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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM  
OWNERSHIP OF TIFTON GREENS CONDOMINIUM**

This will certify that a copy of the Amended and Restated Declaration of Condominium Ownership of Tifton Greens Condominium have been filed in the office of the County Auditor, Montgomery County, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2011.

**MONTGOMERY COUNTY AUDITOR**

By \_\_\_\_\_

**Prepared by:**

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**AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM OWNERSHIP OF  
TIFTON GREENS CONDOMINIUM**

*This Amended and Restated Declaration* is made this 4<sup>th</sup> day of April, 2011, by Tifton Greens Condominium Association, Inc., an Ohio non-profit corporation (the "Association").

**INTRODUCTION**

**WHEREAS**, the Declaration of Condominium Ownership of Tifton Greens Condominium was recorded on January 25, 1988 in Deed Book 88-0037, Page A01 of the Official Records of Montgomery County, Ohio (the "Declaration"); and

**WHEREAS**, the By-Laws for Tifton Greens Condominium Association, Inc. were attached as Exhibit F to the Declaration and are recorded in Deed Book 88-0038, Page A05 of the Montgomery County, Ohio Recorder's Office (the "By-Laws"); and

**WHEREAS**, the First Amendment to the Declaration was recorded on March 15, 1988 in Deed Book 88-0134, Page C08 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Second Amendment to the Declaration was recorded on May 23, 1988 in Deed Book 88-0282, Page A01 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Third Amendment to the Declaration was recorded on July 6, 1988 in Deed Book 88-0391, Page C07 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Fourth Amendment to the Declaration was recorded on May 2, 1989 in Deed Book 89-0228, Page A07 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Fifth Amendment to the Declaration was recorded on June 6, 1989 in Deed Book 89-0306, Page A06 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Sixth Amendment to the Declaration was recorded on February 9, 1990 in Deed Book 90-0077, Page A01 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Seventh Amendment to the Declaration was recorded on July 30, 1990 in Deed Book 90-0403, Page A12 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Eighth Amendment to the Declaration was recorded on September 16, 1991 in Deed Book 91-0512, Page B03 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Ninth Amendment to the Declaration was recorded on June 25, 1992 in Deed Book 92-0366, Page C04 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Tenth Amendment to the Declaration was recorded on September 15, 1992 in Deed Book 92-0537, Page C03 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Eleventh Amendment to the Declaration was recorded on September 15, 1992 in Deed Book 92-0537, Page C11 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Twelfth Amendment to the Declaration was recorded on December 9, 1992 in Deed Book 92-0722, Page C01 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Thirteenth Amendment to the Declaration was recorded on August 19, 1993 in Deed Book 93-0523, Page A01 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Fourteenth Amendment to the Declaration was recorded on November 5, 1993 in Deed Book 93-0713, Page D01 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Fifteenth Amendment to the Declaration was recorded on December 1, 1993 in Deed Book 93-0763, Page D07 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Sixteenth Amendment to the Declaration was recorded on May 10, 1994 in Deed Book 94-0294, Page B06 of the Official Records of Montgomery County, Ohio; and

**WHEREAS**, the Seventeenth Amendment to the Declaration was recorded on May 20, 1994 in Deed Book 94-0317, Page C04 of the Official Records of Montgomery County, Ohio; and

*WHEREAS*, the Eighteenth Amendment to the Declaration was recorded on May 20, 1994 in Deed Book 94-0317, Page D02 of the Official Records of Montgomery County, Ohio; and

*WHEREAS*, the Nineteenth Amendment to the Declaration was recorded on May 20, 1994 in Deed Book 94-0317, Page D12 of the Official Records of Montgomery County, Ohio; and

*WHEREAS*, Article XIX, Section 1 of the Declaration provides that it may be amended with the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners; and

*WHEREAS*, Article XVIII of the Declaration provides that certain amendments of the Declaration require the consent of eligible holders of first mortgage liens on Units to which at least fifty-one percent (51%) of the votes subject to mortgages held by eligible holders of first mortgage liens appertain; and

*WHEREAS*, Article XVIII of the Declaration provides that holders, insurers, or guarantors of a first mortgage must provide written request to the Association, which request states the name and address of such holder, insurer, or guarantor and the Unit designation, in order to be entitled to timely written notice of certain amendments to the Declaration; and

*WHEREAS*, no such holder, insurer, or guarantor has provided such written request and therefore the vote of the holders, insurers, or guarantors is not required; and

*WHEREAS*, seventy-five percent (75%) of the voting power of Unit Owners consent to this Amended and Restated Declaration and By-Laws;

*NOW THEREFORE*, the Declaration and By-Laws are hereby amended and restated as follows.

### DEFINITIONS

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

1. **“Articles”** and **“Articles of Incorporation”** mean the Articles, filed with the Secretary of State of Ohio, incorporating Tifton Greens Condominium Association, Inc. as a corporation not-for-profit under the provisions of Chapter 1702 of the Revised Code of Ohio, as the same may be lawfully amended from time to time. A true and accurate copy of the Articles is attached hereto as Exhibit “B” and made a part hereof.
2. **“Association”** and **“Tifton Greens Condominium Association, Inc.”** mean the not-for-profit corporation created by the filing of the Articles and is also one and the same as the Association created for the Condominium under the Condominium Act.

3. **"Board"** and **"Board of Directors"** mean those persons who, as a group, serve as the Board of Directors of the Association and are also one and the same as the Board of Directors of the Condominiums established for the condominium under the Condominium Act.
4. **"By-Laws"** means the By-Laws of the Association, as the same may be lawfully amended from time to time, created under and pursuant to the Condominium Act for the Condominium, and which also serve as the code of regulations of the Association under and pursuant to the provisions of chapter 1702. A true copy of the By-Laws is attached hereto as Exhibit "C" and made a part hereof.
5. **"Common Elements"** means all of the Condominium Property, except that portion described in this Amended and Restated Declaration as constituting a Unit or Units, and is that portion of the Condominium Property constituting "Common Elements" of the Condominium under the Condominium Act,
6. **"Condominium"** and **"Tifton Greens Condominium"** mean the condominium regime for the Condominium Property created under and pursuant to the Condominium Act.
7. **"Condominium Act"** means chapter 5311 of the Revised Code of Ohio, as the same may be amended from time to time.
8. **"Condominium Instruments"** means this Amended and Restated Declaration, the By-Laws, the Drawings, and, as provided by the Condominium Act, "all other documents, contracts, or instruments establishing Ownership of or exerting control over a Condominium Property or Unit."
9. **"Condominium Organizational Documents"** means the Articles, the By-Laws, the Drawings, and this Amended and Restated Declaration, as the same may lawfully be amended from time to time.
10. **"Condominium Property"** means the tract of land hereinafter described as being submitted to the Condominium Act, all buildings, structures and improvements situated thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property thereon for the common use of the Unit Owners.
11. **"Declaration"** means this instrument, by which the Condominium Property is hereby submitted to the Condominium Act, and any amendment hereto, from time to time.
12. **"Drawings"** means the drawings for the Condominium, as the same may be lawfully amended from time to time, and are the Drawings required pursuant to the Condominium Act.

13. **“Eligible Holder Of A First Mortgage Lien”** means the holder of a valid recorded first mortgage on a Unit, which holder has given written notice to the Association stating the holder’s name, address and Unit or Units subject to its mortgage.
14. **“Limited Common Elements”** means those Common Elements serving exclusively one Unit or more than one but less than all Units, the enjoyment, benefit or use of which are reserved to the lawful Occupants of that Unit or Units either in this Amended and Restated Declaration, or by the Board, and is that portion of the Condominium Property constituting “limited common elements” of the Condominium under the Condominium Act.
15. **“Occupant”** means a person lawfully residing in a Unit, regardless of whether that person is a Unit Owner.
16. **“Person”** means a natural individual, corporation, partnership, director, or other legal entity capable of holding title to real property.
17. **“Director”** and **“Directors”** mean that person or those persons serving, at the time pertinent, as a Director or Directors of the Association, and mean that same person or those persons serving in the capacity of a member of the Board of Directors of the Association, as defined in the Condominium Act.
18. **“Unit”** and **“Units”** mean that portion or portions of the Condominium Property described as a Unit or Units in this Amended and Restated Declaration, and mean that portion of the Condominium constituting a “Unit” or “Units” of the Condominium under the Condominium Act.
19. **“Unit Owner”** and **“Unit Owners”** mean that person or those persons owning a fee-simple interest in a Unit or Units, together with an undivided interest in the Common Elements, each of whom is also a “member” of the Association, as defined in Ohio’s enabling non-profit corporation act.

**ARTICLE I.  
THE LAND**

A legal description of the land constituting the Condominium Property, located in the City of Centerville, Montgomery County, Ohio, is attached hereto and marked “Exhibit A”.

**ARTICLE II.  
NAME**

The name by which the Condominium shall be known is “Tifton Greens Condominium”.

**ARTICLE III.  
PURPOSES: RESTRICTIONS**

**Section 1. Purposes.** This Amended and Restated Declaration is made to establish separate individual parcels from the Condominium Property to which fee-simple interests may be conveyed; to establish an Association to administer the Condominium; to provide for the preservation of the values of Units and the Common Elements; to provide for and promote the benefit, enjoyment and well being of Unit Owners and Occupants; to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth; and to raise funds through assessments to accomplish these purposes.

**Section 2. Restrictions.** The Condominium and the Condominium Property shall be benefited by and subject to the following restrictions:

**A. Unit Uses.** Except as otherwise specifically provided in this Amended and Restated Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping Unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility. Notwithstanding the foregoing, an Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees or invitees coming to the Unit), making professional telephone calls or conducting correspondence, in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions.

**B. Common Elements Uses.** The Common Elements (except the Limited Common Elements) shall be used in common by Unit Owners and Occupants and their agents, servants, invitees and licensees, in accordance with the purposes for which they are intended, reasonably suited and capable, and as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of Units. Unless expressly provided otherwise herein, no Common Elements shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation or enjoyment of Unit Owners and Occupants, subject to such Rules and Regulations as may from time to time be promulgated by the Board.

**C. Limited Common Elements Uses.** Those portions of the Common Elements described herein and shown on the Drawings as Limited Common Elements shall be used and possessed exclusively by the Unit Owners and Occupants of the Unit or Units served by the same, as specified in this Amended and Restated Declaration, subject to the restrictions on use thereof set forth in this Amended and Restated Declaration and such Rules and Regulations as may from time to time be promulgated by the Board.

**D. Visible Areas.** Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except inoffensive drapes, curtains, or louvered blinds) or placed on the outside walls of a building or otherwise outside of a Unit, or any part thereof, and

no sign, awning, canopy, shutter or television or citizens' band or other radio antenna or transmitter, receiving dish, or any other device or ornament, shall be affixed to or placed upon the exterior walls or roof or any part thereof, or in, on, or over a patio or balcony, unless authorized by the Board, and subject to such Rules and Regulations as its Board may adopt from time to time. Notwithstanding anything contained in this Amended and Restated Declaration, pursuant to the Federal Communications Commission, Owners are permitted to install a satellite dish that is one meter or less in diameter on property that is wholly within the Unit Owner's exclusive control.

**E. Offensive Activities.** No noxious or offensive activity shall be carried on in any Unit, or upon the Common or Limited Common Elements, nor shall any activity be used in any way or for any purpose which may endanger the health of or unreasonably disturb or annoy any Occupant.

**F. Vehicles.** The Board may promulgate Rules and Regulations restricting or prohibiting the parking of automobiles, inoperable vehicles, trucks, boats and recreational vehicles on the Common Elements, or parts thereof, and may enforce such regulations or restrictions by levying enforcement charges, having such vehicles towed away, or taking such other actions as it, in its sole discretion, deems appropriate.

**G. Rental and Leasing.** No Unit or part thereof, unless the same is owned by the Association, shall be rented or used for transient or hotel purposes, which is defined as: (i) rental for any period less than thirty (30) days; (ii) rental under which Occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; or (iii) rental to roomers or boarders, that is, rental to one or more persons of a portion of a Unit only. No lease may be of less than an entire Unit. Any lease agreement shall be in writing, shall provide that the lease shall be subject in all respects to the provisions hereof, and to the Rules and Regulations promulgated from time to time by the Board, and shall provide that the failure by the tenant to comply with the terms of the Condominium Organizational Documents and lawful Rules and Regulations shall be a default under the lease. Prior to the commencement of the term of a lease, the Unit Owner shall notify the Board, in writing, the name or names of the tenant or tenants and the time during which the lease term shall be in effect.

**H. Signs.** No sign of any kind shall be displayed to the public view on the Condominium Property except: (a) on the Common Elements, signs regarding and regulating the use of the Common Elements, provided they are approved by the Board; and (b) on an unsold or unoccupied Unit, one professionally prepared sign advertising the Unit for sale or rent.

**I. Replacements.** Any building erected to replace an existing building containing Units shall be of new construction, be of comparable size, design and construction to that replaced, and shall contain a like number of Units of comparable size to Units in the building replaced.



**J. Structural Integrity.** Nothing shall be done in any Unit, or in, on or to the Common or Limited Common Elements, which may impair the structural integrity of any improvement.

**K. Construction in Easements.** No structure, planting or other material (except such as exists at the time of the original Declaration) shall be placed or permitted to remain within the easements for the installation and maintenance of utilities and drainage facilities which may damage or interfere with the installation and maintenance of utility lines or which may change the direction of the flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easement areas. The utility facilities within the easement areas shall be subject to the right of the Association to maintain the same, and its right to delegate that right to a public authority or utility.

**L. Animals.** Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or on the Common Elements. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (i) no animals shall be permitted in any portion of the Common Elements except on a leash (not longer than six feet in length) maintained by a responsible person; (ii) the permitting of animals shall be subject to such Rules and Regulations as the Board may from time to time promulgate, including, without limitation, the right to place limitations on the size, number and type of such pets, and the right to levy enforcement charges against persons who do not clean up after their pets; and (iii) the right of an Occupant to maintain an animal in a Unit shall be subject to termination on three (3) days notice if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Condominium or other Units or Occupants.

**M. Conveyances.** Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof. The undivided interest of a Unit in the Common Elements shall be deemed to be conveyed or encumbered with the Unit even though that interest is not expressly mentioned or described in the deed, mortgage or other instrument of conveyance or encumbrance. The right of a Unit Owner to sell, transfer or otherwise convey that Owner's Unit is not subject to any right of first refusal or similar restriction, and any Unit Owner may transfer that Owner's Unit free of any such limitation. To enable the Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Association, in writing, within five days after an interest in that Unit has been transferred to another person. In addition, each Unit Owner agrees to provide to a purchaser of that Owner's Unit a copy of the Condominium Organizational Documents and effective Rules and Regulations.

**N. Discrimination.** No action shall at any time be taken by the Association or its Board which in any manner would discriminate against any Unit Owner in favor of another.

**O. Architectural Control.** No building, fence, wall, sign or other structure shall be commenced, erected or maintained upon the Condominium Property, or any part thereof, nor shall any exterior addition to or change or alteration therein be made, until the plans and

specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Board or its designated representative, as to lawfulness and appropriateness, and as to harmony of design, color and location in relation to surrounding structures and topography. In the event the Board, or its designated representative, fails to approve or disapprove such plans and specifications within forty-five (45) days after they have been submitted to it, approval will not be required and these provisions will be deemed to have been fully complied with.

**P. Rules and Regulations.** In addition to adopting and enforcing Rules and Regulations, the Board may, from time to time, adopt and enforce such further reasonable Rules and Regulations concerning use of the Condominium Property, or any part thereof, as it deems necessary or desirable to promote harmony, to serve the best interests of the Unit Owners, as a whole, and to protect and preserve the nature of the Condominium. A copy of all Rules and Regulations shall be furnished by the Board to the Owners of each Unit prior to the time when the same shall become effective. The Rules and Regulations may regulate the use or occupancy of Units; regulate the maintenance, repair, replacement, modification, and appearance of Units, Common Elements, and Limited Common Elements when the actions regulated by the rules affect Common Elements or other Units; adopt standards governing the type and nature of information and documents that are subject to examination and copying by Unit Owners, including the times and locations at which items may be examined or copied and any required fee for copying the information or documents; and regulate the collection of delinquent assessments and the application of payments of delinquent assessments.

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

**R. Hazardous Uses and Waste.** Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance of the building or contents thereof applicable for residential use, without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the building or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Elements.

**S. Non-Residential Uses.** All Units are restricted exclusively to residential use.

**T. Flags.** No Unit Owner shall be prohibited from the placement of a flagpole that is to be used for the purpose of displaying, or shall prohibit the display of, the flag of the United States on or within the Limited Common Elements of a Unit Owner or on the immediately adjacent exterior of the building in which the Unit of a Unit Owner is located, if the flag is displayed in accordance with any of the following:

(1) The patriotic customs set forth in 4 U.S.C.A. 5-10, as amended, governing the display and use of the flag of the United States;

(2) The recommended flagpole standards set forth in "Our Flag," published pursuant to S.C.R. 61 of the 105th Congress, 1st Session (1998);

(3) Any federal law, proclamation of the President of the United States or the governor, section of the Revised Code, or local ordinance or resolution.

**U. Alteration of Limited Common Elements.** Subject to Rules and Regulations the Board of Directors adopts pursuant to Section 5311.081(B)(5) of the Ohio Revised Code, the Board may authorize the use of Limited Common Elements, as distinguished from the Common Elements, for the construction of open, unenclosed patios, hedges, decks, fences, or similar improvements provided that the improvements are maintained and insured by the Owner of the Unit to which the Limited Common Element is appurtenant. The construction of an addition to or an expansion of a Unit into Limited Common Elements or Common Elements may not be authorized without the consent of all Unit Owners.

#### **ARTICLE IV. IMPROVEMENT DESCRIPTIONS**

**Section 1. Buildings.** The buildings are of traditional style, built of wood frame on concrete slab, partly with brick-veneer and partly with wood siding, windows, wood floor joists, and with wood truss roof covered with shingles. The principal materials of which the buildings are constructed is concrete, wood, brick, brick veneer, shingle, and drywall. The buildings are located as shown on the Drawings.

**Section 2. Other.** On the grounds of the Condominium are fences, private streets, and green and open areas. Appurtenant to each Unit are driveways, walks, entryway stoops and outside ground floor fenced patio areas. There are recreation facilities, consisting of a clubhouse, pool and tennis court as part of the Condominium.

#### **ARTICLE V. UNITS**

**Section 1. Unit Designations.** Each of the Units is designated by a one or two digit Unit number on the Drawings. These designations do not correspond with the numerical portion of the street address of the Units.

**Section 2. Composition of Units.**

**A. Unit Composition.** Each Unit consists of the space in the building designated by that Unit's designation on the Drawings that is bounded by the undecorated interior surfaces of the perimeter walls, the unfinished surface of the floor at the lowest level, and the unfinished interior surface of the ceiling of the highest level floor, all projected, if necessary, by reason of structural divisions such as interior walls and partitions, to constitute a complete enclosure of space, and all improvements within that space.

**B. Unit.** Each Unit shall include the following which, unless otherwise specifically stated in this Amended and Restated Declaration, shall be the responsibility of the Unit Owner:

(1) the decorated surfaces, including paint, lacquer, varnish, wall covering, tile and other finishing material applied to floors, ceilings, and interior and perimeter walls, carpet, and also the floors and ceilings themselves, and the drywall, paneling and other finishing material attached to the structural parts of the perimeter walls;

(2) all windows, screens and doors, including garage doors, storm doors and windows, if any, and the frames, sashes and jambs, and the hardware therefor;

(3) all fixtures and appliances installed for the exclusive use of that Unit, commencing at the point of disconnection from the structural body of the building and from utility pipes, lines or systems serving the entire building or more than one Unit thereof, including, without limiting the generality hereof, built-in cabinets, dishwashers, garbage disposal units, refrigerators, stoves and hoods, television antennas and cables, furnaces, hot water heaters, heat pumps, air-conditioning units and pads (even though located outside the bounds of a Unit), and components of the foregoing, if any;

(4) all plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts, conduits and apparatus, wherever located, which serve only that Unit;

(5) all control knobs, switches, thermostats and electrical outlets and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein;

(6) all interior walls that are not necessary for support of the structure, and all components thereof and all space encompassed thereby; and

(7) the portion of the fireplaces actually within the interior of a Unit and the vents and dampers therefor accessible from the Unit's interior; and

(8) the attic space or storage space above a Unit to which the Unit has direct and exclusive access;

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

- (9) any supporting element of the building contained in interior walls;
- (10) all plumbing electric, heating, cooling and other utility or service lines, pipes, sump pumps and accessories thereto, wires, ducts and conduits which serve any other Unit and
- (11) fireplace stacks and chimneys, if any.

C. **Unit Types, Sizes, Locations and Components.** The location and approximate square footage (size) of each Unit is shown on the first page of the Drawings. Subsequent pages of the Drawings show the dimensions and composition of each type of Unit. Each Unit has direct access to a Common Area, which leads directly to Clyo Road or Norwich Lane, the public streets.

D. **Information to be Provided.**

(1) Within thirty (30) days after a Unit Owner obtains a condominium Ownership interest or within thirty (30) days of the date of recording of this Amended and Restated Declaration, the Unit Owner shall provide the following information in writing to the Association through the Board of Directors: (a) the home address, home and business mailing addresses, and the home and business telephone numbers of the Unit Owner and all Occupants of the Unit; and (b) the name, business address, and business telephone number of any person who manages the Owner's Unit as an agent of that Owner. Within thirty (30) days after a change in any information required to be provided herein, a Unit Owner shall notify the Association, through the Board of Directors, in writing of the change. When the Board of Directors requests, a Unit Owner shall verify or update the information.

**ARTICLE VI.  
COMMON AND LIMITED COMMON ELEMENTS**

**Section 1. Common Elements – Description.** All of the Condominium Property, including all of the land and all improvements thereon and appurtenances thereto, except those portions labeled or described herein or on the Drawings as a part of a Unit, are Common Elements.

**Section 2. Limited Common Elements – Description.** Those portions of the Common Elements that are labeled or designated “LCE” or “Limited Common Elements” on the Drawings, are Limited Common Elements. These Limited Common Elements consist of entryway stoops, driveways leading to garages, walks leading to stoops, and outside ground floor patio areas, in the case of each Unit. Limited Common Element shall also include the air conditioning pad, compressor, duct and conduits thereto for the Unit being serviced by such

facilities, and such facilities are not shown on the Drawings. Each such Limited Common Element is reserved for the exclusive use of the Owners and Occupants of the Unit to which that Unit has direct and immediate access, and which it is designed to serve.

**Section 3. Undivided Interest.** Unless or until amended, the undivided interest in the Common Elements of each Unit is based upon the floor area square footage of each Unit. Each Unit's undivided interest was determined by comparing the floor area square footage of such Unit to the total floor area square footage of all the Units in the Condominium. Stated another way, the undivided interest in the Common Elements of each Unit is equal to a fraction, the numerator of which is the floor area square footage of such Unit and the denominator of which is the total floor area square footage of all of the Units in the Condominium. The Common Elements shall be owned by the Unit Owners as tenants in common, and Ownership thereof shall remain undivided. No Unit Owner may waive or release any rights in the Common Elements. Further, the undivided interest in the Common Elements of a Unit shall not be separated from the Unit to which it appertains.

## ARTICLE VII. UNIT OWNERS ASSOCIATION

**Section 1. Establishment of Association.** The Association has been formed to be and to serve as the Unit Owner's Association of the Condominium.

**Section 2. Membership.** Membership in the Association shall be limited to the Unit Owners, and every person or entity who is or becomes a record Owner of a fee or undivided fee simple interest in a Unit is a Unit Owner and shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an "interest merely as security for the performance of an obligation". Membership shall be appurtenant to and may not be separated from Ownership of any Unit, and transfer of a Unit shall automatically transfer membership to the transferee.

**Section 3. Voting Rights.** Each Unit Owner shall be entitled to one vote for each Unit owned in fee simple, and a proportionate part of a vote for Ownership of an undivided fee simple interest in a Unit, provided, that unless timely challenged by an Owner of a fee simple interest in a Unit, any Owner of a fee simple interest in that Unit may cast the entire vote with respect to that Unit. The percentage of interest of Unit Owners in the Common Elements is not applicable to the voting rights of Unit Owners.

**Section 4. Board of Directors.** The Board will consist of six (6) Members who have been elected by a majority vote of all Unit Owners. The terms of the six (6) Members which are for three (3) year terms, shall be staggered so that the terms of one third (1/3) of the Members will expire and successors be elected annually. The election will take place during the month of November, prior to the Annual Meeting. The new Members will be introduced at the Annual Meeting. The Owners, exercising not less than a majority of the voting power of Owners, may, from time to time, change the number and terms of Members, provided that in any such event, the terms of not less than one-third (1/3) of the Members shall expire annually.

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

**Section 6. Delegation of Authority; Professional Management.** The Board may delegate all or any portion of its authority to discharge its responsibilities to a professional property manager who is not a Unit Owner or resident to the Condominium. This delegation of authority and responsibility to a property manager may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such property manager as a common expense, provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty (30) days' written notice; shall be terminable by either party, without penalty, on ninety (90) days' written notice; shall not exceed one (1) year unless renewed by agreement of the parties for successive one (1) year periods; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing. The property manager, or the Board, if there is no property manager, shall have the authority to enter into contracts for goods, service, or for any other thing, including, without limiting the generality of the foregoing contracts for the providing of management, maintenance, and repair services, provided the same are bona fide and commercially reasonable to the Unit Owners at the time entered into under the circumstances then prevailing and are terminable by the Association, without cause and without penalty, on ninety (90) days' written notice.

**Section 7. Mortgagee.** A property manager may be required by any eligible holder of first mortgages on over fifty-one percent (51%) of the Units, or by any group of eligible holders of first mortgages who in the aggregate hold mortgages on over fifty-one percent (51%) of the Units.

**Section 8. Service of Process.** The person to receive service of process for the Association shall be designated by the Board. This designation may be accomplished by filing with the Secretary of State an appropriate change of statutory agent designation.

## ARTICLE VIII. MAINTENANCE AND REPAIR

**Section 1. Association Responsibility.** The Association shall manage, maintain, replace and repair the Common Elements, including the Limited Common Elements, and including but not limited to utility facilities serving more than one Unit, skylights, front light posts, excluding bulb replacement, utility lines in the Common Elements, lawns, shrubs, trees, walkways, drives, parking areas, fireplace stacks, liners and chimneys, fences and the structural portions and exterior portions of all buildings which are a part of the Common Elements and that do not constitute part of a Unit, provided, however, that the Association shall not be responsible for routine care of stoops nor the repair or maintenance of improvements within patio areas, nor the interior surfaces of any interior walls, floors, doors, ceilings and other surfaces of the Unit.

**Section 2. Individual Responsibility.** Each Unit Owner at the Unit Owner's expense shall repair, replace and maintain the Unit or Units, and all components thereof, including internal installations such as appliances and plumbing and electrical fixtures, owned by that Unit Owner, perform cleaning, housekeeping, and routine maintenance with respect to Limited Common Elements appurtenant to that Owner's Unit, and the Unit's appurtenant stoop, and repair and maintain all improvements within fenced patio areas and the air conditioning facilities servicing that Owner's Unit. Without limiting the generality of the foregoing, this repair and maintenance responsibility of a Unit Owner shall also include repair, maintenance and replacement of all windows, screens, doors and garage doors, including the frames, sashes and jambs, and the hardware therefor, and springs, tracks, or any other mechanism relating to garage doors. All such maintenance and repair shall be performed in a manner so as not to unreasonably disturb other persons residing in the building. In the event a Unit Owner shall fail to make such repair or perform such maintenance, or in the event the need for maintenance or repair of any part of the Common Elements or Limited Common Element is caused by the negligent or intentional act of any Unit Owner or Occupant, or is as a result of the failure of any Unit Owner or his, her or its predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law, the Association may perform the same, and if the cost of such repair or maintenance is not covered by insurance, the cost thereof shall constitute a special individual unit assessment, as hereinafter defined, on the Unit owned by such Unit Owner. The determination that such maintenance or repair is necessary, or has been so caused, shall be made by the Board. Each Unit Owner shall promptly report to the Association or its agent any defect or need for repairs, the responsibility of which is with the Association.

**Section 3. Prohibitions.** No Unit Owner shall 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 Directors of the Association is first obtained. No Unit Owner shall 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 Directors of the Association and of the Owner or Owners for whose benefit such easement exists.

#### **ARTICLE IX. UTILITY SERVICES**

Each Unit Owner by acceptance of a deed to a Unit agrees to pay for utility services separately metered or separately charged by the utility company to that Unit, and to reimburse the Association for that Owner's Unit's share of any utility cost that the Board reasonably determines is attributable to use by the Owner's Unit. All other utility costs shall be common expenses and paid by the Association.



**ARTICLE X.  
INSURANCE; LOSSES BONDS**

**Section 1. Fire and Extended Coverage Insurance.** The Board shall have the authority to and shall obtain insurance for all buildings, structures, fixtures and equipment, and common personal property and supplies now or at any time hereafter constituting a part of the Common Elements, the Limited Common Elements, or common property of the Association, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard extended coverage endorsements, and all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available, issued in the locale of the Condominium Property, in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable co-insurance clause or provision and not less than one hundred percent (100%) of the current replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage), as determined from time to time by the insurer. This insurance:

A. shall provide coverage for built-in or installed improvements, fixtures and equipment that are originally installed as part of a Unit, and shall provide for coverage of interior walls, windows and doors and the frames, sashes, jambs and hardware therefor, even though these improvements may be parts of Units;

B. shall have an agreed amount and inflation guard endorsement, when that can be obtained, construction code endorsements, if there is a construction code provision that requires changes to undamaged portions of buildings even when only part of the Condominium Property is destroyed by an insured hazard, such as demolition cost, contingent liability from operation of building laws and increased cost of construction endorsements, and, when applicable, a steam boiler and machinery coverage endorsement, which provides that the insurer's minimum liability per accident at least equals the lesser of two million dollars or the insurable value of the building or buildings housing the boiler or machinery;

C. shall provide that no assessment may be made against a first mortgage lender, or its insurer or guarantor, and that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a first mortgage;

D. shall be written in the name of the Association for the use and benefit of the Unit Owners, or its authorized representative, including any insurance Trustee with whom the Association has entered into an insurance trust agreement, or any successor to such Trustee, for the use and benefit of the individual Unit Owners;

E. shall contain or have attached the standard mortgagee clause commonly accepted by institutional first mortgage holders, insurers, and guarantors, which (i) must provide that the carrier shall notify the named insured and each first mortgagee named in the mortgage clause at least ten days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy, and (ii) must be endorsed to provide that any loss shall be paid to the

Association (or its insurance Director), as a Director for each Unit Owner and each such Unit Owner's mortgagee, and, unless otherwise prohibited by a nationally recognized institutional first mortgage holder, insurer, or guarantor, to the holders of first mortgages on Units;

F. shall have a deductible amount no greater than the lesser of ten thousand dollars or one percent of the policy face amount;

G. shall be paid for by the Association, as a common expense; and

H. unless otherwise determined by the Board, shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Directors, and all Unit Owners.

If the required insurance coverage 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 and shall not require a vote of the members of the Association, anything to the contrary in this Amended and Restated Declaration notwithstanding.

**Section 2. Liability Insurance.** The Association shall obtain and maintain, at the Association's cost and as a common expense, a comprehensive policy of general liability insurance covering all of the Common Elements, and public ways and any other areas under the Association's supervision, insuring the Association, the Directors, and the Unit Owners and Occupants, which such limits as the Board may determine, but no less than the greater of (a) the amount generally required by institutional first mortgage holders, insurers, and guarantors for projects similar in construction, location and use, and (b) one million dollars (\$1,000,000.00), for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association, the Board, or other Unit Owners, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party. Each such policy must provide that it may not be cancelled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each holder of a first mortgage named in the mortgage clause.

**Section 3. Fidelity Bond.** The Board shall obtain and maintain at the Association's cost and as a common expense, a fidelity bond providing coverage for the Association against dishonest acts on the part of directors, managers, Directors, employees, agents, or volunteers responsible for or handling funds belonging to or administered by the Association. The fidelity bond must name the Association as the named obligee or insured and shall be written in an amount

sufficient to provide protection, which is in no event less than the greater of (a) an amount equal to the Association's reserve funds plus three (3) months' assessments on all Units, and (b) the maximum amount that will be in the custody of the Association or its managing agent at any time while the bond is in force. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The bond or policy shall provide that it shall not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten days' prior written notice to the Association, and any insurance Director, and any servicer on behalf of any holder, guarantor or insurer of any mortgage on a Unit who requires such rights.

Any property manager that handles funds of the Association shall maintain a fidelity bond providing coverage no less than that required by the Association, which bond shall name the Association as an additional obligee.

**Section 4. Hazard Insurance Carrier.** Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a current rating of B/VI, or better, or, if; Class V, has a general policy holder's rating of at least A, as determined by the then latest edition of Best's Insurance Reports, or its successor guide, or, if the insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has a B/VI or better rating.

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

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

**Section 7. Unit Owners' Insurance.** Any Unit Owner or Occupant may carry such insurance in addition to that provided by the Association pursuant hereto as that Unit Owner or Occupant may determine, subject to the provisions hereof, and provided that no Unit Owner or Occupant may at any time purchase individual policies of insurance against loss by fire or other

casualty covered by the insurance carried pursuant hereto by the Association. In the event any Unit Owner or Occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit Owner who acquired or whose Occupant acquired such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss of proceeds. Without limiting the foregoing, a Unit Owner or Occupant may obtain insurance against liability for events occurring within a Unit, losses with respect to personal property and furnishings, and losses to improvements owned by the Unit Owner or Occupant, provided that if the Association obtains insurance for permanent improvements and built-in fixtures and equipment, then the insurance obtained by the Unit Owner with respect to improvements within the Unit shall be limited to the type and nature of coverage commonly referred to as "tenants' improvements and betterments". All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and Directors, and all other Unit Owners and Occupants.

**Section 8. Sufficient Insurance.** In the event the improvements forming a part of the Common Elements 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 used in payment therefor; provided, however, that in the event that within sixty (60) days after such damage or destruction the Unit Owners and eligible holders of first mortgages, if they are entitled to do so pursuant to the provision of this Amended and Restated Declaration, shall elect to terminate the Condominium, then such repair, restoration or reconstruction shall not be undertaken.

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

**ARTICLE XI.**  
**DAMAGE: RESTORATION: REHABILITATION AND RENEWAL**

**Section 1. Restoration of Substantial Damage or Destruction.** In the event of substantial damage to or destruction of all Units in a residential building, or the taking of one or more Units in any condemnation or eminent domain proceedings, the Association shall promptly restore or replace the same, unless an election is made not to do so, as hereinafter provided.

**Section 2. Election Not to Restore.** The Association may, with the prior written consent of Unit Owners entitled to exercise not less than eighty percent (80%) of the voting power of Unit Owners, and the prior written consent of eligible holders of first mortgage liens hereinafter provided, determine not to repair or restore such damage or destruction, or reconstruct such Unit or Units. In such an event, all of the Condominium Property shall be sold as upon partition. In the event of such an election not to repair or restore substantial damage or destruction or reconstruct such Unit or Units, the net proceeds of insurance paid by reason of such damage or destruction, or the net amount of any award or proceeds of settlement arising from such proceedings, shall be added to the total amount distributed among the Owners of the Units, and the holders of their respective first mortgage liens, (as their interests may appear), in the proportions of their undivided interests in the Common Elements.

**Section 3. Rehabilitation and Renewal.** The Association, with the consent of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power of Unit Owners, and the consent of eligible holders of first mortgage liens hereinafter provided, may determine that the Condominium is obsolete in whole or in part and elect to have the same renewed and rehabilitated. The Board shall thereupon proceed with such renewal and rehabilitation and the cost thereof shall be a common expense.

**ARTICLE XII.**  
**CONDEMNATION**

**Section 1. Standing.** Except as hereinafter provided, the Association, or its designated representative, or authorized successor, as trustee, shall represent the Unit Owners in any condemnation or eminent domain proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of all or any part of the Condominium Property, and shall have the sole and exclusive right to settle losses with the condemning authority and to receive the award or proceeds of settlement, for the use and benefit of the Unit Owners and their mortgagees as their interests may appear. Notwithstanding the foregoing, in the event that a Unit Owner may lawfully separately pursue and realize upon a claim for incidental and consequential losses or damage to that Unit Owner resulting from a taking under the power of eminent domain, such as for relocation and moving expenses, loss of favorable mortgage terms, and other such individual incidental or consequential losses, that Unit Owner may, at his, her or its election, separately pursue such claim, provided, that the pursuing of the same, or the realization of an award thereof, neither jeopardizes, in any way, an action by the Association to recoup the losses incurred by it, any other Unit Owner, or the direct loss with respect to the Unit itself, or with regard to the use ability thereof, nor diminishes any award for any such loss.

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

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

**Section 4. Non-Restorable Unit.** Notwithstanding the foregoing, in the event that as a result of any such taking, and consequent restoration or replacement, any Unit could not reasonably be restored to a condition comparable to that which existed prior to the taking, or could not be replaced, prior to the allocation and disbursement of any sum to any other Unit Owner or his, her or its mortgagee, there shall be allocated and disbursed from such award or proceeds, to each Unit Owner whose Unit cannot be so restored or replaced, and his, her or its respective first mortgagee, as their interests may appear, such amount as is equal to the then fair market value of the Unit that cannot be so restored or replaced. Thereupon, such Unit or Units, and the Owners thereof, shall be immediately and automatically divested of any interest in the Condominium, the Condominium Property, and the Association, including, without limiting the generality of the foregoing, divestment of an undivided interest, vote, membership in the Association, and liability for common expenses. All such rights and interests shall be reallocated among all other Units and Unit Owners in the same relative proportions as those rights and interests were prior to such taking. To illustrate, upon a Unit being divested from the Condominium, (a) the voting right of that Unit will be equally allocated among all other Units, since each Unit prior thereto had an equal vote, and (b) the undivided interest of that Unit will be reallocated among all other Units in the proportions of their relative undivided interests prior to such taking.

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

**ARTICLE XIII.**  
**GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS**

**Section 1. Easements of Enjoyment; Limitations.** Every Unit Owner shall have a right and easement of enjoyment in, over and upon the Common Elements and an unrestricted right of access to and from his, her or its Unit, which rights and easements shall be appurtenant to and shall pass with the title to a Unit, subject to the right of the Board to make reasonable Rules and Regulations concerning the use and management of the Common Elements, provided that no such Rule or Regulation shall limit or prohibit the right of ingress and egress to a Unit, or any part thereof, or to that Unit's parking facilities. Any Unit Owner may delegate that Unit Owner's right of enjoyment to the Common Elements and to ingress and egress to the Occupants of that Owner's Unit, and to guests and invitees thereof. Any roadway or private street shown on the Drawings shall be for the general public that has a need to use the same as a means of access to his property.

**Section 2. Right of Entry for Repair, Maintenance and Restoration.** The Association shall have a right of entry and access to, over, upon and through all of the Condominium Property, including each Unit, to enable the Association to perform its obligations, rights and duties pursuant hereto with regard to maintenance, repair, restoration and/or servicing of any items, things or areas of or in the Condominium Property. In the event of an emergency, the Association's right of entry to a Unit and its appurtenant Limited Common Elements may be exercised without notice; otherwise, the Association shall give the Owners or Occupants of a Unit no less than twenty four hours advance notice prior to entering a Unit or its appurtenant Limited Common Elements.

**Section 3. Easements for Encroachments.** Each Unit and the Common Elements shall be subject to easements for encroachments on any other Unit and upon the Common Elements created or arising by reason of overhangs; or by reason of deviations in construction, reconstruction, or repair; or by reason of shifting, settlement, or movement of the structures; or by reason of errors in the Drawings. valid easements for these encroachments and for the maintenance of same, so long as the encroaching structures remain, shall and do exist for the benefit of each Unit and the Common Elements, as the case may be.

**Section 4. Easement for Support.** Every portion of a building or utility line or any improvement on any portion of the Condominium Property contributing to the support of another building, utility line or improvement on another portion of the Condominium Property shall be burdened with an easement of support for the benefit of all other such buildings, utility lines, improvements and other portions of the Condominium Property.

**Section 5. Easements for Utilities.** Easements to the Association shall exist upon, over and under all of the Condominium Property for ingress to and egress from, and the installation, replacing, repairing and maintaining of, all utilities, including, but not limited to water, sewer, gas, telephone, electricity, security systems, master television antennas and cable television. By these easements it shall be expressly permissible for the Association to grant to the providing companies permission to construct and maintain the necessary poles and equipment, wires,

circuits and conduits on, above, across and under the Condominium Property, so long as such poles and equipment, wires, circuits and conduits do not unreasonably interfere with the use and enjoyment of the Condominium Property. Should any company furnishing a service request a specific easement by separate recordable document, the Board shall have the right to grant such easement without conflicting with the terms hereof. The Association or furnishing company shall restore the Unit to a condition as good or better than existed prior to the use of said easement.

**Section 6. Easement for Services.** Non-exclusive easements are hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities and the Association, but not to the public in general, to enter upon the Common Elements in the performance of their duties.

**Section 7. Easement for the Association.** The Association shall have a right and easement to the exterior water taps or faucets of any Unit for the purpose of watering any Common Elements landscaping; provided, however, that such use shall be reasonable and the Association shall reimburse the Unit Owner for any excessive use of water. The Association has the right to grant and/or reserve an easement for ingress and egress over and through the Common Elements for itself and for the benefit of any subsequent Owner or Owners of part or all of the Condominium Property.

**Section 8. Power of Attorney.** Each Unit Owner, by acceptance of a deed to a Unit, appoints the President of the Association his, her or its attorney-in-fact, to execute, deliver, acknowledge and record, for and in the name of such Unit Owner, and his mortgagee or mortgagees, such deeds of easement and other instruments as may be necessary or desirable, in the sole discretion of the Board, or its authorized representative, to further establish or effectuate the foregoing easements. This power is for the benefit of and shall be binding upon each and every Unit Owner, the Association, its successors and assigns, mortgagees and any other person having an interest in the land, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

**Section 9. General.** The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all easements described herein in any deed or mortgage shall not defeat or fail to reserve the easements described above, but the same shall be deemed conveyed or encumbered with the Unit.

#### **ARTICLE XIV. ASSESSMENTS AND ASSESSMENT LIENS**

**Section 1. Types of Assessments.** Each Unit Owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to pay to the Association: (1) annual operating assessments; (2) special assessments for capital improvements; and (3) special individual unit assessments, all of such assessments to be established and collected as hereinafter provided.



**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of Unit Owners and Occupants and the best interests of the Condominium Property.

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

**A. Annual Operating Assessments.**

(1) Prior to the beginning of each fiscal year, the Board shall estimate, and prorate among all Units on the basis of the undivided interest of each Unit in the Common Elements, common expenses of the Association consisting of the following:

i. the estimated next fiscal year's cost of the maintenance, repair and other services to be provided by the Association;

ii. the estimated next fiscal year's costs for insurance and bond premiums to be provided and paid for by the Association;

iii. the estimated next fiscal year's costs for utility services not separately metered or charged to Unit Owners;

iv. the estimated amount required to be collected to maintain a general operating reserve to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Board, but in no event less than an amount equal to two months' currently estimated assessments on all Units.

v. an amount deemed adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained; and

vi. the estimated next fiscal year's costs for the operation, management and administration of the Association, including, but not limited to, fees for property management, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and the salaries, wages, payroll charges and other costs to perform these services, and any other costs constituting common expenses not otherwise herein specifically excluded.

(2) The Board shall thereupon allocate to each Unit that Unit's share of all of these items, prorated in accordance with each respective Unit's undivided interest in the Common Elements, and thereby establish the annual operating assessment for each separate Unit. For administrative convenience, any such assessment may be rounded so that monthly installments will be in whole dollars.

(3) Unless the Board determines otherwise, which it may do in its sole discretion, the annual operating assessment shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying assessments in annual, semiannual, or quarterly increments. The due dates of any such installments shall be established by the Board, and, unless otherwise provided, the Association shall collect on or before the first day of each month from those who own the Unit an equal monthly prorated share of the annual operating assessment for that Unit.

(4) If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units on the same basis as heretofore set forth.

(5) If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves, and shall in no event be deemed profits nor available, except on dissolution of the Association, for distribution to Unit Owners.

**B. Special Assessments for Capital Improvements.**

(1) In addition to the annual operating assessments, the Board may levy, in any fiscal year, special assessments to construct, reconstruct or replace capital improvements on the Common Elements to the extent that reserves therefore are insufficient, provided that new capital improvements not replacing existing improvements shall not be constructed nor funds assessed; therefor, if the cost thereof in any fiscal year would exceed an amount equal to thirty percent (30%) of that fiscal year's budget, without the prior consent of Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Units Owners and the consent of eligible holders of first mortgages hereinafter provided.

(2) Any such assessment shall be prorated among all Units in proportion to their respective undivided interests in the Common Elements, and shall become due and payable on such date or dates as the Board determines following written notice to the Unit Owners.

**C. Special Individual Unit Assessments.** The Board may levy and assessment against an individual Unit, or Units to reimburse the Association for those costs incurred in connection with that Unit or Units properly chargeable by the terms hereof to a particular Unit (such as, but not limited to, the cost of making repairs the responsibility of a Unit Owner and a Unit Owner's enforcement and arbitration charges). Any such assessment shall be come due and payable on such date as the Board determines, and gives written notice to the Unit Owners subject thereto.

**Section 4. Effective Date of Assessment.** Any assessment created pursuant hereto shall be effective, provided it is created as provided herein, if written notice of the amount thereof is sent by the Board to the Unit Owner subject thereto at least ten (10) days prior to the due date thereof, or the due date of the first installment thereof, if to be paid in installments. Written notice mailed or delivered to a Unit Owner, unless the Unit Owner has delivered written notice to the Board of

a different address for such notices, in which event the mailing of the same to the last designated address shall constitute notice to that Unit Owner.

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

A. If any assessment or any installment of any assessment is not paid within ten (10) days after the same has become due, the Board, at its option, without demand or notice, may (i) declare the entire unpaid balance of the assessment immediately due and payable, (ii) charge interest on the entire unpaid balance (or on an overdue installment, along, if it hasn't exercised its option to declare the entire unpaid balance due and payable), at the highest rate of interest then permitted by law, or at such lower rate as the Board may from time to time determine, and (iii) charge a reasonable, uniform, late fee, as determined from time to time by the Board.

B. Annual operating and both types of special assessments, together with interest, late fees, and costs, including reasonable attorney fees, shall be a charge and a continuing lien in favor of the Association upon the Unit against which each such assessment is made.

C. At any time after an installment of an assessment levied pursuant hereto remains unpaid for ten (10) days or more days after the same has become due and payable, a certificate of lien for all or any part of the unpaid balance of that assessment, interest, late fees, and costs, including reasonable attorney fees, may be filed with the Montgomery County Recorder, pursuant to authorization given by the Board. The certificate shall contain a description of the Unit against which the lien exists, the name or names of the record Owner or Owners thereof, and the amount of the unpaid portion of the assessments and charges, and shall be signed by the president or other chief officer of the Association. The Association has the authority to include in its lien any unpaid interest, administrative late fees, Enforcement Assessments, collection costs, attorney's fees, and paralegal fees.

D. The lien provided for herein shall remain valid for a period of five (5) years from the date a certificate of lien or renewal certificate was duly filed therefor, unless sooner released or satisfied in the same manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.

E. Any Unit Owner who believes that an assessment chargeable to his, her or its Unit (for which a certificate of lien has been filed by the Association) has been improperly charged against that Unit, may bring an action in the court of common pleas of the county in which the Condominium Property is located for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Unit, the court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.

F. Each such assessment together with interest, late fees, and costs, including reasonable attorney fees, shall also be the joint and several personal obligation of the Unit Owners who owned the Unit at the time when the assessment fell due. The obligation for

delinquent assessments, interest, late charges and costs shall not be the personal obligation of that Owner or Owners' successors in title unless expressly assumed by the successors, provided, however, that the right of the Association to a lien against that Unit, or to foreclose any lien thereon for these delinquent assessments, interest, late charges and costs, shall not be impaired or abridged by reason of the transfer, but shall continue unaffected thereby.

G. The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees, and costs, including reasonable attorney fees, bring an action at law against the Owner or Owners personally obligated to pay the same, and an action to foreclose a lien, or any one or more of these. In any foreclosure action, the Owner or Owners affected shall be required to pay a reasonable rental for that Unit during the pendency of such action, and the Association as plaintiff in any such foreclosure action, shall be entitled to become a purchaser at the foreclosure sale. In any such foreclosure action, interest and costs of such action (including reasonable attorneys' fees) shall be added to the amount of any such assessment, to the extent permitted by Ohio law.

H. No Owner may waive or otherwise escape liability for the assessments provided for in this Amended and Restated Declaration by non-use of the Common Elements, or any part thereof, or by abandonment of his, her or its Unit.

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

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

**Section 8. Application of Assessments.** The Association shall credit payments made by a Unit Owner in the following order of priority:

- A. First, to interest owed to the Association;
- B. Second, to administrative late fees owed to the Association;
- C. Third, to collection costs, attorney's fees, and paralegal fees incurred by the Association; and

D. Fourth, to the principal amounts the Unit Owner owes to the Association for the common expenses or enforcement assessments chargeable against the Unit.

**ARTICLE XV.  
NOTICES TO AND VOTING RIGHTS OF MORTGAGEES**

**Section 1. Notices.** Any holder, insurer, or guarantor of a first mortgage, upon written request to the Association (which request states the name and address of such holder, insurer, or guarantor and the Unit designation), shall be entitled to timely written notice by the Association of:

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

B. any proposed decision or action that: (i) terminates professional management and establishes self management; (ii) causes restoration or repair of the Condominium Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Organizational Documents; (iii) substantial damage or destruction not be restored; (iv) the Condominium Property be renewed or rehabilitated; (v) significant new capital improvements not replacing existing improvements be constructed; or (vi) would, without addition to, change in, or amendment of the Condominium Organizational Documents, make any change with respect to the items described in subparagraph (a) of Section 1 of this Article.

C. (i) any condemnation or casualty loss that affects either a material portion of the Condominium Property or the Unit securing its mortgage; (ii) any default under the Condominium Organizational Documents which gives rise to a cause of action against a Unit Owner whose Unit is subject to its mortgage, when the default remains uncured for a period of sixty (60) days; (iii) any delinquency for sixty (60) days in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage; (iv) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and (v) times and places of Unit Owners' meetings.

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

**Section 3. Condemnation/Substantial Loss.** Notwithstanding any other provisions to the contrary herein, in case of condemnation or substantial loss to the Units and/or Common Elements, unless at least two-thirds (2/3rds) of the holders of the first mortgages (based on one vote for each mortgage owned), or Unit Owners have given their prior written consent, the Association shall not:

- A. by act or omission seek to abandon or terminate the Condominium;
- B. change the pro-rata interest or obligations of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro-rata share of Ownership of each Unit in the Common Elements;
- C. partition or subdivide any Unit;
- D. seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements by act or omission; or
- E. use hazard insurance proceeds for losses to any Units or Common Elements for other than the repair, replacement, or reconstruction thereof.

## **ARTICLE XVI. AMENDMENTS**

**Section 1. Power to Amend.** Except as otherwise specifically provided herein, additions to, changes in, or amendment of this Amended and Restated Declaration (or the other Condominium Organizational Documents) shall, in addition to the consents required of eligible holders of first mortgage liens, if any, as hereinbefore provided, require the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners. Notwithstanding the foregoing:

A. the consent of all Unit Owners shall be required for any amendment effecting a change in:

- (1) the boundaries of any Unit;

(2) the undivided interest in the Common Elements appertaining to a Unit or the liability for common expenses appertaining thereto;

(3) the number of votes in the Association appertaining to any Unit; or

(4) the fundamental purposes to which any Unit or the Common Elements are restricted;

B. the consent of Unit Owners exercising not less than eighty percent (80%) of the voting power of Unit Owners shall be required to terminate the Condominium.

**Section 2. Method to Amend.** An amendment to this Amended and Restated Declaration (or the Drawings or the By-Laws), adopted with the consents of Unit Owners and eligible holders of first mortgages hereinbefore required, shall be executed with the same formalities as to execution as this Amended and Restated Declaration by two officers of the Association and shall contain their certification that such amendment was duly adopted in accordance with the foregoing provisions. Any amendment duly adopted and executed in accordance with the foregoing provision shall be effective upon the filing of the same with the auditor and recorder of the county in which the Condominium Property is located.

## ARTICLE XVII. GENERAL PROVISION

**Section 1. Covenants Running With the Land.** The covenants, conditions, restrictions, easements, reservations, liens and charges created hereunder or hereby shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Condominium Property, and the Association, and their respective heirs, executors, administrators, successors and assigns.

**Section 2. Enforcement.** In addition to any other remedies provided in this Amended and Restated Declaration, the Association, and each Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or in the By-Laws or now or hereafter imposed by or through the Association's Rules and Regulations. Failure by the Association or by any Unit Owner to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge. Further, the Association and each Unit Owner shall have rights of action against each other for failure to comply with the provisions of the Condominium Organizational Documents, Rules and Regulations, and applicable law, and with respect to decisions made pursuant to authority granted thereunder, and the Association shall have the right to assess reasonable charges against a Unit Owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration. Notwithstanding the foregoing, in the event of any dispute between the Association and any Unit Owner or Occupant, other than with regard to assessments, that cannot be settled by an

agreement between them, the matter shall first be submitted to arbitration in accordance with and pursuant to the arbitration law of Ohio then in effect (presently Chapter 2711 of the Revised Code of Ohio), by a single independent arbitrator selected by the Board.

**A. Charge for Damages or Enforcement Assessment.** The Board shall have the authority to impose reasonable Enforcement Assessments for violations of the Declaration, the By-Laws, and the rules of the Association and reasonable Charges for Damage to the Common Elements or other property. Prior to imposing a Charge for Damages or an Enforcement Assessment pursuant to this Section, the Board of Directors shall give the Unit Owner a written notice that includes all of the following:

- (1) A description of the property damage or violation;
- (2) The amount of the proposed Charge or Assessment,
- (3) A statement that the Owner has a right to a hearing before the Board of Directors to contest the proposed Charge or Assessment;
- (4) A statement setting forth the procedures to request a hearing pursuant to this Section.

To request a hearing, an Owner shall deliver a written notice to the Board of Directors not later than the tenth day after receiving the notice from the Board required by this Section. If the Owner fails to make a timely request for a hearing, the right to that hearing is waived, and the Board may immediately impose a Charge for Damages or an Enforcement Assessment pursuant to this Section.

If a Unit Owner requests a hearing, at least seven days prior to the hearing, the Board of Directors shall provide the Unit Owner with a written notice that includes the date, time, and location of the hearing.

The Board of Directors shall not levy a Charge or Assessment before holding any hearing requested pursuant to this Section.

The Unit Owners, through the Board of Directors, may allow a reasonable time to cure a violation described in this Section before imposing a Charge or Assessment.

Within thirty days following a hearing at which the Board of Directors imposes a Charge or Assessment, the Association shall deliver a written notice of the Charge or Assessment to the Unit Owner.

Any written notice that this Section requires shall be delivered to the Unit Owner or any Occupant of the Unit by personal delivery, by certified mail, return receipt requested, or by regular mail.



**B. Eviction Proceeding.** The Association may initiate eviction proceedings, pursuant to Chapters 5321 and 1923 of the Revised Code, to evict a tenant. The action shall be brought by the Association, as the Unit Owner's Agent, in the name of the Unit Owner. In addition to any procedures required by Chapters 5321 and 1923 of the Revised Code, the Association shall give the Unit Owner at least ten days written notice of the intended eviction action. The costs of any eviction action, including reasonable attorney's fees, shall be charged to the Unit Owner and shall be the subject of a special assessment against the offending Unit and made a lien against that Unit.

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

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

**Section 5. Captions.** The captions of the various provisions of this Amended and Restated Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

**Section 6. Interpretation.** The provisions of the 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.

**Section 7. Real Estate Taxes.** Each Unit and its percentage of interest in the Common Elements shall be deemed to be a separate parcel for all purposes of taxation and assessment of real property, and no other Unit or other part of the Condominium Property shall be charged with the payment of such taxes and assessments. Each Unit Owner shall be solely responsible for his individual Unit tax bills.

**Section 8. Purchase of Real Property.** The Association may purchase, hold title to, and sell real property that is not declared to be part of the Condominium Property with the approval of the Unit Owners who exercise not less than seventy-five percent (75%) of the voting power of the Association and the authorization of the Board of Directors. Expenses incurred in connection with any such transaction are Common Expenses.

IN WITNESS WHEREOF, Tifton Greens Condominium Association, Inc., by and through its President, David Huxtable, has executed this Tifton Greens Condominium Amended and Restated Declaration of Condominium Ownership this 4 day of April, 2011.

**TIFTON GREENS CONDOMINIUM ASSOCIATION, INC.**  
An Ohio non-profit corporation

By: David J. Huxtable  
Its: President

STATE OF OHIO                            )  
  )SS:  
COUNTY OF MONTGOMERY            )

The foregoing Tifton Greens Condominium Amended and Restated Declaration of Condominium Ownership was sworn to and subscribed before me by David Huxtable, President of Tifton Greens Condominium Association, Inc., an Ohio non-profit corporation, by and on behalf of the Association on the 4 day of April, 2011.

Crystal A. Rainwater  
NOTARY PUBLIC

CRYSTAL A. RAINWATER, Notary Public  
for the State of Ohio  
Commission Expires Sept. 30, 2014

This Instrument Prepared by:  
M. Mehrin Doolin, Esq.  
CUNI, FERGUSON & LEVAY CO., L.P.A.  
10655 Springfield Pike  
Cincinnati, Ohio 45215  
(513) 771-6768

**Exhibit A**  
**Legal Description**

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Buildings 5 and 6, Units 13 through 18, inclusive, of Tifton Greens Condominium, Phase I, Section I, as formed by the Declaration of Condominium Ownership of Tifton Greens Condominium was recorded on January 25, 1988 in Deed Book 88-0037, Page A01 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 133, Page 27, 27A, 27B, and 27C of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 2, Units 10 through 12, inclusive, of Tifton Greens Condominium, Phase I, Section I, as formed by the First Amendment to the Declaration was recorded on March 15, 1988 in Deed Book 88-0134, Page C08 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 134, Pages 9, 9A, and 9B of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Buildings 7 and 8, Units 4 through 9, inclusive, of Tifton Greens Condominium, Phase I, Section I, as formed by the Second Amendment to the Declaration was recorded on May 23, 1988 in Deed Book 88-0282, Page A01 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 135, Pages 5, 5A, 5B, 5C, 5D and 5E of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Buildings 3 and 4, Units 19 through 25, inclusive, of Tifton Greens Condominium, Phase I, Section I, as formed by the Third Amendment to the Declaration was recorded on July 6, 1988 in Deed Book 88-0391, Page C07 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 135, Pages 41, 41A, 41B, 42, 42A, and 42B of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 10, Units 30 through 32, inclusive, of Tifton Greens Condominium, Phase I, Section II, as formed by the Fourth Amendment to the Declaration was recorded on May 2, 1989 in Deed Book 89-0228, Page A07 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 139, Pages 36, 36A, and 36B of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 12, Units 35 through 37, inclusive, of Tifton Greens Condominium, Phase I, Section II, as formed by the Fifth Amendment to the Declaration was recorded on June 6, 1989 in Deed Book 89-0306, Page A06 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 140, Pages 8, 8A, and 8B of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 11, Units 33 through 34, inclusive, of Tifton Greens Condominium, Phase I, Section II, as formed by the Sixth Amendment to the Declaration was recorded on February 9, 1990 in Deed Book 90-0077, Page A01 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 142, Pages 13, 13A, and 13B of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 1, Units 1 through 3, inclusive, of Tifton Greens Condominium, Phase I, Section I, and Building 9, Units 26 through 29, inclusive, of Tifton Greens Condominium, Phase I, Section II, as formed by the Eighth Amendment to the Declaration was recorded on September 16, 1991 in Deed Book 91-0512, Page B03 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 147, Pages 37, 37A, and 37B and Plat Book 147, Pages 38, 38A, and 38B of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 13, Units 38 through 41, inclusive, of Tifton Greens Condominium, Phase II, Section II, as formed by the Ninth Amendment to the Declaration was recorded on June 25, 1992 in Deed Book 92-0366, Page C04 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 150, Pages 24 and 24A of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 15, Units 46 through 49, inclusive, of Tifton Greens Condominium, Phase II, Section II, as formed by the Eleventh Amendment to the Declaration was recorded on September 15, 1992 in Deed Book 92-0537, Page C11 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 151, Pages 11 and 11A of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 14, Units 42 through 45, inclusive, of Tifton Greens Condominium, Phase II, Section II, as formed by the Twelfth Amendment to the Declaration was recorded on December 9, 1992 in Deed Book 92-0722, Page C01 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 152, Pages 18 and 18A of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Buildings 22 and 23, Units 50 through 55, inclusive, of Tifton Greens Condominium, Phase III, Section III, as formed by the Thirteenth Amendment to the Declaration was recorded on August 19, 1993 in Deed Book 93-0523, Page A01 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 154, Pages 23, 23A, and 23B of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 16, Units 56 through 58, inclusive, of Tifton Greens Condominium, Phase III, Section IV, as formed by the Fourteenth Amendment to the Declaration was recorded on November 5, 1993 in Deed Book 93-0713, Page D01 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 155, Pages 12 and 12A of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 17, Units 59 through 61, inclusive, of Tifton Greens Condominium, Phase III, Section V, as formed by the Fifteenth Amendment to the Declaration was recorded on December 1, 1993 in Deed Book 93-0763, Page D07 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 155, Pages 22 and 22A of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 18, Units 62 through 64, inclusive, of Tifton Greens Condominium, Phase III, Section VI, as formed by the Sixteenth Amendment to the Declaration was recorded on May 10, 1994 in Deed Book 94-0294, Page B06 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 156, Pages 38 and 38A of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 19, Units 65 through 68, inclusive, of Tifton Greens Condominium, Phase III, Section VII, as formed by the Seventeenth Amendment to the Declaration was recorded on May 20, 1994 in Deed Book 94-0317, Page C04 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 156, Pages 42 and 42A of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 21, Units 69 through 72, inclusive, of Tifton Greens Condominium, Phase III, Section VIII, as formed by the Eighteenth Amendment to the Declaration was recorded on May 20, 1994 in Deed Book 94-0317, Page D02 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 156, Pages 43 and 43A of the Montgomery County Recorder's Office.

Situate in Section 20, Town 2, Range 6 MRs, City of Centerville, Montgomery County, Ohio and being Building 20, Units 73 through 74, inclusive, of Tifton Greens Condominium, Phase III, Section IX, as formed by the Nineteenth Amendment to the Declaration was recorded on May 20, 1994 in Deed Book 94-0317, Page D12 of the Official Records of Montgomery County, Ohio, the plat of which is recorded in Plat Book 156, Pages 44 of the Montgomery County Recorder's Office.

**EXHIBIT B**  
**AMENDED AND RESTATED**  
**ARTICLES OF INCORPORATION**  
**OF**  
**TIFTON GREENS CONDOMINIUM ASSOCIATION, INC.**

In compliance with the requirements of the provisions of Chapter 1702 of the Revised Code of Ohio, the undersigned hereby forms a corporation not-for-profit and certifies:

**ARTICLE I.**  
**NAME**

The name of the corporation is Tifton Greens Condominium Association, Inc. ("Association").

**ARTICLE II.**  
**PRINCIPAL OFFICE**

The principal office of the Association shall be at such place in the City of Centerville, Montgomery County, Ohio, as the Board of Directors of the Association shall specify from time to time.

**ARTICLE III.**  
**PURPOSE AND POWERS**

Upon the creation of the Association, a condominium is created under the provisions of Chapter 5311 of the Revised Code of Ohio, known as "Tifton Greens Condominium" ("Condominium"), consisting of certain property situated on the south side of Clyo Road, along Tifton Green Trail and Golf Green Drive, Centerville, Ohio. The purposes for which the Association is formed are to be and act as the Unit Owners' association for the Condominium, to provide for the maintenance, preservation and architectural control of the property of the Condominium, and to promote the health, safety and welfare of the residents of the Condominium, and for these purposes to:

**3.1.** exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in these Articles of Incorporation, and the Declaration and By-Laws of the Condominium (the "Articles", "Declaration" and "By-Laws", respectively);

**3.2.** fix, levy, collect and enforce payment by any lawful means, of all charges or assessments pursuant to the terms of the Declaration, and pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association;

3.3. acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Association;

3.4. borrow money to fulfill its purposes and invest reserves and excess funds in government insured accounts or such other investments as the members approve;

3.5. administer and enforce terms, conditions, covenants, restrictions and regulations upon, under and subject to which the Condominium or any part thereof may now or hereafter be used, and fix and provide any such terms, conditions, covenants, restrictions and regulations, and administer, enforce, alter, amend, change, add to, extend, waive, or terminate, in whole or in part, any of the same;

3.6. provide the residents and Unit Owners of the Condominium with (i) normal utility services not separately provided to individual Units, (ii) services supplemental to municipal services, and (iii) Common Elements maintenance service;

3.7. be, function and act as the Unit Owners association of the Condominium, under the provisions of Chapter 5311 of the Revised Code of Ohio, and delegate such authority as it desires to a managing agent;

3.8. have and exercise any and all powers, rights and privileges which a corporation organized under Chapter 1702 may now or hereafter have or exercise by law; and

3.9. take any action necessary, expedient, incidental, appropriate or convenient to the carrying out of the foregoing purposes.

The Association shall not do any act or enter into any agreement or enter into any transaction in a manner which would violate any provision of Chapter 5311 of the Ohio Revised Code or the provisions of these Articles, the Declaration, or the By-Laws.

#### **ARTICLE IV. MEMBERSHIP**

Every person or entity who is a record owner of a fee or undivided fee simple interest in a Unit shall be a member of the Association, and is herein called a "Unit Owner". The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of a Unit, and transfer of a Unit shall automatically transfer membership to the transferee. Voting rights of members shall be as set forth in the Declaration and By-Laws.

**ARTICLE V.**  
**BOARD OF DIRECTORS**

The number, qualifications, manner and time of selection of successor Director and their terms of office, shall be as set forth in the Declaration and By-Laws.

The Board of Directors of the Condominium shall have all of the powers and duties of the Board of Directors as defined in Chapter 5311 of the Revised Code of Ohio and of the Board of Directors as defined in Chapter 1702 of the Revised Code of Ohio, except as such powers may be limited or expanded by the provisions of these Articles, the Declaration or the By-Laws.

**ARTICLE VI.**  
**NOTICE AND QUORUM**

Notice and quorum requirements shall be in accordance with the provisions of the By-Laws.

**ARTICLE VII.**  
**INDEMNIFICATION**

**7.1. Third Party Actions.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, including all appeals (other than an action, suit, or proceeding by or in the right of the Association) by reason of the fact that that person is or was a Director or officer of the Association or is or was serving at the request of the Association as a director, trustee, officer, or employee of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, decrees, fines, penalties, and amounts paid in settlement actually and reasonably incurred by him or her. In connection with such action, suit, or proceeding if that person acted in good faith and in a manner that person reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

**7.2. Derivative Actions.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit, including all appeals, by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she is or was a Director or officer of the Association, or is or was serving at the request of the Association as a director, trustee, officer, or employee of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or



settlement of such action or suit if he or she acted in good faith, and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been finally adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Association unless and only to the extent that the Court of Common Pleas or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the Court of Common Pleas or such other court shall deem proper.

**7.3. Rights After Successful Defense.** To the extent that a Director, officer, or employee has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in the preceding paragraphs, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred in connection therewith.

**7.4. Other Determinations of Rights.** Except as otherwise provided in paragraph 7.3 of this Article, any indemnification under paragraphs 7.1 and 7.2 (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, officer, or employee is proper under the circumstances because he or she has met the applicable standard of conduct set forth in paragraph 7.1 or 7.2. Such determination shall be made by (1) the court having jurisdiction of the action, suit, or proceeding against such Director, officer, or employee of a suit involving his or her right to indemnification, or (2) a majority vote of those Directors who were not and are not parties to such action, suit, or proceeding (whether or not such majority constitutes a quorum), or, if there are not at least two such Directors of the Association then in office, other than those involved in such matter, by a majority of a committee (selected by the Board of Directors) of three or more persons (not including any person involved in such matter) who are, to the extent possible, members of the Association, provided that such indemnity in case of a settlement shall not be allowed by such committee unless it is found by independent legal counsel (meaning a lawyer who is not a Director, officer, or employee of the Association, and is not a partner or professional associate of a Director, officer, or employee of the Association) that such settlement is reasonable in amount and in the best interest of the Association. In the case independent legal counsel is so used, he or she shall be compensated by the Association.

**7.5. Indemnification of Agents, Employees, and Other Representatives.** The Association may, from time to time and in its sole discretion, indemnify any person who is or was an agent, employee, or other authorized representative of the Association, or is or was serving at the request of the Association as a director, trustee, officer, or employee of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of that person's status as such, in the same manner and to the same extent as provided herein for Directors and officers of the Association.

**7.6. Advances of Expenses.** Expenses of each person indemnified herein incurred in defending a civil, criminal, administrative, or investigative action, suit, or proceeding (including all appeals), or threat thereof, may be paid by the Association in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors, whether a disinterested quorum exists or not, upon receipt of an undertaking by or on behalf of the Director, officer, or employee, to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association.

**7.7. Non-exclusiveness; Heirs.** The foregoing rights of indemnification shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled as a matter of law or under these Articles, the regulations, any agreement, vote of members, any insurance purchased by the Association, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, or employee and shall inure to the benefit of the heirs, executors, and administrators of such person.

**7.8. Purchase of Insurance.** The Association may purchase and maintain insurance on behalf of any person who is or was a Director, officer, agent, or employee of the Association, or is or was serving at the request of the Association as a director, trustee, officer, or employee of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her or incurred by him or her in any such capacity, or arising out of that person's status as such, whether or not the Association would have the power to indemnify that person against such liability under the provisions of this Article or of the Ohio Nonprofit Corporation Law.

#### **ARTICLE VIII. DURATION**

The Association shall exist so long as the condominium regime of the Condominium exists, and no longer.

#### **ARTICLE IX. DISSOLUTION**

The Association may be dissolved only with the same consents as are required to terminate the Condominium regime, as provided in the Declaration.

#### **ARTICLE X. DEFINITIONS**

All terms used herein shall have the same meanings as set forth in the Declaration.

**ARTICLE XI.**  
**AMENDMENTS**

The Articles may be amended only under the same terms and conditions, and with the same approvals, as are provided in the Declaration for its amendment.

**IN WITNESS WHEREOF**, Tifton Greens Condominium Association, Inc., by and through its President, David Hextable, has executed the Articles of Incorporation of Tifton Greens Condominium Association, Inc. this 4 day of April, 2011.

**TIFTON GREENS CONDOMINIUM  
ASSOCIATION, INC.**  
An Ohio non-profit corporation

By: David J. Hextable  
Its: President

STATE OF OHIO                    )  
  )SS:  
COUNTY OF MONTGOMERY    )

The foregoing Amended and Restated Articles of Incorporation of Tifton Greens Condominium Association, Inc. was sworn to and subscribed before me by David Hextable, President of Tifton Greens Condominium Association, Inc., an Ohio non-profit corporation, by and on behalf of the Association on the 4 day of April, 2011.

Crystal A. Rainwater  
**NOTARY PUBLIC**

**CRYSTAL A. RAINWATER, Notary Public**  
In and for the State of Ohio  
My Commission Expires Sept. 30, 2014

**EXHIBIT C**  
**AMENDED AND RESTATED**  
**BY-LAWS**  
**OF**  
**TIFTON GREENS CONDOMINIUM ASSOCIATION, INC.**

**ARTICLE I.**  
**NAME AND LOCATION**

The name of the Association is **Tifton Greens Condominium Association, Inc.**, (“the Association”), which corporation, not-for-profit, is created pursuant to the provisions of chapter 1702 of the Revised Code of Ohio, and which Association is also created pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio as the Unit Owners’ association for Tifton Greens Condominium. The principal office of the Association shall be as set forth in its Articles of Incorporation, (“the Articles”), and the place of meetings of Unit Owners (“Members”) and of the Directors (“Board of Directors”) of the Association shall be at such place in Montgomery County as the Board of Directors (“the Board”), may from time to time designate.

**ARTICLE II.**  
**DEFINITIONS**

All of the terms used herein shall have the same meanings as set forth in the Declaration of Condominium Property for Tifton Greens Condominium (the “Declaration”), recorded simultaneously herewith with the Recorder of Montgomery County, Ohio.

**ARTICLE III.**  
**UNIT OWNERS**

**Section 1. Composition.** Each Unit Owner, as defined in the Declaration, is a member of the Association.

**Section 2. Voting Rights.** The Owner or Owners of each Unit shall be entitled to one (1) vote for their Unit.

**Section 3. Annual Meetings.** Regular annual meetings of the Unit Owners shall be held in the last calendar quarter of each year hereafter, on a date and at an hour established, from time to time, by the Board.

**Section 4. Special Meetings.** Special meetings of the Unit Owners may be called at any time by the president or by the Board, upon written request of Unit Owners entitled to exercise one-fourth (1/4) or more of the voting power of Unit Owners, and when required by the Condominium Act.

**Section 5. Notice of Meeting of Unit Owners.** Written notice of each meeting of Unit Owners shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least five (5) days before such meeting, to each Unit Owner entitled to vote thereat, addressed to the Unit Owner's address last appearing on the books of the Association, or supplied by such Unit Owner to the Association for the purpose of notice, or by delivering a copy of that notice at such address at least five (5) days before the meeting. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 6. 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 after the holding 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 member 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 waiver by him of notice of such meeting.

**Section 7. Quorum; Adjournment.** The Unit Owners present, in person or by proxy, at any duly called and noticed meeting of Unit Owners, and representing a majority of the voting power of the Association (except for actions requiring a higher percentage of the voting power), shall constitute a quorum for such meeting. Unit Owners entitled to exercise a majority of the voting power of Unit Owners represented at a meeting may, at any time, adjourn such meeting. If any meeting is so adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

**Section 8. Proxies.** At any meeting of Unit Owners, a Unit Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary prior to the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by a Unit Owner of his, her or its Unit. The person appointed as proxy need not be a Unit Owner.

**Section 9. Voting Power.** Except as otherwise provided in the Condominium Organizational Documents, or by law, a majority of the voting power of Unit Owners voting on any matter that may be determined by the Unit Owners at a duly called and noticed meeting shall be sufficient to determine that matter. The rules of Roberts Rules of Order shall apply to the conduct of all meetings of Unit Owners except as otherwise specifically provided in the Condominium Organizational Documents or by law.

**Section 10. Action In Writing Without Meeting.** Any action that could be taken by Unit Owners at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of Unit Owners having not less than a majority of the voting power of Unit Owners, or such greater proportion of the voting power as may be required by the Condominium Organizational Documents, or by law.

**Section 11. 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 meetings or waiver of notice
- C. Reading of minutes of preceding meeting
- D. Report of officers
- E. Report of committees
- F. Election of inspectors of election
- G. Election of Directors
- H. Unfinished business
- I. New business
- J. Adjournment

#### **ARTICLE IV. BOARD OF DIRECTORS**

**Section 1. Board of Directors.** The Board will consist of six (6) members who have been elected by a majority vote of all Unit Owners. The terms of the six (6) members which are for three (3) year terms, shall be staggered so that the terms of one third (1/3) of the members will expire and successors be elected annually. The Owners, exercising not less than a majority of the voting power of Owners, may, from time to time, change the number and terms of Members, provided that in any such event, the terms of not less than one-third (1/3) of the Members shall expire annually.

**Section 2. Removal.** Any Director may be removed from the Board with or without cause, by a majority vote of the Unit Owners. In the event of the death, resignation or removal of a Director, that Director's successor shall be selected by the remaining Members of the Board and shall serve until the next annual meeting of Unit Owners, when a Director shall be elected to complete the term of such deceased, resigned or removed Director.

**Section 3. Nomination.** Nominations for the election of Director to be elected by the Unit Owners shall be made by a nominating committee. Nominations may also be made from the floor at the meetings. The nominating committee shall consist of a chairman, who shall be a member of the Board, and two or more Unit Owners appointed by the Board. The nominating committee shall make as many nominations for election to the Board as it shall, in its discretion, determine, but no less than the number of vacancies that are to be filled.

**Section 4. Election.** Election to the Board by the Unit Owners shall be by secret written ballot. At such elections, the Unit Owners or their proxies may cast, in respect to each vacancy, such voting power as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted. Voting shall conclude and the new Members shall be introduced prior to the President adjourning the annual meeting.

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

**Section 6. Regular Meeting.** Regular meetings of the Board shall be held no less than quarterly, without notice, on such date and at such place and hour as may be fixed from time to time by resolution of the Board. At least four (4) such meetings shall be held during each year. A meeting of the Board of Directors may be held by any method of communication, including electronic or telephonic communication, provided that each member of the Board can hear, participate, and respond to every other member of the Board.

**Section 7. Special Meetings.** Special meetings of the Board shall be held when called by the president of the Board, or by any two Directors, after not less than three (3) days notice to each Director. In addition that the attendance of any Director at any such meeting without protesting, prior to or at the commencement of the meeting, shall be deemed to be a waiver by such Director of proper notice of such meeting. Notice may be waived in writing either before or at the commencement of any meeting, by any Director, which writing shall be filed with or entered upon the records of the meeting. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting. A meeting of the Board of Directors may be held by any method of communication, including electronic or telephonic communication, provided that each member of the Board can hear, participate, and respond to every other member of the Board.

**Section 8. Quorum.** The presence at any duly called and noticed meeting, in person or by proxy, of Directors entitled to cast a majority of the voting power of Directors shall constitute a quorum for such meeting.

**Section 9. Voting Power.** Except as otherwise provided in the Condominium Organizational Documents, or by law, vote of a majority of the Directors voting on any matter that may be determined by the Board at a duly called and noticed meeting at which a quorum is present shall be sufficient to determine that matter.

**Section 10. Action In Writing Without Meeting.** Any action that could be taken by the Board at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of all of the Directors.

**Section 11. Powers.** The Board shall exercise all powers and authority, under law, and under the provisions of the Condominium Organizational Documents, that are not specifically and exclusively reserved to the Unit Owners by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

**A.** take all actions deemed necessary or desirable to comply with all requirements of law, and the Condominium Organizational Documents;

**B.** obtain insurance coverage no less than that required pursuant to the Declaration;

**C.** enforce the covenants, conditions and restrictions set forth in the Declaration;

**D.** repair, maintain and improve the Common Elements and regulate the use, maintenance, repair, replacement, modification, and appearance of the condominium property;

**E.** establish, enforce, levy and collect assessments as-provided in the Declaration and these By-Laws;

**F.** adopt and publish rules and regulations governing the use of the Common Elements and the personal conduct of Unit Owners, Occupants and their guests thereon, and establish penalties for the infraction thereof and adopt rules that regulate the use or occupancy of units, the maintenance, repair, replacement, modification, and appearance of units, common elements, and limited common elements when the actions regulated by those rules affect common elements or other units;

**G.** suspend the voting rights of a Unit Owner during any period in which such Unit Owner shall be in default in the payment of any assessment levied by the Association for more than thirty (30) days and suspend the voting rights of any Unit Owner after notice and hearing, for a period not to exceed sixty (60) days for each infraction of published rules and regulations or of any provisions of the Condominium Organizational Documents;

**H.** declare the office of a member of the Board to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board;

**I.** subject to such approvals, if any, as may be required pursuant to the provisions of Condominium Organizational Documents, authorize the officers to enter into one or more agreements necessary or desirable to fulfill the purposes and objectives of the Association, including, without limitation, management agreements, purchase agreements and loan documents, all on such terms and conditions as the Board in its sole and absolute discretion may determine and enter into contracts and incur liabilities relating to the operation of the Condominium Property;

**J.** cause funds of the Association to be invested in such reasonable investments as the Board may from time to time determine;



**K.** borrow funds, as needed, and pledge such security and rights of the Association as might be necessary or desirable to obtain any such loan;

**L.** cause additional improvements to be made as part of the Common Elements;

**M.** do all things and take all actions permitted to be taken by the Association By-Laws, or the Condominium organization documents not specifically reserved thereby to others.

**N.** purchase, encumber, and convey units, and, subject to any restrictions in the declaration or bylaws and with the approvals required by division (H)(2) or (3) of section 5311.04 of the Revised Code, acquire an interest in other real property and encumber or convey that interest. All expenses incurred in connection with the acquisition, encumbrance, use, and operation of that interest are common expenses.

**O.** acquire, encumber, and convey or otherwise transfer personal property;

**P.** hold in the name of the unit owners association the real property and personal property acquired;

**Q.** grant easements, leases, licenses, and concessions through or over the common elements;

**R.** impose and collect fees or other charges for the use, rental, or operation of the common elements or for services provided to unit owners;

**S.** impose interest and late charges for the late payment of assessments; impose returned check charges; and impose reasonable enforcement assessments for violations of the declaration, the bylaws, and the rules of the unit owners association, and reasonable charges for damage to the common elements or other property;

**T.** adopt and amend rules that regulate the collection of delinquent assessments and the application of payments of delinquent assessments;

**U.** subject to applicable laws, adopt and amend rules that regulate the termination of utility or other service to a commercial unit if the unit owner is delinquent in the payment of an assessment that pays, in whole or in part, the cost of that service;

**V.** impose reasonable charges for preparing, recording, or copying amendments to the declaration, resale certificates, or statements of unpaid assessments;

**W.** enter a unit for bona fide purposes when conditions exist that involve an imminent risk of damage or harm to common elements, another unit, or to the health or safety of the occupants of that unit or another unit;

X. to the extent provided in the declaration or bylaws, assign the unit owners association's rights to common assessments, or other future income, to a lender as security for a loan to the unit owners association;

Y. suspend the voting privileges and use of recreational facilities of a unit owner who is delinquent in the payment of assessments for more than thirty days;

Z. purchase insurance and fidelity bonds the directors consider appropriate or necessary;

AA. invest excess funds in investments that meet standards for fiduciary investments under Ohio law;

BB. exercise powers that are:

(i) conferred by the declaration or the bylaws of the unit owners association or the board of directors;

(ii) necessary to incorporate the unit owners association as a not-for-profit corporation;

(iii) permitted to be exercised in this state by a not-for-profit corporation;

(iv) necessary and proper for the government and operation of the unit owners association.

**Section 12. Duties.** It shall be the duty of the Board to:

A. cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Unit Owners at each annual meeting of Unit Owners, or at any special meeting when such statement is requested in writing by Unit Owners representing one-half (1/2) or more of the voting power of Unit Owners;

B. supervise all officers, agents and employees of the Association and see that their duties are properly performed;

C. as more fully provided in the Declaration, establish, levy, enforce and collect assessments and adopt and amend a budget for revenues, expenditures, and reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, provided that the amount set aside annually for reserves shall not be less than ten percent (10%) of the budget for that year unless the reserve requirement is waived annually by the Unit Owners exercising not less than a majority of the voting power of the Association; and

D. issue, or to cause an appropriate representative to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid;

E. procure and maintain insurance and bonds as provided in the Declaration, and as the Board deems advisable;

F. cause the property subject to the Association's jurisdiction to be maintained within the scope of authority provided in the Declaration;

G. cause the restrictions created by the Declaration to be enforced; and

H. take all other actions required to comply with all requirements of law and the Condominium Organizational Documents.

## ARTICLE V. OFFICERS

**Section 1. Enumeration of Officers.** The officers of this Association shall be a president, a vice-president, a secretary, a treasurer and such other officers as the Board may from time to time determine. An officer must be a member of the Association and a Board Member.

**Section 2. Selection and Term.** Except as otherwise specifically provided in the Declaration or by laws, the officers of the Association shall be selected annually by the Board, or until the Board selects their successors.

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

**Section 4. Resignation and Removal.** Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary, such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

**Section 5. Duties.** The duties of the officers shall be as the Board may from time to time determine. Unless the Board otherwise determines, the duties of the officers shall be as follows:

**A. President.** The President shall preside at all meetings of the Board, shall have the authority to see that orders and resolutions of the Board are carried out, and shall sign all legal instruments on behalf of the Association.

**B. 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.

**C. Secretary.** The Secretary shall record the votes and keep the minutes and proceedings of meetings of the Board and of the Unit Owners, serve notice of meetings of the

Board and of the Unit Owners, keep appropriate current records showing the names of Unit Owners of the Association together with their addresses, and shall act in the place and stead of the President in the event of the President's or Vice President's absence or refusal to act.

**D. Treasurer.** The Treasurer shall assume responsibility for the receipt and deposit in such bank accounts, and investment of funds in such vehicles, as the Board directs, the disbursement of such funds as directed by the Board, the keeping of proper books of account, the preparation of an annual budget and a statement of income and expenditures to be presented to the Unit Owners at annual meetings, and the delivery or mailing of a copy of each to each of the Unit Owners.

#### **ARTICLE VI. COMMITTEES**

The Board shall appoint a nominating committee and may appoint such other committees as it deems appropriate in carrying out its purposes.

#### **ARTICLE VII. BOOKS AND RECORDS**

The Association shall keep correct and complete books and records of account, specifying the receipts and expenditures relating to the Common Elements and other common receipts and expenses, together with records showing the allocation, distribution and collection of the common expenses among and from the Unit Owners; minutes of the proceedings of the Unit Owners and Board of Directors, and records of the names and addresses of the Unit Owners and their respective percentages of interest in the Common Elements.

The Board shall keep complete and accurate books of account for the Association. The Board shall make the Association's books available for inspection, at any reasonable time requested by a Unit Owner, a Unit Owner's representative with written authorization, or a first mortgagee of a Unit. Copies of such book and records may be purchased at a reasonable cost.

The Association is not required to permit the examination and copying of any of the following from books, records, and minutes:

- (a) Information that pertains to condominium property-related personnel matters;
- (b) Communications with legal counsel or attorney work product pertaining to pending litigation or other condominium property-related matters;
- (c) Information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement

containing confidentiality requirements and that is subject to those requirements;

(d) Information that relates to the enforcement of the Declaration, By-Laws, or rules of the Association against Unit Owners;

(e) Information, the disclosure of which is prohibited by state or federal law.

The Board shall mail a statement of the amount of any delinquent assessment or other outstanding charge to a Unit Owner within ten (10) days of receipt by the Board of a written request from the Unit Owner for such a statement.

#### **ARTICLE VIII. AUDITS**

The Board shall cause the preparation and furnishing of an audited financial statement for the immediately preceding fiscal year, within a reasonable time.

#### **ARTICLE IX. FISCAL YEAR**

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

#### **ARTICLE X. GENERAL PROVISIONS**

**Section 1. 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.

**Section 2. Severability.** The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these By-Laws.

**Section 3. Agreements Binding.** All agreements and determinations 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.

#### **ARTICLE XI. AMENDMENTS**

Any modification or amendment of these By-Laws shall be made only by means of an amendment to the Declaration, in the manner and subject to the approvals, terms and conditions

set forth therein, and shall be effective from the time a certificate setting forth such modification or amendment is delivered for recording to the Recorder of the County in which the Condominium is located.

IN WITNESS WHEREOF, Tifton Greens Condominium Association, Inc., by and through its President, David Huxtable, has executed the By-Laws of Tifton Greens Condominium Association, Inc. this 4 day of April, 2011.

**TIFTON GREENS CONDOMINIUM ASSOCIATION, INC.**

An Ohio non-profit corporation

By: David J. Huxtable  
Its: President

STATE OF OHIO )  
 )SS:  
COUNTY OF MONTGOMERY )

The foregoing By-Laws of Tifton Greens Condominium Association, Inc. was sworn to and subscribed before me by David Huxtable, President of Tifton Greens Condominium Association, Inc., an Ohio non-profit corporation, by and on behalf of the Association on the 4 day of April, 2011.

Crystal A. Rainwater  
NOTARY PUBLIC

CRYSTAL A. RAINWATER, Notary Public  
In and for the State of Ohio  
My Commission Expires Sept. 30, 2014