contains coinsurance provisions, such policy shall contain an agreed amount endorsement. Such insurance shall be written in the name of and the proceeds thereof shall be payable to the Insurance Trustee, hereinafter defined, as Trustee for each of the Unit Owners and mortgagees for the purposes set forth in this Item 16 in accordance with the percentage of ownership in the Common Areas and Facilities set forth in Section A of Item 9 herein. The policy providing such coverage shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Said policy shall also provide that despite any clause that gives the insurer the right to restore damage in lieu of a cash settlement, such right shall not exist in case the Condominium Property is removed from the provisions of Chapter 5311 of the Ohio Revised Code pursuant to the provisions of this Declaration. Such policy shall provide coverage for built-in installed fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement value thereof, and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Unit Owner as hereinafter permitted.

No Unit Owner may purchase an individual policy of fire and extended coverage insurance for his Unit or his interest in the Common Areas and Facilities as real property. If, irrespective of this prohibition, a Unit Owner purchases an individual policy insuring such Unit or interest, said Owner shall be responsible to the Association for any loss or expense that such policy may cause in adjusting the Association's insurance, and such amount of loss shall be a lien on his Unit and enforced in the manner provided for in Section D of Item 20 hereof.

Such policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice not less than ten (10) days prior to any expiration or cancellation of such coverage to any mortgagee or mortgagees of any Unit.

Such policy shall also provide for the release by the issuer thereof of any and all rights of subrogation or assignment and all causes and rights of recovery against any Unit Owner, employee, agent, invitee, tenant or other occupant 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.



If the required insurance coverage under this Section A of Item 16 ceases to exist for any reason whatsoever, any mortgagee of any portion of the Condominium Property may remedy that lack of insurance by purchasing policies to supply that insurance coverage. The funds so advanced shall be deemed to have been loaned to the Association, shall bear interest at a per annum rate two percent (2%) higher than the basic interest rate in any note secured by the mortgagee's mortgage against a portion of the Condominium Property, and shall be due and payable to the mortgagee by the Association immediately. The repayment of said obligation shall be secured by a special assessment against all Unit Owners under Item 14 of this Declaration and shall not require a vote of the members of the Association, anything to the contrary in this Declaration notwithstanding.

All insurance policies under this Section A of Item 16 and any endorsements thereto shall be deposited with the Insurance Trustee, as hereinafter defined, who must first acknowledge that the policies and any proceeds thereof will be held in accordance with the terms hereof. All such policies shall provide that all proceeds payable as a result of casualty losses shall be paid to any bank, as Trustee, which is selected by the Association and located in Dayton, Ohio with trust powers and total assets of more than \$50,000,000.00 (herein referred to as the "Insurance Trustee"). The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal of the policies, nor for the form or contents of the policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the grantor, the Association, the Unit Owners and their respective mortgagees.

**B. 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 or 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; provided, however, that in the event, within thirty (30) days after such damage or destruction, the Unit Owners, if they are entitled to do so pursuant to Section E of this Item 16, shall elect to sell the Condominium Property or to withdraw the same from the provisions of this Declaration, then such repair, restoration or reconstruction shall not be undertaken.

**C. 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 thereof, unless the Unit Owners shall within ninety (90) days after such damage or destruction, if they are entitled to do so pursuant to Section E of this Item 16, elect to withdraw the property from the provisions of this Declaration, such repair, restoration or reconstruction of the Units so damaged or destroyed shall be undertaken by the Association at the expense of all the Unit Owners in the same proportions in which they shall own the Common Areas and Facilities. Should any Unit Owner refuse or fail after reasonable notice to pay his share of such cost in excess of available insurance proceeds, the amount thereof may be advanced by the Association and the amount so advanced by the Association shall be assessed to such Owner and such assessments 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.

D. Procedure for Reconstruction or Repair. Immediately after a casualty causing damage to any portion of the Condominium Property, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Managers deems necessary.

The insurance proceeds and the sums deposited with the Insurance Trustee by the Association from collections of special assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed to the Insurance Trustee and be applied by the Insurance Trustee to the payment of the cost of reconstruction and repair of the Condominium Property from time to time as the work progresses, but not more frequently than once in any calendar month. Said Trustee shall make such payments upon the written request of the Association, accompanied by a certificate dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Association and by an architect in charge of the work who shall be selected by the Association, setting forth (i) that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate; (ii) that except for the amount stated in such certificate to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry which might become the basis of a vendor's, mechanic's, materialmen's or similar lien arising from such work; and (iii) that the cost, as estimated by the person signing such certificate, of the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining in the hands of the Insurance Trustee after the payment of the sum so requested. It shall be presumed



that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association.

The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the damaged property is to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

Each Unit Owner shall be deemed to have delegated to the Board of Managers his right to adjust with insurance companies all losses under the insurance policies referred to in Section A of Item 16 of this Declaration.

E. Non-Restoration of Damage or Destruction. In the event of substantial damage to or destruction of two-thirds (2/3) or more of the Units, the Unit Owners, by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power, may 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 Owners. In the event of any such sale or a sale of the Condominium Property after such election by agreement of all Unit Owners, the net proceeds of the sale, together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective percentages of interest in the Common Areas and Facilities. No Unit Owner, however, shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

#### 17. LIABILITY INSURANCE

The Association as a Common Expense shall insure itself, the Board of Managers, all Unit Owners, employees, invitees, agents, tenants, and all persons lawfully in the 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 destruction of property occurring upon, in or about, or arising from the Common Areas and Facilities, such insurance to afford protection to a limit of not less than \$500,000.00 in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than \$1,000,000.00 in respect to any one occurrence, and to the limit of not less than \$100,000.00 in respect to damage to or destruction of property arising out of any one accident.

Such policy shall not insure against liability for personal



injury or property damage arising out of or relating to the individual Units, or Limited Common Areas appertaining thereto.

18. REHABILITATION AND RENEWAL OF OBSOLETE PROPERTY

The Association may, by the affirmative vote of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power, determine that the Condominium Property is obsolete in whole or in part, and elect to have the same renewed and rehabilitated. The Board of Managers of the Association shall thereupon proceed with such renewal and rehabilitation, and the cost thereof shall be a Common Expense. Any Unit Owner who does not vote for such renewal and rehabilitation may elect, in a writing served by him on the President of the Association within five (5) days after receiving notice of such vote, to receive the fair market value of his Unit, less the amount of any liens and encumbrances thereon as of the date such vote is taken, in return for a conveyance of his Unit, subject to such liens and encumbrances, to the President of the Association as trustee for all other Unit Owners. In the event of such election, such conveyance and payment of the consideration therefor, which shall be a Common Expense to the Unit Owners who have not so elected, shall be made within ten (10) days thereafter, and, if such Owner and a majority of the Board of Managers of the Association cannot agree upon the fair market value of such Unit, such determination shall be made by the majority vote of three (3) appraisers; one of which shall be appointed by such Unit Owner, one of which shall be appointed by the Board of Managers, and the third of which shall be appointed by the first two (2) appraisers.

19. REMEDIES FOR BREACH OF COVENANTS AND REGULATIONS

A. Abatement and Enjoinment. The violation of any restriction or condition or regulation adopted by the Board of Managers of the Association, or the breach of any covenant or provision contained in this Declaration or in the By-Laws of the Association attached hereto as Exhibit "B", shall give the Board of Managers the right, in addition to the rights hereinafter set forth in this section, (i) to enter upon the land or Unit portion thereof upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration and the By-Laws of the Association, and the Board of Managers, or its Agents, shall not be thereby deemed guilty in any manner of trespass; or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

B. Involuntary Sale. If any Owner, either by his own conduct or by the conduct of any employee or agent of his, shall violate any of the covenants or restrictions or provisions of this Declaration, or of the By-Laws of the Association attached hereto



as Exhibit "B", or the regulations adopted by the Board of Managers of the Association, and such violation shall continue for thirty (30) days after notice in writing from the Board of Managers, or shall occur repeatedly during any thirty (30) day period after written notice or request from the Board of Managers to cure such violation, then the Board of Managers shall have the power to issue to the defaulting Owner a ten (10) day notice in writing to terminate the rights of the said defaulting Owner to continue as an Owner and to continue to occupy, use or control his Unit and thereupon an action in equity may be filed by the Board of Managers against the defaulting Owner for a decree of mandatory injunction against the Owner or occupant or, subject to the prior consent in writing of any mortgagee having a security interest in the Unit ownership of the defaulting Owner, which consent shall not be unreasonably withheld, in the alternative a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant, and ordering that all the right title and interest of the Owner in the property shall be sold, subject to the lien of any existing mortgage, 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 reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, master's or commissioner's fees, and all other expenses of the proceedings, and all such items shall be taxes against the defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, other than that of the first mortgage, may be paid to the Owner. Upon the confirmation of such sale, the purchaser thereat shall thereupon be entitled to a deed to the Unit ownership and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession and it shall be a condition of any such sale, and the decree shall so provide that the purchaser shall take the interest in the property sold subject to this Declaration.

C. Civil Action. Declarant, Developer, Agent, Unit Owner or any person entitled to occupy a Unit of the Condominium Property, is liable in a civil action for damages caused to any person by his failure to comply with any lawful provision of the Condominium instruments. Any interested person may commence an action for a declaratory judgment to determine his legal relations under the Condominium instruments, or to obtain an injunction against the Declarant, Developer, Agent, Unit Owner or any person entitled to occupy a Unit who refuses to comply or threatens to refuse to comply with a provision of the instruments. One or more Unit Owners may bring a class action on behalf of all Unit Owners. The lawful provisions of the Condominium instruments may, if necessary to carry out their purpose, be enforced against the Condominium Property or any person who owns or has previously owned any interest in the Condominium Property.

An action by the Unit Owners' Association under this Item 19 may be commenced by the Association in its own name or in the name of its Board of Managers or in the name of its Managing Agent.





20. ASSESSMENTS AND LIEN OF ASSOCIATION

A. General. Assessments for the maintenance, repair and insurance of the Common Areas and Facilities and for the insurance of the Units, together with the payment of the Common Expenses, shall be made in the manner provided herein, and in the manner provided in the By-Laws.

B. Division of Common Profits and Common Expenses. The proportionate shares of the separate Unit Owners of the respective Units in the Common Profits and Common Expenses of the operation of the Condominium Property shall be in accordance with the percentages of interest appurtenant to their respective Units as set forth in Section A of Item 9 hereof.

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

D. Lien of Association. The Association shall have a lien upon the estate or interest of the Owner in any Unit, and the appurtenant percentage of interest in the Common Areas and Facilities for the payment of the portion of the Common Expenses chargeable against the Unit that remains unpaid for ten (10) days after the portion has become due and payable. The lien is effective on the date a certificate of lien is filed for record in the office of the Recorder of Montgomery County, Ohio, pursuant to authorization given by the Board of Managers. The certificate shall contain a description of the Unit, the name of the record Owner, and the amount of the unpaid portion of the Common Expenses, and shall be subscribed by the President of the Association. The lien is valid for a period of five (5) years from the date of filing, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of a court in an action brought to discharge the lien as hereinafter provided.

E. Priority of Association's Lien. The lien provided for in Section D of this Item 20 is prior to any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages that have been filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Association by its President, pursuant to authority given to him by the Board of Managers. In the foreclosure action, the Owner of the Unit affected shall be required to pay a reasonable rental for the Unit during the pendency of the action, and the plaintiff in the action is entitled to the appointment of a receiver to collect the rental. In the foreclosure action, the Association, duly authorized by action of its Board of Managers, is entitled to become a purchaser at the foreclosure sale.

F. Dispute as to Common Expenses. Any Unit Owner who believes that the portion of Common Expenses chargeable to his Unit



for which a certificate of lien has been filed by the Association has been improperly charged against him or his Unit, may commence an action for the discharge of such lien in the Court of Common Pleas for Montgomery County, Ohio.

G. Non-Liability of Foreclosure Sale Purchaser or an Acquirer of Title in Lieu of Foreclosure 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 foreclosure of any lien or a deed in lieu of foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of Common Expenses or other assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Units, including that of such acquirer, his successors or assigns.

H. Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Unit other than a conveyance in lieu of foreclosure, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and his Unit for his share of Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee and his mortgagee shall be entitled to a statement from the Board of Managers of the Association, setting forth the amount of all unpaid and current assessments against the grantor due the Association, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to, a lien for any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement.

## 21. COMBINATION, SUBDIVISION OR REALIGNMENT OF UNITS

A. Unit Owner. Any Unit Owner or Owners shall have the right to divide or otherwise realign Unit or Units owned by such Owner or Owners. Any such division, combination or realignment shall require the written consent of the Board of Managers and shall be in compliance with all governmental laws, codes, ordinances and regulations. The cost of any such division, combination or realignment shall be the responsibility of the Owner or Owners of the Unit or Units undergoing such division, combination or realignment.

B. Declarant. Notwithstanding the provisions above, as long as the Declarant owns a Unit or Units, it shall have the right without further authorization from either the Unit Owners or the Board of Managers to divide, combine or otherwise realign a Unit or Units held by it in order to facilitate their sale. The rights granted the Declarant herein may not be modified or deleted by an amendment to the Declaration or otherwise as long as the Declarant owns a Unit.



C. Restrictions. In no event shall any such division, combination or realignment, whether by a Unit Owner or Owners or by Declarant:

- (1) alter or diminish the Common Areas and Facilities;
- (2) alter or diminish the percentage of interest in the Common Areas and Facilities and the voting power or rights of the Units not affected or involved in such division, combination or realignment; and
- (3) diminish the total percentage of interest in the Common Areas and Facilities, voting power or rights, and share of the Common Expenses previously allocated to the Unit or Units undergoing such division, combination or realignment.

D. Amendments. Any division, combination or realignment within this Item 21 shall become effective upon the recording of a duly executed amendment to the Declaration with the Recorder of Montgomery County, Ohio. Said amendment shall contain and/or be accompanied by the following:

- (1) A drawing or set of drawings as provided in Section 5311.07 of the Ohio Revised Code showing all the particulars of the division, combination or realignment.
- (2) A schedule or statement specifying the percentage of interest in the Common Areas and Facilities, the proportionate share of the Common Surplus and Common Expenses, and the voting power of the Unit or Units resulting from such division, combination or realignment.
- (3) Consent of the Board of Managers where applicable.

## 22. SALE, LEASE, RENTAL OR OTHER DISPOSITION

A. Sale or Lease. Any Unit Owner who wishes to sell or lease his Unit ownership shall give to the Board of Managers no less than thirty (30) days prior written notice of the terms of any contemplated sale or lease, together with the name and address of the proposed purchaser or lessee. The members of the Board of Managers acting on behalf of consenting Unit Owners as hereinafter provided, shall at all times have the first right and option to purchase or lease such Unit ownership upon the same terms, which option shall be exercisable for a period of thirty (30) days following the date of receipt of such notice; provided, however, that if the proposed purchase or lease shall be for a consideration which the Board of Managers deems inconsistent with the bona fide fair market value of such Unit ownership, the Board of Managers may elect to exercise such option in the manner, within the period and on the terms set forth in Section B of this Item 22. If said option is not exercised by the Board of Managers within the aforesaid option period, the Owner may, at the expiration of said period, contract to sell or lease such Unit ownership to the proposed purchaser or lessee named in such notice upon the terms specified therein.



B. Gift. Any Unit Owner who wishes to make a gift of his Unit ownership or any interest therein to any person or persons who would not be heirs-at-law of the Owner under the Ohio Statute of Descent and Distribution were he or she to die within ninety (90) days prior to the contemplated date of such gift, shall give to the Board of Managers not less than ninety (90) days written notice of his or her intent to make such gift prior to the contemplated date thereof, together with the name and address of the intended donee and the contemplated date of said gift. The members of the Board of Managers acting on behalf of consenting Unit Owners have the first right and option to purchase such Unit ownership or interest therein for cash at fair market value to be determined by arbitration as herein provided, which option shall be exercisable until the date of expiration as provided herein. Within fifteen (15) days after receipt of said written notice by the Board of Managers, both the Board of Managers and the Owner desiring to make such gift shall each appoint a qualified real estate appraiser to act as arbitrators. The two arbitrators so appointed shall, within ten (10) days after their appointment, appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days after the appointment of said arbitrator, the three arbitrators shall determine by majority vote, the fair market value of the Unit ownership or interest therein which the Owner contemplates conveying by gift, and shall thereupon give written notice of such determination to the Owner and the Board of Managers; provided, however, that if such fair market value is less than the mortgage amount outstanding on such Unit, then such mortgage amount shall be considered the fair market value subject to this option. The Board of Managers' option to purchase the Unit ownership or interest therein shall expire forty-five (45) days after the date of receipt by it of such notice.

C. Devise. In the event any Owner dies leaving a Will devising his or her Unit ownership, or any interest therein, to any person or persons not heirs-at-law of the deceased Owner under the Ohio Statute of Descent and Distribution, and said Will is admitted to probate, the members of the Board of Managers acting on behalf of consenting Unit Owners as hereinafter provided, shall have an option to be exercised in the manner hereinafter set forth, to purchase said Unit ownership or interest therein either from the devisee or devisees thereof named in said Will or, if a power of sale is conferred by said Will, upon the personal representative named therein, from the personal representative acting pursuant to said power, for cash at fair market value which is to be determined by arbitration. Within sixty (60) days after the appointment of a personal representative for the estate of the deceased Owner, the Board of Managers shall appoint a qualified real estate appraiser to act as an arbitrator, and shall thereupon give written notice of such appointment to the said devisee or devisees, or personal representative, as the case may be. Within fifteen (15) days thereafter said devisee or devisees, or personal representative, as the case may be, shall appoint a qualified real estate appraiser to act as an arbitrator. Within ten (10) days after the appointment of said arbitrator, the two so appointed shall appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days thereafter, the three arbitrators shall





determine, by majority vote, the fair market value of the Unit ownership or interest therein devised by the deceased Owner, and shall thereupon give written notice of such determination to the Board of Managers and said devisee or devisees, or personal representative, as the case may be; provided, however, that if such fair market value is less than the mortgage amount outstanding on such Unit, then such mortgage amount shall be considered the fair market value subject to this option. The Board of Managers' right to purchase the Unit ownership or interest therein at the price determined by the provisions above shall expire sixty (60) days after the date of receipt by it of such notice if the personal representative of the deceased Owner is empowered to sell, and shall expire ten (10) months after the appointment of a personal representative who is not so empowered to sell. The Board of Managers shall be deemed to have exercised its option if it tenders the required sum of money to said devisee or devisees, or to said personal representative, as the case may be, within the said option periods. Nothing herein contained shall be deemed to restrict the right of the Board of Managers or its authorized representative, pursuant to authority given to the Board of Managers by the Owners as hereinafter provided, to bid at any sale of the Unit ownership or interest therein of any deceased Owner which sale is held pursuant to an order or direction of the court having jurisdiction over the portion of the deceased Owner's estate which contains his or her Unit ownership or interest therein.

D. Involuntary Sale.

(1) In the event any Unit ownership or interest therein is sold at a judicial or execution sale other than a mortgage foreclosure sale, the person acquiring title through such sale shall, before taking possession of the Unit so sold, give thirty (30) days written notice to the Board of Managers of his intention so to do, whereupon the members of the Board of Managers and their successors in office, acting on behalf of consenting Unit Owners as hereinafter provided, shall have an irrevocable option to purchase such Unit ownership or interest therein at the same price for which it was sold at said sale. If said option is not exercised by the Board of Managers within said thirty (30) days after receipt of such notice, it shall thereupon expire and said purchaser may thereafter take possession of said Unit. The Board of Managers shall be deemed to have exercised its option if it tenders the required sum of money to the purchaser within said thirty (30) day period.

(2) In the event any Owner shall default in the payment of any monies required to be paid under the provisions of any mortgage or trust deed against his Unit ownership, the Board of Managers shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefore against such Unit ownership, which lien shall have the same force and effect and may be enforced in the same manner as provided in Item 20 hereof.



E. Consent of Voting Members. The Board of Managers shall not exercise any option hereinabove set forth to purchase any Unit ownership or interest therein without the prior written consent of the members entitled to exercise not less than seventy-five (75%) of the voting power in the Association, and whose Unit ownerships are not the subject matter of such option. The Board of Managers may bid to purchase at any sale of a Unit ownership or interest therein, which said sale is held pursuant to an order or direction of a court upon the prior written consent of the aforesaid voting members, which said consent shall set forth a maximum price which the Board of Managers is authorized to bid and pay for said Unit or interest therein. The aforesaid option shall be exercised by the Board of Managers solely for the use and benefit of the Owners consenting thereto.

F. Release, Waiver and Exception to Option. Upon the written consent of four (4) of the Board members, any of the options contained in this Item 22 may be released or waived and the Unit ownership or interest therein which is subject to an option set forth in this Item 22 may be sold, conveyed, leased, given or devised free and clear of the provisions of this Item 22. In addition, none of the options contained in this Item 22 shall be applicable to any sales, leases or subleases to purchasers, lessees or sublessees procured by or through the Declarant for its own account until such time as the original sale of the Units is completed. If the Declarant reacquires a Unit ownership after it has been sold as part of the original sale, the Declarant shall be subject to the provisions of this Item 22 with respect to such Unit ownership.

G. Proof of Termination of Option. A certificate executed and acknowledged by the Secretary of the Board of Managers stating that the provisions of this Item 22 as hereinabove set forth have been met by an Owner, or duly waived by the Board of Managers, and that the rights of the Board of Managers hereunder have terminated, shall be conclusive upon the Board of Managers and the Owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner who has in fact complied with the provisions of this Item 22 or in respect to whom the provisions of this Item 22 have been waived, upon a request at a reasonable fee, not to exceed \$10.00.

H. Financing of Purchase Under Option.

(1) Acquisition of any Unit or any interest therein under the provisions of this Item 22, and the maintenance and rehabilitation of any Unit so acquired, shall be paid for from a special fund as hereinafter provided. The Board of Managers shall determine the amount necessary to acquire, maintain and rehabilitate such Unit and shall levy an assessment against each consenting Owner in the ratio of which his percentage of interest in the Common Areas and Facilities bears with respect to the total percentage of interest in the Common Areas and Facilities of all the consenting Owners, which assessment shall become a lien and be enforceable in the same manner as provided in Item 20. Such assessment shall be deposited in a special fund and disbursed by the Board of Managers in such a manner as it may direct in the



acquisition, maintenance and rehabilitation of such Unit. In the event that any loss is suffered in connection with the provisions of this Item 22, then such loss shall be charged only against the consenting Owners in the same ratio as such Unit Owner's percentage of interest in the Common Areas and Facilities bears with respect to the total percentage of interest in the Common Areas and Facilities of all the consenting Owners.

(2) The Board of Managers, in its discretion, may borrow money to finance the acquisition of any Unit ownership or interest therein authorized by this Item 22; provided, however, that no financing may be secured by an encumbrance or hypothecation of any portion of the property other than the Unit ownership or interest therein to be acquired. The loan documents evidencing such borrowing may be executed by the members of the Board of Managers, a nominee of the Board of Managers, or by a land trust of which the Board of Managers shall be the beneficiary.

I. Title to Acquired Interests. Unit ownerships or interests therein acquired pursuant to the terms of this Item 22 shall be held of record in the name of the President of the Association and his successor in office or such nominee as he shall designate, or by a land trust of which the Association shall be the beneficiary. Such holding shall be in trust for the benefit of all the Owners consenting to the participating in such acquisition. Said Unit ownerships or interests therein shall be sold or leased by the Board of Managers for the benefit of such Owners. All net proceeds of such sale and/or leasing shall be deposited in said special fund. After the sale of said Unit, the balance of the special fund shall be distributed to each consenting Owner in the ratio which his ownership bears with respect to the total ownership of all the consenting Owners.

J. Protection of First Mortgage. In the event of the purchase of a Unit by the Board of Managers pursuant to the options contained in this Item 22, to the extent, if any, that the first mortgage on such Unit is not paid from the purchase price, such first mortgage will remain in effect against such Unit.

## 23. ADDITIONAL PROPERTY

A. Contemplated Annexation by Declarant. Declarant is the Owner in fee simple of certain real property adjacent to the Condominium Property, said property being hereinafter referred to as the "Additional Property". It is the desire of the Declarant to construct thereon certain buildings containing structures and other improvements, all of which to be substantially the same type, character, style and quality and size as to the structures and other improvements constructed on the land submitted to the provisions of this Declaration. Declarant further desires submitting the Additional Property, together with the buildings and other improvements to be constructed thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and Chapter 5311 of the Ohio Revised Code, so that the same will become in all respects part of the Condominium Property.



B. Reservation of Option to Expand. Declarant hereby expressly reserves the option at any time within a period of seven (7) years, commencing on the date this Declaration is filed for record, to take the action so contemplated in submitting all or any part of the Additional Property, which is more particularly described in the metes and bounds description set forth in Section L of this Item, together with the buildings and other improvements to be built thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and Chapter 5311 of the Ohio Revised Code, so that the same will become in all respects part of the Condominium Property.

C. Limitations on Declarant's Option. Unless otherwise specified in this Item, there are no limitations on Declarant's option to annex or add the Additional Property to the Condominium Property. The consent of Unit Owners to annex or add such Additional Property is not required.

D. Additional Property. Declarant, in its absolute discretion, may annex or add all or any part of the Additional Property in whatever quantity, amount, sequence or order that it may determine. There are no limitations on Declarant as to the amount of the Additional Property to be added, the sequencing or order of such additions, nor as to the boundaries or size of such additions.

E. Location and Type of Improvements. Unless otherwise specified in this Item, there are no limitations imposed on Declarant as to the location of any improvements that may be made to any portion of the Additional Property, nor any restrictions as to the type and amount of improvements which must or may be made on the Additional Property by Declarant.

F. Structures. The structures to be constructed on the Additional Property shall be compatible with the existing structures on the Condominium Property in terms of construction, principal materials used, and architectural style.

G. Units. There will be a maximum of thirty (30) Units constructed on the Additional Property, with a density not to exceed twelve (12) Units per acre. All of such Units to be constructed shall be substantially identical to the Units constructed on the Condominium Property.

H. Limited Common Areas and Facilities. Declarant reserves the right to designate any portion of the Additional Property as Limited Common Areas and Facilities for the use and enjoyment of any Unit or Units to be constructed thereon.

I. Reservation of Right to Amend Declaration. Declarant hereby reserves the right to amend this Declaration, in such respects as Declarant may deem advisable in order to effectuate the generality of the foregoing, the right to amend this Declaration so as (1) to include any or all of the Additional Property and the improvements which may be constructed thereon as part of the Condominium Property, (2) to include descriptions of buildings constructed on said real estate and to add drawings thereof to the





appropriate exhibits hereto, and (3) to provide that the Owners of Units in the buildings will have an interest in the Common Areas and Facilities of the Condominium Property, and to amend Item 9 so as to establish percentages of interest in the Common Areas and Facilities which the Owners of all Units within the buildings on the Condominium Property will have at the time of such amendment, which percentage shall be, with respect to each Unit, in 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 of the Units within the Condominium Property, which determination shall be made by Declarant and shall be conclusive and binding upon all Unit Owners.

J. Consent and Approval for Annexation Amendments. Declarant, on its own behalf as the Owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by acceptance of a deed conveying such ownership, or a mortgage encumbering such interest, as the case may be, hereby consents and approves the provisions of this Item 23, including, without limiting the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided in Section I of this Item 23, and all such Unit Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate said provisions.

K. Power of Attorney, Coupled With an Interest. Each Unit Owner and his respective mortgagees, by the acceptance of a deed conveying such ownership or a mortgage encumbering such interest, as the case may be, hereby irrevocably appoints Declarant his attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at the option of the attorney in the event that the Declarant exercises the rights reserved above, to add to the Condominium Property additional property to execute, acknowledge and record for and in the name of such Unit Owner an amendment of this Declaration for such purpose and for and in the name of such respective mortgagees, a consent to such amendment.

L. Description. The additional property is described in Exhibit C attached hereto.

#### 24. MISCELLANEOUS PROVISIONS

A. Each grantee of Declarant, 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 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 this Declaration were recited and stipulated at length in each and every deed of conveyance.



B. Upon the removal of the Condominium Property from the provisions of Chapter 5311 of the Ohio Revised Code, all easements, covenants and other rights, benefits, privileges, impositions and obligations declared herein to run with the land or any Unit, shall terminate and be of no further force nor effect.

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

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

E. Upon written request to the Board of Managers, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given a copy of any and all notices and other documents permitted or required by this Declaration or the By-Laws attached hereto as Exhibit "B", to be given to the Owner or Owners whose Unit Ownership is subject to such mortgage or trust deed, and a copy of any lien filed by the Association.

F. That so long as said Declarant, his successors and assigns own one or more of the Units established and described herein, said Declarant, his successors and assigns shall be subject to the provisions of this Declaration and of the exhibits attached hereto; and said Declarant covenants to take no action which would adversely affect the rights of the Association with respect to assurances against latent defects in the property or other right assigned to the Association by reason of the establishment of the Condominium.

G. Unless otherwise provided in this Declaration or by statute, neither Declarant nor his representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authorities granted or delegated to it by or pursuant to this Declaration or the By-Laws attached hereto as Exhibit "B", or in Declarant's capacity as Developer, contractor, Owner, Manager or seller of the Condominium Property, whether or not such claim (i) shall be asserted by any Unit Owner, occupant, the Association or by any person or entity claiming through any of them; or (ii) shall be on account of injury to person or damage to or loss of property wherever located and however caused; or (iii) shall arise ex contractu or, except in the case of gross negligence, ex delictu. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Condominium Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Unit Owner, occupant, the Association and their respective Agents, employees, guests invitees, or by reason of any neighboring property or personal property located on or



about the Condominium Property, or by reason of the failure to function or disrepair of any utility services.

H. The heading of each Item and to each Section hereof, is inserted only as a matter of convenience and for reference and in no way defines, limits or describes the scope or intent of this Declaration nor in any way affects this Declaration.

I. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first class Condominium Development.

J. Except in his capacity as a Unit Owner of unsold Condominium Ownership Interests, the Developer will not retain a property interest in any of the Common Areas and Facilities after control of the Condominium is assumed by the Unit Owner's Association.

K. The Developer will assume the rights and obligations of a Unit Owner in his capacity as Owner of Condominium Ownership Interests not yet sold, including without limitation the obligation to pay Common Expenses, including reserves, attaching to such interests from the date the Declaration was filed for record.

L. Notwithstanding any provision of this Declaration or the By-Laws which are attached hereto as Exhibit "B", the Declarant hereby reserves the right and power, and each Unit Owner by acceptance of a deed is deemed to, and does give and grant to Declarant, a power of attorney, which right and power is coupled with an interest and runs with title to the Unit and is irrevocable for a period of two (2) years from the filing date hereof, to amend this Declaration and any of its exhibits, and to execute any and all documents deemed necessary or desirable by Declarant to conform to requirements of any lending institution in order to issue a mortgage loan, or to correct scrivener or typographical mistakes.

IN WITNESS WHEREOF, the aforesaid instrument has been executed this 18th day of May, 1981, by CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation.

Signed and acknowledged in the presence of:

Hans H. Soltan  
Charles V. Simms

CHARLES V. SIMMS DEVELOPMENT CORPORATION

By Charles V. Simms  
Its President

STATE OF OHIO

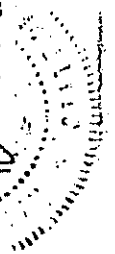
COUNTY OF MONTGOMERY

)  
) SS:

The foregoing instrument was acknowledged before me this 18 day of May, 1981, by Charles V. Simms, President, of CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, on behalf of the Corporation.

HANS H. SOLTAN, Attorney at Law  
Notary Public, State of Ohio

Hans H. Soltan  
Notary Public





CONSENT OF MORTGAGEE

The undersigned, GEM SAVINGS ASSOCIATION, the holder of certain mortgage deed(s) to the premises of CHARLES V. SIMMS DEVELOPMENT CORPORATION, recorded in the Office of the Recorder of Montgomery County, Ohio at Microfiche No. \_\_\_\_\_ hereby consents to the execution and delivery of the foregoing Declaration of Condominium Ownership with exhibits attached thereto and to the filing thereof in the Office of the Recorder of Montgomery County, Ohio, and further subjects the above described mortgage(s) to the provisions of the foregoing Declaration of Condominium Ownership with attached exhibits.

IN WITNESS WHEREOF, GEM SAVINGS ASSOCIATION, by its duly authorized officers has caused the execution of the aforesaid Consent this 22nd day of May, 1981.

Signed and acknowledged in the presence of:

GEM SAVINGS ASSOCIATION

Donna J. Clark

By: Robert H. St. Pierre  
Robert H. St. Pierre, Vice President

Kenneth D. Pomeroy

By: R. C. Lewin  
R. C. Lewin, its Vice President

STATE OF OHIO )  
COUNTY OF MONTGOMERY ) SS:

The foregoing instrument was acknowledged before me this 22nd day of May, 1981, by Robert H. St. Pierre, its Vice President and R. C. Lewin, its Vice President of GEM SAVINGS ASSOCIATION, an Ohio corporation, on behalf of the Corporation.

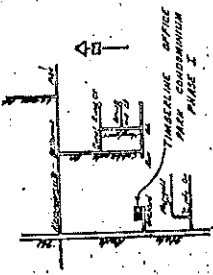
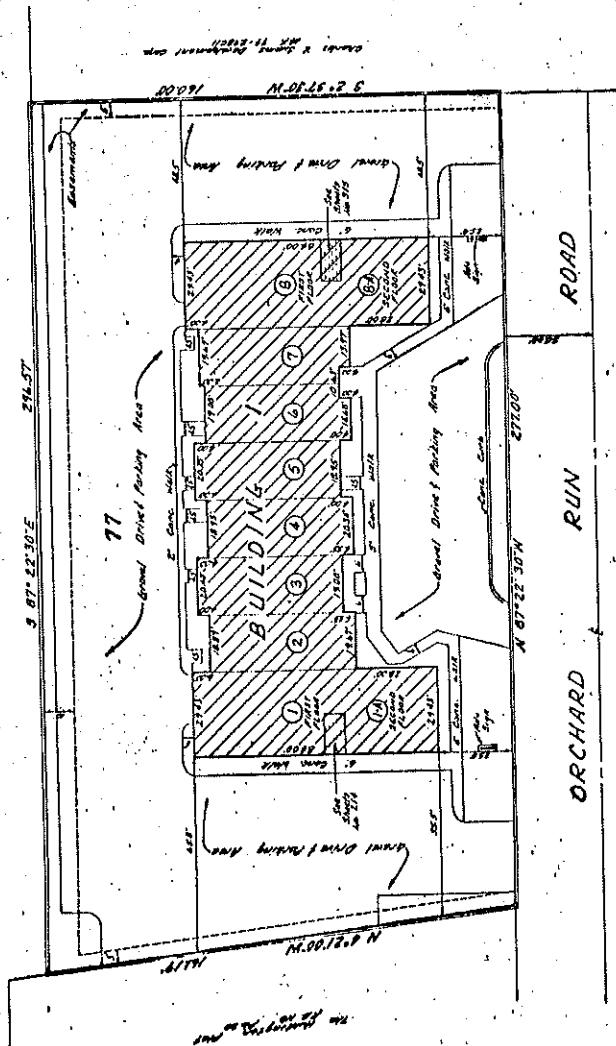
Donna J. Clark  
Notary Public

DONNA J. CLARK, Notary Public  
In and for the State of Ohio  
My Commission Expires Feb. 28, 1985  
My Commission is Recorded in Montgomery County.

THIS INSTRUMENT PREPARED BY:  
Hans H. Soltau  
Attorney-at-Law  
367 West Second Street  
Dayton, Ohio 45402







**TIMBERLINE  
OFFICE PARK CONDOMINIUM  
PHASE I  
1053 ACRES**

**CERTIFICATION:**  
The measurements are verified correct and permanent are set as shown. The drawing illustrates the arrangement of the buildings as constructed.

**ED. F. FRECKER, P. E., P. S.**



**MIAMI ENGINEERING CO.**  
1000 B Street  
Beverly Springs  
Ohio License No. 12777

- LEGEND:**
- ① Indicates Condominium Unit Number
  - ▨ Indicates Condominium Unit
  - ▤ Indicates Condominium Limited Common Area Facilities
  - Indicates Condominium Common Area Facilities

**DESCRIPTION:**

Situate in Section 7, Town 1, Range 6 A.E.S., Township of Miami, County of Montgomery, State of Ohio, and being all of lot number 77 in the subdivision known as recorded in Plat Book 172 Page 14, and all containing 1053 Acres of being part of a 10228 acre tract conveyed to Charles Y Simms Development Corporation as recorded in subdivision 77-218021 containing a total of 1052 Acres.

**COVENANTS, CONDITIONS, AND RESTRICTIONS:**

The words and deed shown herein are subject to the Declaration of Covenants, Conditions and Restrictions of Timberline Office Park Condominium Phase I as recorded by subdivision number of the deed records at Montgomery County, Ohio.

**CHARLES Y SIMMS DEVELOPMENT CORPORATION**

The Charles Y Simms Development Corporation, acting in its capacity as the owner of the lands herein described does hereby submit the lands herein described to the provisions of the condominium articles of Ohio.

**CHARLES Y SIMMS DEVELOPMENT CORPORATION**

*Charles Y. Simms*  
Charles Y. Simms, President

**STATE OF OHIO, COUNTY OF MONTGOMERY-SS**

The foregoing instrument was acknowledged before me this 15th day of May, 1981, by Charles Y. Simms, President of the Charles Y. Simms Development Corporation, an Ohio Corporation, an inhabitant of the jurisdiction.

Notary Public *Charles J. ...*

**CONSENT OF MORTGAGEE:**  
4th SAVINGS ASSOCIATION

*Tommy S. Miller*  
Tommy S. Miller, Vice President

**STATE OF OHIO, COUNTY OF MONTGOMERY-SS**

The foregoing instrument was acknowledged before me this 15th day of May, 1981, by Tommy S. Miller, Vice President and Treasurer of the 4th Savings Association, an Ohio Corporation.

Notary Public *Charles J. ...*

**DATE: MAY 15, 1981  
STATE OF OHIO, COUNTY OF MONTGOMERY-SS**

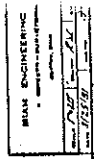
Charles Y. Simms, being duly sworn, says that all persons and corporations, to the best of his knowledge, interested in this subdivision either as mortgagor or party thereto are united in its execution.

*Charles Y. Simms*  
Charles Y. Simms

In testimony whereof, I have hereunto set my hand and official seal on the day and date above written.

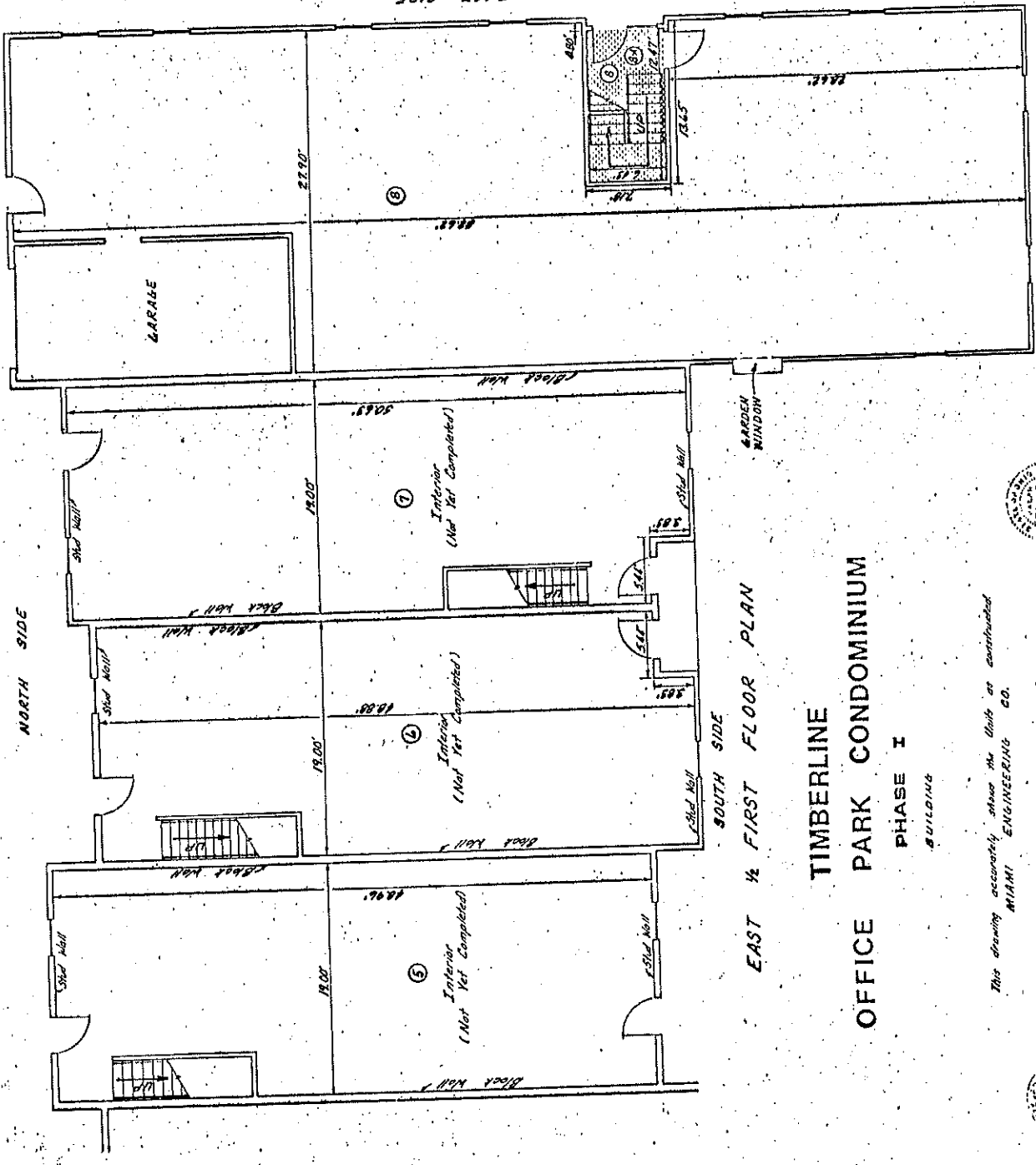
Notary Public *Charles J. ...*

This instrument prepared by the Miami Engineering Company.





81 222E03



EAST SIDE

NORTH SIDE

SOUTH SIDE

EAST 1/2 FIRST FLOOR PLAN

TIMBERLINE  
OFFICE PARK CONDOMINIUM  
PHASE I  
BUILDING

This drawing accurately shows the Units as constructed  
MIAMI ENGINEERING CO.

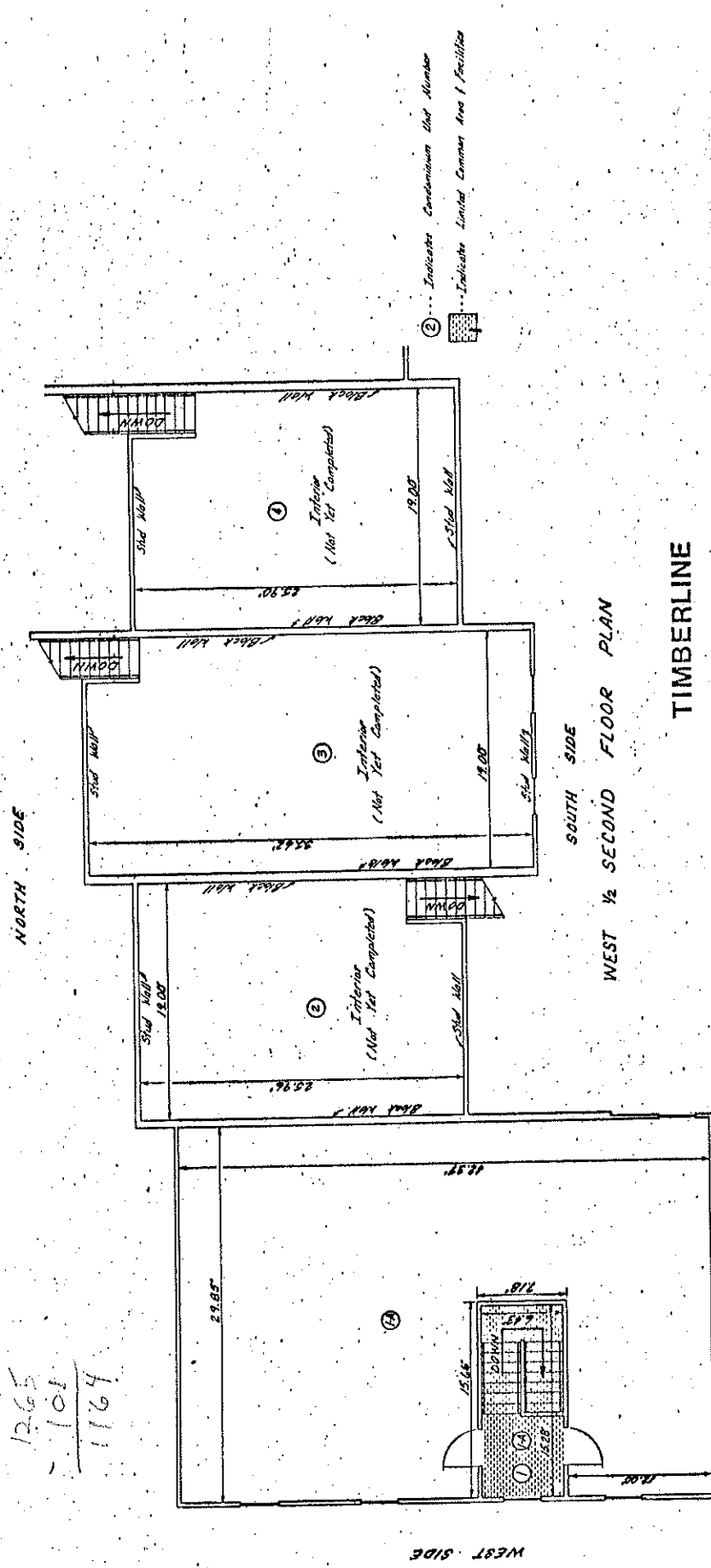
*Charles E. Reed*  
Charles E. Reed  
Registered Engineer  
Ohio License No. 22623

*Raymond A. Reed*  
Raymond A. Reed  
Registered Surveyor  
Ohio License No. 5787

①.....Indicates Condominium Unit Number  
②.....Indicates Limited Common Area / Etc.

MIAMI ENGINEERING CO.	DATE
10/1/79	
BY	
10/1/79	
SCALE	
AS SHOWN	





TIMBERLINE  
OFFICE PARK CONDOMINIUM  
PHASE I  
BUILDING 1

This drawing accurately shows the units as constructed  
MIAMI ENGINEERING, CA



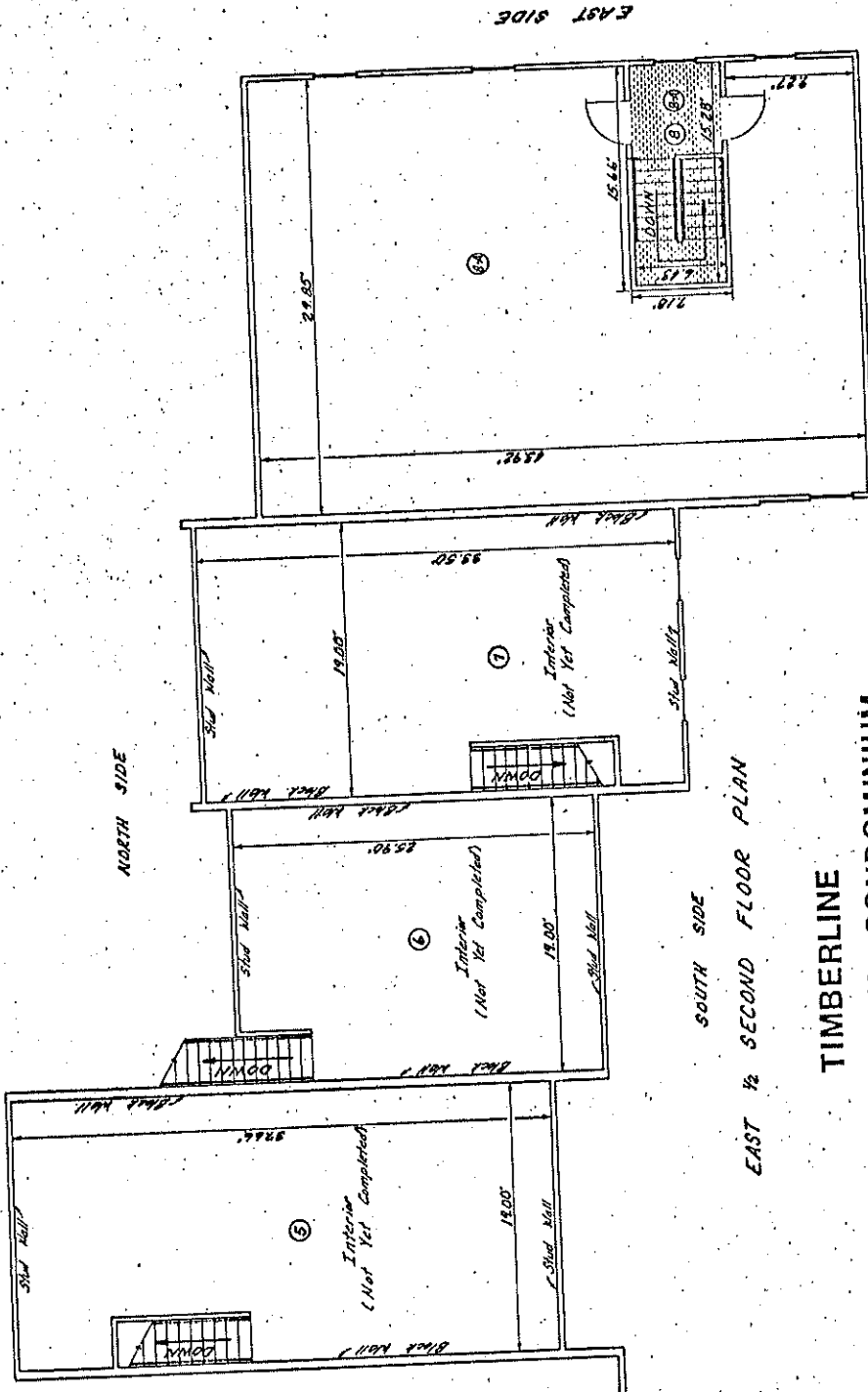
Charles E. Reed  
Registered Engineer  
Ohio License No. 20428

Ralph D. Ames  
Registered Surveyor  
Ohio License No. 5787



12.65  
- 1.08  
11.67





⑤...Indicates Condominium Unit Number  
 [Symbol]...Indicates Limited Common Area Facilities

# TIMBERLINE OFFICE PARK CONDOMINIUM

PHASE I  
 BUILDING 1

EAST 1/2 SECOND FLOOR PLAN

This drawing accurately shows the Units as constructed.  
 MIAMI ENGINEERING CO.



*Charles E. Road*  
 Registered Engineer  
 License No. 24886

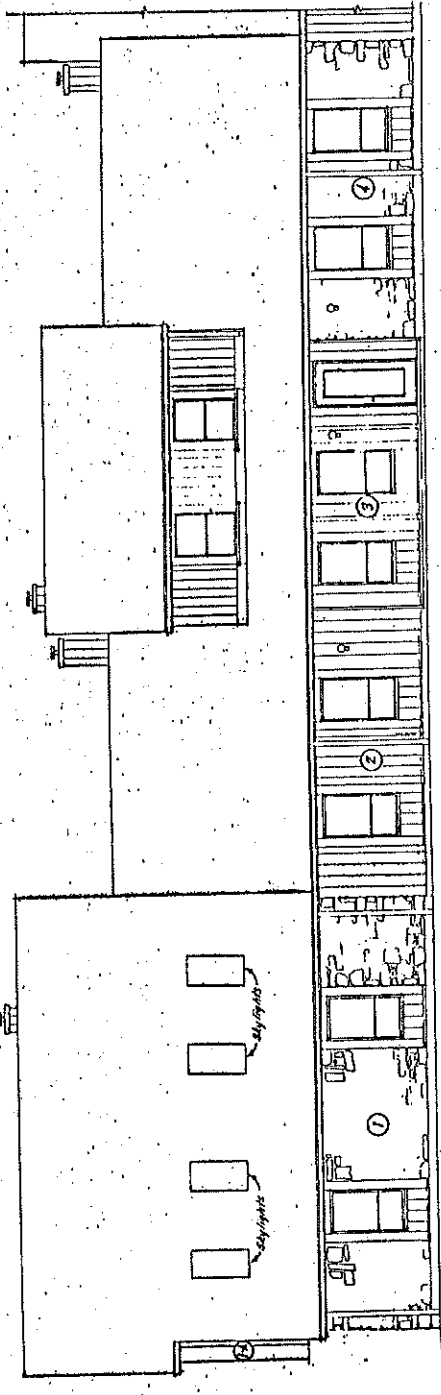
*R. J. O. Co.*  
 Registered Engineer  
 License No. 24886



DATE	DESCRIPTION
5/8	

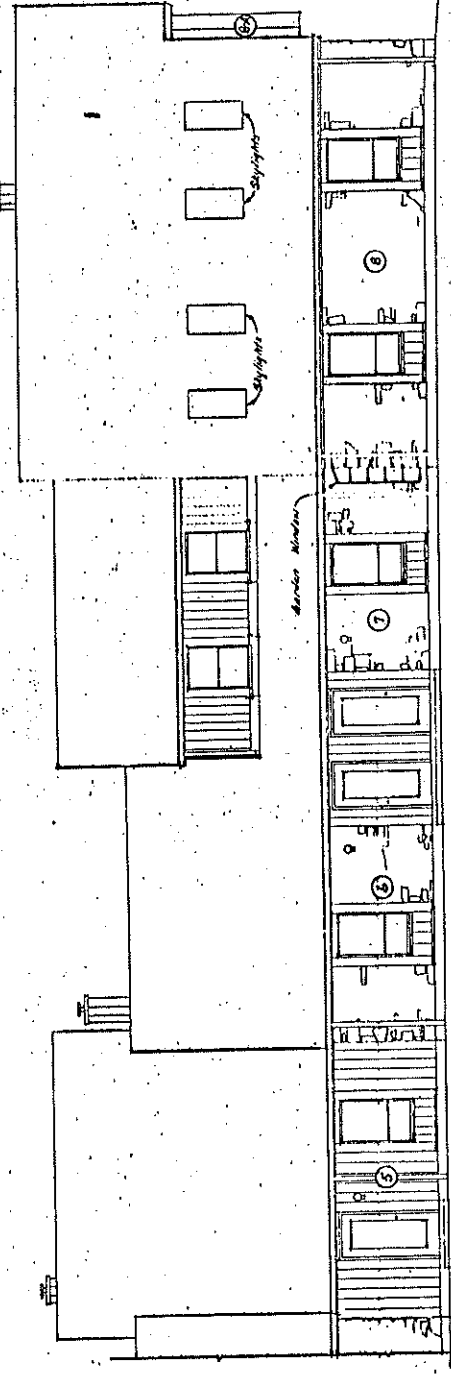






LEFT 1/2 SOUTH ELEVATION

①... Indicates Condominium Unit Number



RIGHT 1/2 SOUTH ELEVATION

**TIMBERLINE  
OFFICE PARK CONDOMINIUM**

PHASE I  
BUILDING 1

This drawing accurately shows the Building as constructed and graphically shows the particulars of the Condominium as intended by the architect.

MIAMI ENGINEERING CO.

*Charles E. Reed*  
Registered Engineer  
Ohio License No. 20825

*Edwin D. Ames*  
Registered Surveyor  
Ohio License No. 20825

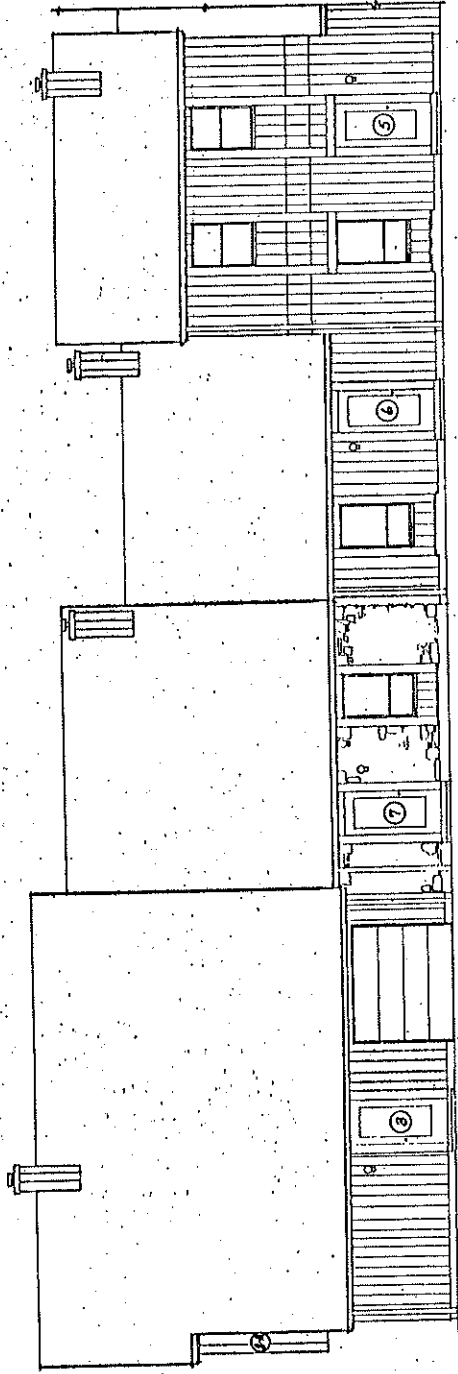
MIAMI ENGINEERING CO.  
1111 N. MIAMI AVE.  
MIAMI, FLORIDA 33136



2

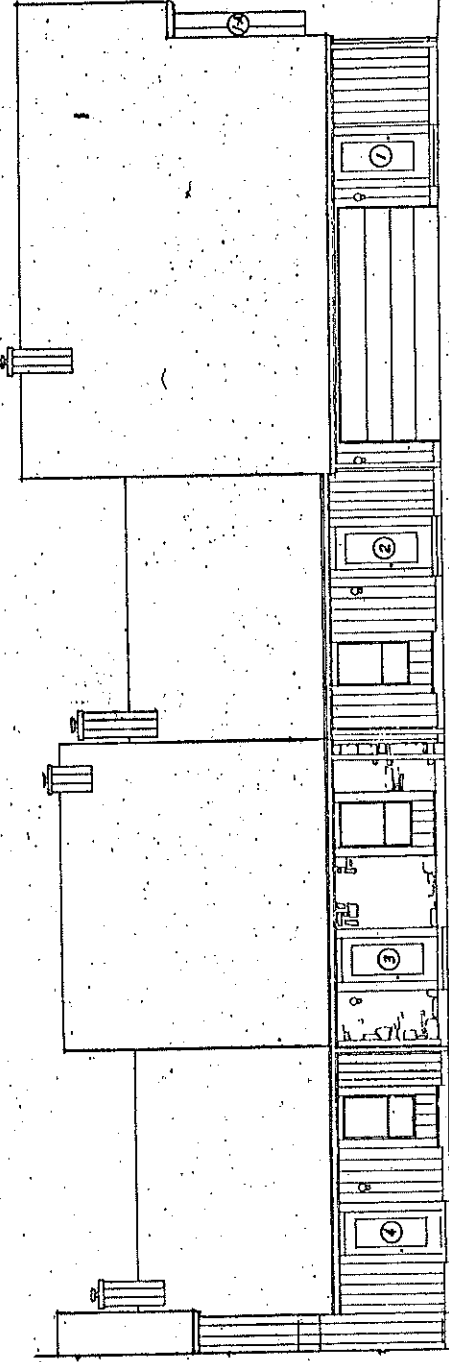
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4



LEFT 1/2 NORTH ELEVATION

①... Indicates Condominium Unit Number



RIGHT 1/2 NORTH ELEVATION

**TIMBERLINE  
OFFICE PARK CONDOMINIUM**

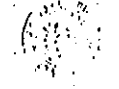
**PHASE I**  
BUILDING 1

This drawing accurately shows the building as constructed and graphically shows the particulars of the Condominium as intended by the architect.

MIAMI ENGINEERING CO.

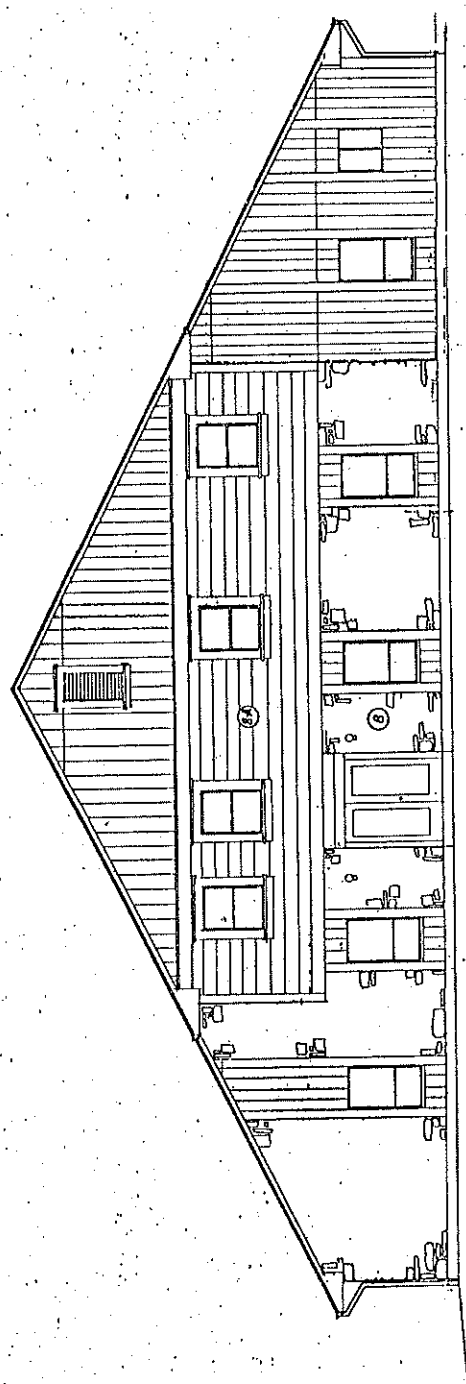
*P. D. B.*  
Robert D. Bove  
Registered Engineer  
Ohio License No. 3787

*C. J. ...*  
Charles J. ...  
Registered Engineer  
Ohio License No. 20488

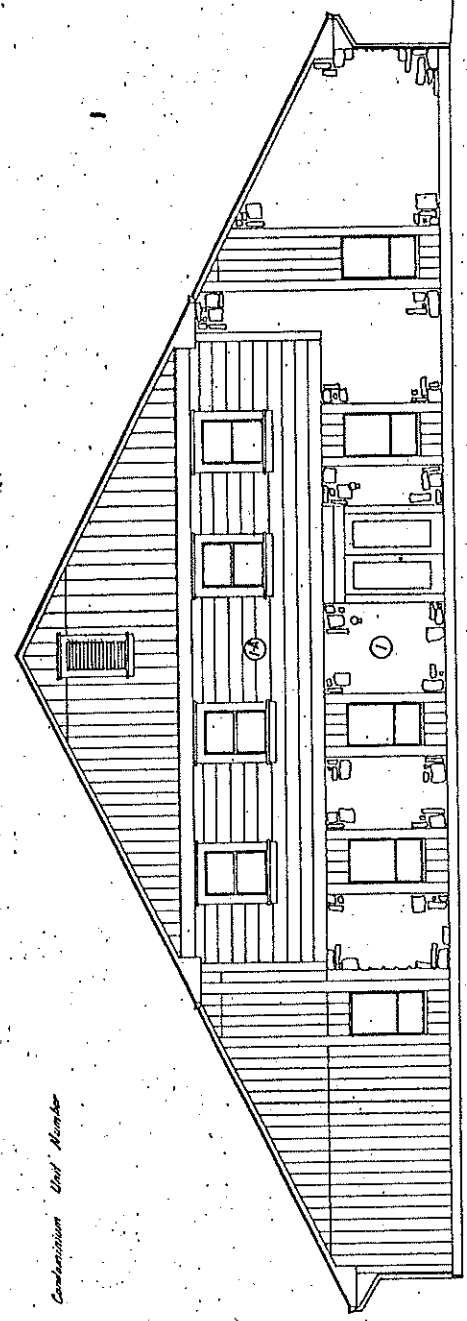


MIAMI ENGINEERING  
INCORPORATED  
1000 BAYVIEW DRIVE  
MIAMI, FLORIDA 33134  
TEL. 361-1111





EAST ELEVATION



WEST ELEVATION

①... Indicates Condominium Unit Number

TIMBERLINE  
OFFICE PARK CONDOMINIUM

PHASE I  
BUILDING

This drawing accurately shows the Building as constructed and graphically shows the particulars of the Condominium as intended by the architect.

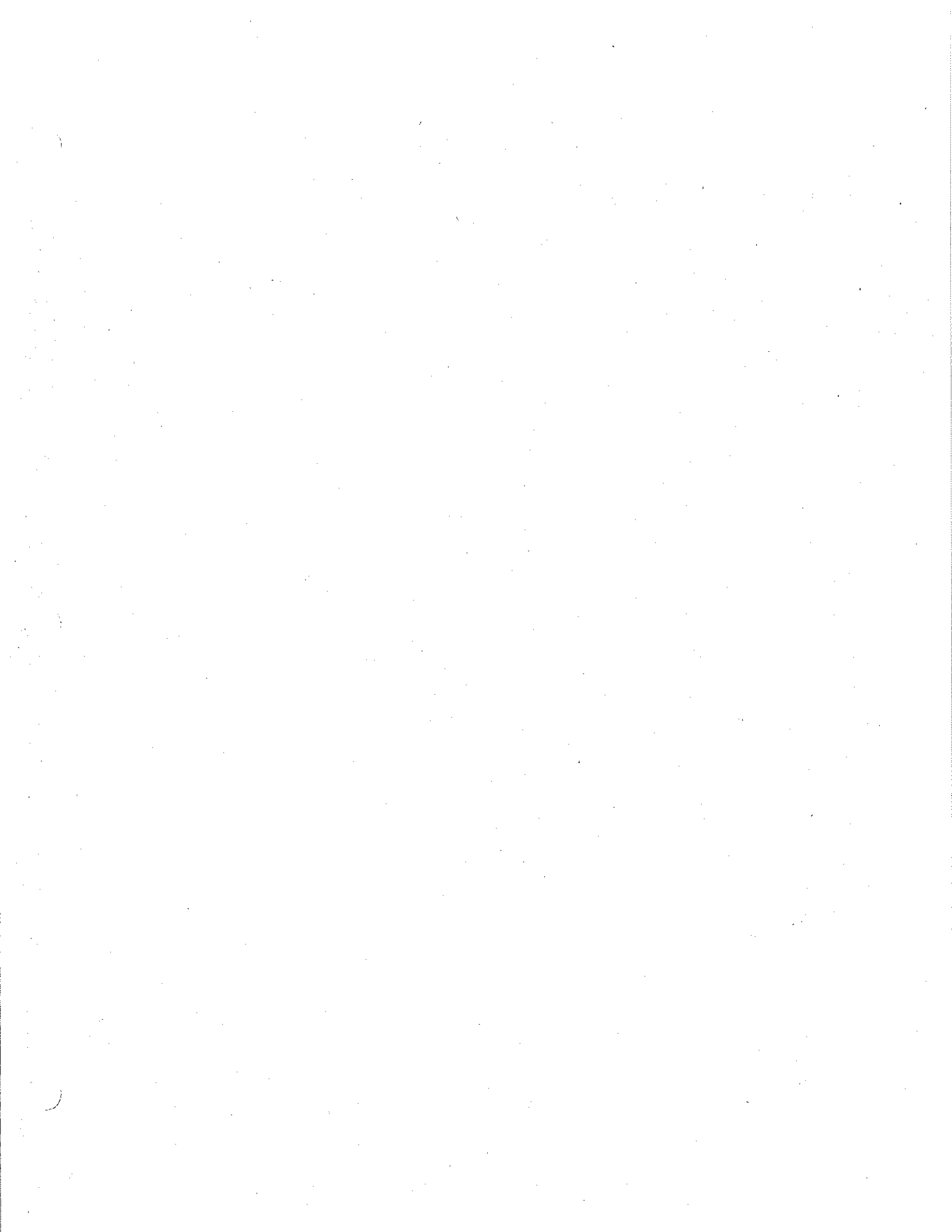
MIAMI ENGINEERING CO.

Charles E. Reed  
Registered Engineer  
State License No. 5297

Robert O. Reed  
Registered Surveyor  
State License No. 5297

MIAMI ENGINEERING  
INCORPORATED  
1101 N.W. 17th St.  
MIAMI, FLORIDA 33135  
TEL: 375-2200









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TIMBERLINE OFFICE PARK CONDOMINIUM ASSOCIATION, INC.

EXHIBIT B

CONDOMINIUM ASSOCIATION BY-LAWS

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TABLE OF CONTENTS

By-Laws

ITEM

PAGE

1.	THE ASSOCIATION	
	A. Name of Association . . . . .	1
	B. Membership . . . . .	1
	C. Voting Rights . . . . .	1
	D. Majority of Owners . . . . .	1
	E. Quorum . . . . .	2
	F. Proxies . . . . .	2
	G. Place of Meetings . . . . .	2
	H. First Meeting . . . . .	2
	I. Special Meetings . . . . .	2
	J. Notice of Meeting . . . . .	2
	K. Waiver of Notice . . . . .	2
	L. Action by Unanimous Written Consent of the Unit Owners . . . . .	2
	M. Order of Business . . . . .	3
2.	BOARD OF MANAGERS	
	A. Number and Qualification . . . . .	3
	B. Designation and Terms of Office . . . . .	4
	C. Removal of Managers . . . . .	4
	D. Vacancies . . . . .	4
	E. Mortgagees . . . . .	4
	F. Organization Meeting . . . . .	4
	G. Regular Meetings . . . . .	5
	H. Special Meetings . . . . .	5
	I. Voting . . . . .	5
	J. Quorum . . . . .	5
	K. Action by Unanimous Written Consent of the Board of Managers . . . . .	5
	L. Fidelity Bonds . . . . .	5
3.	OFFICERS	
	A. Designation . . . . .	6
	B. Term of Office; Vacancies . . . . .	6
	C. President . . . . .	6
	D. Vice President . . . . .	6
	E. Secretary . . . . .	6
	F. Treasurer . . . . .	6
4.	GENERAL POWERS OF THE ASSOCIATION	
	A. Payments from Maintenance Funds . . . . .	6
	( 1 ) Utility Services for Common Areas, and to Units When Measured by Common Meter . . . . .	6
	( 2 ) Care of Common Areas and Facilities . . . . .	7



- ( 3) Care of Certain Limited Common Areas and Facilities . . . . . 6
- ( 4) Certain Maintenance of Units . . . . . 7
- ( 5) Casualty Insurance . . . . . 7
- ( 6) Liability Insurance . . . . . 7
- ( 7) Wages and Fees for Services . . . . . 7
- ( 8) Workmen's Compensation . . . . . 7
- ( 9) Discharge of Mechanic's Liens . . . . . 8
- (10) Additional Expenses . . . . . 8
- B. Capital Additions and Improvements . . . . . 8
- C. Rules and Regulations . . . . . 8
- D. No Active Business to be Conducted for Profit . . . . . 8
- E. Delegation of Duties . . . . . 9
- F. Right of Entry . . . . . 9
- G. Special Services . . . . . 9

5. DETERMINATION AND PAYMENT OF ASSESSMENTS

- A. Obligation of Owners to Pay Assessments . . . . . 9
- B. Preparation of Estimated Budget . . . . . 9
- C. Reserve for Contingencies and Replacements . . . . . 9
- D. Periodic Assessments . . . . . 10
- E. Budget for First Year . . . . . 10
- F. Failure to Prepare Annual Budget . . . . . 10
- G. Books and Records of the Association . . . . . 10
- H. Assessments . . . . . 11
- I. Audit . . . . . 11
- J. Remedies for Failure to Pay Assessments . . . . . 11

6. GENERAL PROVISIONS

- A. Requirement for Manager or Managing Agent . . . . . 11
- B. Copies of Notices to Mortgage Lenders . . . . . 11
- C. Service of Notices on the Board of Managers . . . . . 11
- D. Non-Waiver of Covenants . . . . . 11
- E. Agreements Binding . . . . . 12
- F. Severability . . . . . 12

- SIGNATURES . . . . . 12



## CONDOMINIUM ASSOCIATION BY-LAWS

The within By-Laws are executed and attached to the Declaration of Condominium pursuant to Chapter 5311 of the Ohio Revised Code. Their purpose is to provide for the establishment of a Unit Owners' Association for the administration of the Condominium Property in the manner provided by the Declaration and by these By-Laws. All present or future Owners or tenants or their employees, and any other person who might use the facilities of the Condominium Property in any manner, shall be subject to any restrictions, conditions or regulations hereafter adopted by the Board of Managers of the Association. The mere acquisition or rental of any of the Units located within the Condominium Property described in the Declaration, or the mere act of occupancy of any of the Units, will constitute acceptance and ratification of the Declaration and of these By-Laws.

### 1. THE ASSOCIATION

A. Name of Association. The Association shall be an Ohio not-for-profit corporation and shall be called TIMBERLINE OFFICE PARK CONDOMINIUM ASSOCIATION, INC.

B. Membership. Each Unit Owner upon acquisition of title to a Unit shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of his Unit, at which time the new Owner of such Unit shall automatically become a member of the Association. Membership in the Association is limited to Unit Owners within the Condominium.

C. Voting Rights. Each Unit Owner shall be entitled to vote in accordance with the percentage of interest of any Unit owned by him as set forth in Item 9 of the Declaration. In the event a Unit has been acquired by the Association in its own name or in the name of its agent, designee or nominee on behalf of all Unit Owners, the voting rights of such a Unit shall not be exercised so long as it continues to be so held. If two (2) or more persons, whether fiduciaries, tenants in common or otherwise, own undivided interests in a Unit, each may exercise the proportion of the voting power of all the Owners of his Unit that is equivalent to his proportionate interest in the Unit.

D. Majority of Owners. As used in these By-Laws, the term "majority of Owners" shall mean those Unit Owners holding fifty-one percent (51%) of the voting power in the Association.

E. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of Owners as defined in Section D of this Item 1 shall constitute a quorum.





F. PROXIES. Votes may be cast in person or by proxy. The person appointed as proxy need not be a Unit Owner. Proxies must be in writing and filed with the Secretary of the Association before the appointed time of each meeting or action taken. Unless otherwise provided, all proxies shall be revocable at any time by delivering written notice of such revocation to the Secretary of the Association. If, by the terms of a first mortgage, a Unit Owner has designated such mortgagee as his proxy, the presentation to the Secretary of the Association by a representative of such mortgagee of a copy of the mortgage containing such proxy designation shall constitute notice of such proxy designation, and if the mortgage so states, notice of the irrevocability of such designation.

G. Place of Meetings. Meetings of the Association shall be held at such place upon the Condominium Property, or at such other place, as may be designated by the Board of Managers and specified in the notice of the meeting at 8:00 p.m., or at such other time as may be designated by the Board of Managers and specified in the notice of the meeting.

H. First Meeting. The first meeting of members of the Association shall be held within the time limits prescribed by the Declaration and shall be considered the first annual meeting.

I. Special Meetings. It shall be the duty of the President of the Association to call a special meeting of the Owners as directed by resolution of the Board of Managers or upon a petition signed by a majority of the Owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5) of the Owners present, either in person or by proxy.

J. Notice of Meeting. It shall be the duty of the Secretary of the Association to mail a notice of each annual or special meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each Owner of record, at least fourteen (14) days, but not more than twenty-eight (28) days, prior to such meeting. The Owners of record will be determined as of the day preceding the day on which notice is given.

K. Waiver of Notice. Notice of the time, place and purposes of any meeting of members of the Association may be waived in writing, either before or at the commencement of such meeting, by any members of the Association, which writing shall be filed with or entered upon the records of the meeting. The attendance of any members of the Association at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice, shall be deemed to be a waiver by him of notice of such meeting.

L. Action by Unanimous Written Consent of the Unit Owners. Any action which may be authorized or taken at a meeting of the Unit Owners, may be authorized or taken without a meeting in a writing



or writings signed by all of the Unit Owners. The writing or writings evidencing such action taken by the unanimous written consent of the Unit Owners shall be filed with the records of the Association. Written notice of any action proposed to be taken by the unanimous written consent of the Unit Owners shall be sent to all persons entitled to notice under Section B of Item 6 hereof, at least five (5) days prior to the circulation of the action for unanimous written consent among the Unit Owners and shall specify the action proposed to be so taken.

M. Order of Business. The order of business at all meetings of the Owners of Units shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of committees.
- (f) Election of Inspectors of Election.
- (g) Election of Managers.
- (h) Unfinished business.
- (i) New business.
- (j) Adjournment.

## 2. BOARD OF MANAGERS

A. Number and Qualification. The Board of Managers shall be composed of a number of members equal to the number of Units as may exist in the Condominium from time to time, pursuant to the provisions of the Declaration and any amendments thereto. Each Unit Owner may designate that number of members equal to the number of Units such Unit Owner owns. All such members shall be Unit Owners, or in the case of partnership owners, members or employees of such partnership, or in the case of corporate owners, officers, shareholders, or employees of such corporation, or in the case of fiduciary owners, fiduciaries or officers or employees of such fiduciary. Any Board member who ceases to be associated in any one of the enumerated capacities with the Unit Owner that selected him shall be deemed to have resigned as of the date upon which such association terminates and shall be replaced forthwith by a substitute designated by such Unit Owner. Anything to the contrary contained in these By-Laws notwithstanding, if any Unit Owner shall hold title to two (2) or more Units, such Unit Owner may designate one individual to serve as its designee on the Board of Managers for all of its Units. In such event, that member of the Board of Managers shall possess the sum total of all the votes each member



of the Board of Managers representing the Unit he represents would have possessed were such Units separately represented on the Board of Managers.

B. Designation and Terms of Office. At each annual meeting of the Unit Owners, the Unit Owners shall designate the members of the Board of Managers. The members of the Board of Managers shall hold office for a term of one year and until their respective successors shall have been designated; provided, however, that a Board member shall be deemed to have resigned whenever such member, his spouse, or firm, corporation, or other entity he is associated with, sells the Unit which qualified such individual to become a member of the Board. If, pursuant to Section A of this Item 2, a member is serving on the Board of Managers for two (2) or more Units owned by the same Unit Owner, and such member, firm, corporation, or other entity he is associated with, sells one or more Units, he shall be deemed to have resigned as a member with respect to only the Unit or Units sold.

C. Removal of Managers. At any regular or special meeting of Unit Owners, any one or more of the members of the Board of Managers may be removed for cause by a majority of the Unit Owners; and a successor may then and there or thereafter be designated by the Unit Owner that originally selected the Board member so removed. A Unit Owner may remove a Board member designated by him, at any time, with or without cause, by written notification to the Board specifying the date of such removal and the name of the individual designated to succeed the Board member so removed.

D. Vacancies. Any vacancy in the Board of Managers shall be filled forthwith by the Unit Owner whose Unit lacks representation. Upon first acquiring a Unit, the Unit purchaser shall be entitled to designate a Board member from and after the date title is conveyed to such Unit purchaser. In each of the foregoing situations, the person so designated shall serve on the Board of Managers until his successor shall have been designated at the next annual meeting of the Unit Owners.

E. Mortgagees. Notwithstanding any provision hereof, if, at any one time, one bank or lending institution shall hold mortgages upon more than fifty percent (50%) of the Units, such lending institution may designate its representative who shall be an additional member of the Board of Managers. Said representative shall not be subject to the provisions of this Item 2 regarding removal and replacement.

F. Organization Meeting. Immediately after each annual meeting of members of the Association, the newly selected Managers shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

G. Regular Meetings. Regular meetings of the Board of Managers may be held at such times and places as shall be determined by a majority of the Managers, but at least four (4) such meetings shall be held during each year.



H. Special Meetings. Special meetings of the Board of Managers may be held at any time upon call by the President or any three (3) Managers. Written notice of the time and place of each such meeting shall be given to each Manager either by personal delivery, or by mail, or telegram or telephone at least two (2) days before the meeting, which notice shall specify the purpose of the meeting; provided, however, that attendance of any Manager at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting and such notice may be waived in writing either before or at the commencement of such meeting, by any Manager, which writing shall be filed with or entered upon the records of the meeting. If all the Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

I. Voting. The total number of votes of all members of the Board of Managers shall be one hundred (100). Each member of the Board of Managers shall be entitled to cast a number of votes at all meetings of the Board of Managers equal to the percentage of interest set forth in Item 9 of the Declaration pertaining to the Unit or Units owned by the Unit Owner who designated him as a member of the Board of Managers.

J. Quorum. The presence in person of members of the Board of Managers having one-half (1/2) of the total authorized votes of all members of the Board of Managers shall constitute a quorum at all meetings of the Board of Managers, and the votes of a majority of the members of the Board of Managers present at a meeting at which a quorum is present shall constitute the decision of the Board of Managers. As used herein, the term "majority of the members of the Board of Managers" shall mean those members of the Board of Managers having more than fifty percent (50%) of the total authorized votes of all members of the Board present and voting at any meeting of the Board of Managers determined in accordance with the provisions of Section I of this Item 2. If at any meeting of the Board of Managers there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

K. Action by Unanimous Written Consent of the Board of Managers. Any action which may be authorized to be taken at a meeting of the Board of Managers, may be taken or authorized without a meeting in a writing or writings signed by all of the members of the Board of Managers. The writing or writings evidencing such action taken by the unanimous written consent of the Board of Managers shall be filed with the records of the Association.

L. Fidelity Bonds. The Board of Managers shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.





### 3. OFFICERS

A. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Managers. The offices of Treasurer and Secretary may be filled by the same person.

B. Term of Office; Vacancies. The officers of the Association shall hold office until the next organization meeting of the Board of Managers and until their successors are elected, except in case of resignation, removal from office or death. The Board of Managers may remove any officer at any time, with or without cause, by a majority vote of the Managers then in office. Any vacancy in any office may be filled by the Board of Managers.

C. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Managers. Subject to directions of the Board of Managers, the President shall have general executive supervision over the business and affairs of the Association. He may execute all authorized deeds, contracts and other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board of Managers or otherwise provided for in the Declaration or in these By-Laws.

D. Vice President. The Vice President shall perform the duties of the President whenever the President is unable to act and shall have such other authority and perform such other duties as may be determined by the Board of Managers.

E. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Managers and the minutes of all meetings of the Association, he shall have charge of such books and papers as the Board of Managers may direct, and he shall, in general, perform all the duties incident to the office of Secretary.

F. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Managers.

### 4. GENERAL POWERS OF THE ASSOCIATION

A. Payments from Maintenance Funds. The Association shall establish and shall pay for out of the maintenance funds, the following:

(1) Utility Services. The cost of water, waste removal, electricity, telephone, heat, power or any other necessary



utility service for the Common Areas. The Association reserves the right to levy additional assessments against any Owner to reimburse it for excessive use, as shall be determined by the Board of Managers by such Owner of any utility service having been charged against or to the maintenance fund.

(2) Care of Common Areas and Facilities. The cost of landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacement of the Common Areas.

(3) Care of Certain Limited Common Areas and Facilities. The cost of maintenance, repair and replacement of those Common Areas which are designated by the Declaration as Limited Common Areas and Facilities for the exclusive use of a particular Unit or Units; excepting, however, those responsibilities for care of the Limited Common Areas and Facilities by Unit Owners as set forth in the Declaration.

(4) Certain Maintenance of Units. The cost of the maintenance and repair of any Unit or Limited Common Areas and Facilities, if such maintenance or repair is necessary, in the discretion of the Association, to protect the Common Areas or any other portion of a building, and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner or Owners, provided the Association shall levy special assessment against such Unit Owner for the cost of said maintenance or repair.

(5) Casualty Insurance. The premium upon a policy or policies of fire insurance, with extended coverage, vandalism and malicious mischief endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually.

(6) Liability Insurance. The premium upon a policy or policies insuring the Association, the members of the Board of Managers, and the Owners against any liability to the public or to the Owners of Units, their invitees or tenants, incident to the ownership and/or use of the Common Areas, as provided in the Declaration, the limits of which policy shall be reviewed annually.

(7) Wages and Fees for Services. The fees for services of any person or firm employed by the Association, including, but not limited to, the services of a person or firm to act as a Manager or managing agent for the Condominium Property and legal and/or accounting services necessary or proper in the operation of the Condominium Property or the enforcement of the Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association.

(8) Workmen's Compensation. The costs of Workmen's Compensation insurance to the extent necessary to comply with any applicable laws.

(9) Discharge of Mechanic's Liens. Any amount necessary to discharge any mechanic's lien or other encumbrance levied



against the entire Condominium Property or any part thereof which may, in the opinion of the Association, constitute a lien against the entire Condominium Property rather than merely against the interests therein of particular Owners, it being understood, however, that the foregoing authority shall not be in limitation to any statutory provisions relating to the same subject matter. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens shall be specifically assessed to said Owners.

(10) Additional Expenses. The cost of any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, common expenses or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and these By-Laws, or which, in its opinion, shall be necessary or proper for the maintenance and operation of the Condominium Property as a first class condominium project or for the enforcement of the Declaration and these By-Laws.

B. Capital Additions and Improvements. The Association powers described in Section A of this Item 4 are limited in that the Association shall have no authority to pay for out of the maintenance fund, any capital additions and improvements having a total cost in excess of \$1,000.00, unless it is for the purpose of replacing or restoring portions of the Common Areas. The Association shall not authorize any structural alterations, capital additions to, or capital improvements of the Common Areas requiring any expenditure in excess of \$1,000.00 without, in each case, the prior approval of a majority of the members of the Association.

C. Rules and Regulations. The Board of Managers may, by majority vote, adopt such reasonable rules and regulations and may amend the same which the Board of Managers may deem advisable for the maintenance, conservation and beautification of the Condominium Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the Condominium Property. Written notice of such rules and regulations shall be given to all Owners and occupants and the Condominium Property shall at all times be maintained subject to such rules and regulations. In the event that adopted rules and regulations conflict with any provisions of the Declaration and of these By-Laws, the provisions of the Declaration and of these By-Laws shall govern.

D. No Active Business to be Conducted for Profit. Nothing herein shall be construed to give the Association authority to conduct active business for profit on behalf of the Owners or any of them.

E. Delegation of Duties. The Association, through its Board of Managers and officers, has the authority to delegate to persons, firms or corporations of its choice such duties and responsibilities of the Association as the Board of Managers shall



from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

F. Right of Entry. An Owner shall grant the right of entry to the Association or its agent, in case of any emergency originating in or threatening his Unit, whether the Owner is present at the time or not.

G. Special Services. The Association may arrange for the providing of any special services and facilities for the benefit of any Unit Owners that may desire to pay for the same. Fees for such special services and facilities shall be determined by the Board of Managers and will be charged directly to the participating Unit Owners.

## 5. DETERMINATION AND PAYMENT OF ASSESSMENTS

A. Obligation of Owners to Pay Assessments. Each Unit Owner shall have the duty to pay his proportionate share of the expenses of administration, maintenance and repair of the Common Areas and of other expenses provided for herein. Such proportionate share shall be in the same ratio as his percentage of ownership in the Common Areas as set forth in the Declaration. Payment thereof shall be in such amounts and at such times as may be determined by the Board of Managers of the Association, as hereinafter provided.

B. Preparation of Estimated Budget. The Association shall before or on December 1st of every year, prepare an estimate of the total amounts necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reserve for contingencies and replacements. On or before December 15th, each Owner shall be notified in writing as to the amount of such estimate, with reasonable itemization thereof. On or before January 1st of the ensuing year, and the 1st of each and every month of said year, each Owner shall be obligated to pay to the Association, or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this Section B of Item 5. On or before the date of the annual meeting in each calendar year, the Association shall supply to all Owners an itemized accounting of the maintenance expenses actually incurred for the preceding calendar year, together with a tabulation of the amounts collected pursuant to the estimate provided and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each Owner's percentage of ownership in the Common Areas to the next monthly installment due from Owners during the current year's estimate, until exhausted, and any net shortage shall be added according to each Owner's percentage of ownership in the Common Areas to the installments due in the succeeding six (6) months after rendering of the accounting.

C. Reserve for Contingencies and Replacements. The Association shall build up and maintain a reasonable reserve for





contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any Owner's assessment, the same shall be assessed to the Owners according to each Owner's percentage of ownership in the Common Areas. The Association shall serve notice of such further assessment of all Owners by a statement in writing giving the reasons therefor, the amounts and the date or dates when such further assessments are due. At the option of the Board of Managers, such further assessment may be payable in a lump sum or in installments.

D. Periodic Assessments. Notwithstanding any provision in this Item 5, the Board of Managers may, at its option, elect that certain expenses such as insurance be paid by periodic assessments based on the billing date of such expenses. If the Board of Managers so elects, such expenses shall be separately stated in the budget specifying the amount and due date thereof.

E. Budget for First Year. When the first Board of Managers hereunder take office, the Association shall determine the estimated cash requirement, as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against the Owners during said period as provided in Section B of this Item 5.

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

G. Books and Records of the Association. The Association shall keep correct and complete books and records of account, specifying the receipts and expenditures relating to the Common Areas and other common receipts and expenses, together with records showing the allocation, distribution, and collection of the common profits, losses, and expenses among and from the Unit Owners; minutes of the proceedings of the Unit Owners and Board of Managers; and records of the names and addresses of the Unit Owners and their respective percentages of interest in the Common Areas. Such books and records shall be open for inspection by any Owner, or any representative of an Owner, duly authorized in writing, at reasonable times and upon request by an Owner. In addition, the holder of any first mortgage of record may inspect such books and records, at reasonable times and upon reasonable notice, after presentation to the Secretary of the Association of a duly certi-



ried copy of its mortgage. Upon ten (10) days notice to the Board of Managers and upon payment of a reasonable fee, 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 Owner.

H. Assessments. Monthly assessments shall begin upon the filing of the Declaration with the Recorder of Montgomery County. These assessments shall be paid by every Unit Owner of record, including those Units the title of which is vested in Declarant after the filing for record of the Declaration.

I. Audit. The books of the Association shall be audited at least once every three (3) years by an independent Registered or Certified Public Accountant, the results of which shall be sent to every Unit Owner of record, and the holder of any duly recorded mortgage against any Unit ownership who requests a copy thereof in writing.

J. Remedies for Failure to Pay Assessments. If an Owner is in default in the monthly payment of the aforesaid charges, the members of the Board of Managers may avail themselves of the lien rights and other rights provided for in the Declaration.

## 6. GENERAL PROVISIONS

A. Requirement for Manager or Managing Agent. A Manager or managing agent may be required by any lending institution holding mortgages on over fifty-one percent (51%) of the Units, or by any group of lending institutions who in the aggregate hold mortgages on over fifty-one percent (51%) of the Units. The Association shall provide such mortgagee or mortgagees, as the case may be, with a copy of any management agreement entered into by the Association and such Manager or management company.

B. Copies of Notices to Mortgage Lenders. Upon written request to the Board of Managers, the holder of any duly recorded mortgage against any Unit ownership shall be given a copy of any and all notices and other documents permitted or required by the Declaration or these By-Laws to be given to the Owner or Owners whose Unit ownership is subject to such mortgage, and a copy of any lien filed by the Association.

C. Service of Notices on the Board of Managers. Notices required to be given to the Board of Managers or to the Association may be delivered to any member of the Board of Managers or officer of the Association either personally or by mail, addressed to such member or officer at his Unit.

D. Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in the Declaration 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.



B. Enforceability of Agreements. All agreements and covenants lawfully made by the Association in accordance with the procedure established in the Declaration and these By-Laws, shall be deemed to be binding on all Unit Owners, their successors, heirs and assigns.

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

IN WITNESS WHEREOF, the aforesaid instrument has been executed this 13 day of May, 1981, by CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation.

Signed and acknowledged  
in the presence of:

Hans H. Soltau  
Veronica K. Allen

CHARLES V. SIMMS DEVELOPMENT  
CORPORATION

By Charles V. Simms  
its President.

STATE OF OHIO )  
                  ) SS:  
COUNTY OF MONTGOMERY )

The foregoing instrument was acknowledged before me this 13 day of May, 1981, by Charles V. Simms, President of CHARLES V. SIMMS DEVELOPMENT CORPORATION, an Ohio corporation, on behalf of the Corporation.

HANS H. SOLTAU, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration date  
Section 147.03 O. R. C.

Hans H. Soltau  
Notary Public

This Instrument Prepared By:

HANS H. SOLTAU  
Attorney-at-Law  
367 West Second Street  
Dayton, Ohio 45402



DESCRIPTION OF TIMBERLINE OFFICE PARK CONDOMINIUM  
( Excluding Phase I )

Situate in Miami Township, Montgomery County, State of Ohio,  
being in part Section 9, Town 1, Range 6 MRS, more particularly  
described as follows:

Beginning at the southeast corner of Lot 77 in Timberline  
Section 3 as recorded in Plat Book 112, Page 14;

thence along the east line of said Lot 77, N 02°-37'-30" E,  
a distance of 160.00 feet to the northeast corner of said  
Lot 77, said corner being on the north line of a 10.228 Acre  
tract conveyed to Charles V. Simms Development Corp. as re-  
corded on Microfiche No. 79-298C11;

thence along the north line of said 10.228 Acre tract, S 87°-  
22'-30" E, a distance of 692.10 feet to an angle point on  
the west line of Lot 12 in Timberline Section 1 as recorded  
in Plat Book 108, Page 14;

thence along the west line of said Lot 12, S 55°-25'-57" E,  
a distance of 34.08 feet to the northwest corner of Lot 13  
in said Timberline Section 1;

thence along the west line of said Lot 13, S 02°-37'-30" W,  
a distance of 141.97 feet to the southwest corner of said  
Lot 13;

thence N 87°-22'-30" W, a distance of 721.00 feet to the  
place of beginning.

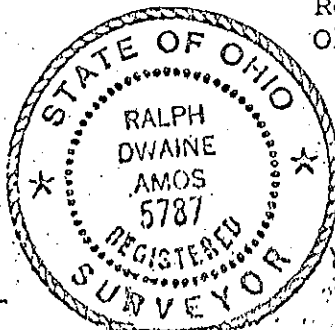
Containing a total of 2.6423 Acres. Subject to all legal  
highways, easements and restrictions of record.

The above described tract is part of said 10.228 Acre tract  
as conveyed to Charles V. Simms Development Corp., on MF 79-298C11.

By Ralph D. Amos

Ralph D. Amos  
Registered Surveyor  
Ohio License # 5787

May 15, 1981  
Miami Engineering Co.  
303 Fame Rd. P.O. Box 261  
West Carrollton, O. 45449



MAY 28 1981

TRANSFERRED  
ROBERT L. RODERER  
COUNTY AUDITOR

81 222512

