

POINTE EAST CONDOMINIUM

Declaration of Condominium Ownership
with By-Laws, Easements,
Restrictions, & Covenants

Description Approved By
TAX MAP DEPARTMENT

This will certify that copies of the Declaration and
By-Laws, together with Drawings, attached as
Exhibits hereto, were filed in the Office of the County Auditor,
Summit county, Ohio, on February 25, 1998.

James B. McCarthy

*By Caryatt
Deputy Auditor*

APPROVED AS TO FORM

2/12/97 *Theresa E. Schuck*
Auditor

This Instrument Prepared By:

TRANSFER NOT NECESSARY
2-25-97
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DECLARATION OF CONDOMINIUM OWNERSHIP

OF

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DECLARATION OF CONDOMINIUM OWNERSHIPFORPOINTE EAST CONDOMINIUM

WHEREAS, Consolo Construction Co., hereinafter referred to as "Grantor", are the owners in fee simple of Parcel No. 1 (hereinafter described); and,

WHEREAS, it is the desire of Grantor to submit said Parcel, together with the improvements thereon constructed and hereinafter described, to the provisions of Chapter 5311 of the Ohio Revised Code, for condominium ownership.

NOW, THEREFORE, Grantor hereby declares:

ARTICLE ILegal Description and Definitions

A. Legal Description. The legal description of the Parcel is as set forth in Exhibit "A" attached hereto.

B. Definitions. The terms used in this Article I, Section B (except as herein otherwise expressly provided or unless the context otherwise requires) and in the By-Laws attached hereto and made a part hereof as Exhibit "B" for all purposes of the Declaration and of any amendments hereto shall have the respective meanings stated in Chapter 5311 of the Ohio Revised Code.

(1) "Association" means the Pointe East Condominium Owners' Association, Inc., which is a non-profit Ohio corporation acting as an organization of all Unit Owners for administering the Condominium Property subject to this Declaration and By-Laws.

(2) "Board" means the Board of Managers of the Association as the same may be constituted from time to time.

(3) "Building" means the structure constructed on Parcel.

(4) "Chapter 5311" or "Condominium Act" means Chapter 5311 of the Ohio Revised Code, as the same may be amended or supplemented from time to time.

(5) "Common Areas and Facilities" or "Common Elements" means all parts of the Condominium Property except the Units, including, without limitation, all foundations, exterior and supporting girders, beams, supports, supporting walls and roofs of the Building, all doorsills, balconies, patios, stoops, courtyards, walkways, fire escapes, hallways, stairways, elevators and elevator shafts, lobby and foyer areas, management offices, maintenance offices, storage areas, refuse chutes and shafts, common restrooms and plumbing, electrical, gas lines, antennas and other utility services and lines outside a Unit and those within a Unit which service more than that Unit, entrance ways and exits, driveways and parking spaces (except those parking spaces shown on the Drawings as Limited Common Areas and Facilities), and all lawns, landscaping, gardens and recreational facilities now or hereafter situated on the Condominium Property, including any repairs and replacements thereof.

(6) "Common Assessments" means assessments charged proportionately against all Units for common Purposes.

(7) "Common Expenses" means those expenses designated as Common Expenses in both Chapter 5311 and this Declaration and By-Laws, including, without limitation, the following:

- (a) all sums lawfully assessed against the Unit Owners by the Association;
- (b) expenses of the Association incurred in the administration, maintenance, repair and replacement of the Common Areas and Facilities;
- (c) expenses determined from time to time to be Common Expenses by the Association.

(8) "Common Surplus" means the amounts by which Common Assessments collected during any period exceed Common Expenses.

(9) "Common Losses" means the amount by which the Common Expenses during any period of time exceeds the Common Assessments and Common Profits during that period.

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

(11) "Condominium Property" or "Property" means the parcel and the Building and all other improvements thereon, all easements, rights, and appurtenances thereto belonging, and all

articles of personal property existing thereof for the common use of the Unit Owners.

(12) "Declaration" means this instrument and all of the Exhibits hereto, as originally executed, or, if amended, as hereinafter provided, as so amended.

(13) "Drawings" means the drawings related to the Condominium Property, which are identified as Exhibit "C" and attached hereto, and made a part hereof, or when amended, as hereinafter provided, as so amended.

(14) "Limited Common Areas and Facilities" means those parts of the Common Areas and Facilities reserved for the use of a certain Unit to the exclusion of all other Units and more specifically described in Article VI, Section F, hereof.

(15) "Occupant" means the person or persons, natural or artificial, in possession of a Unit.

(16) "Ownership Interest" means the fee simple title interest in a Unit and the appurtenant undivided interest in the Common Areas and Facilities.

(17) "Rules" means such rules and regulations governing the operation and use of the Condominium Property or any portion thereof as may be adopted by the Association or the Board from time to time.

(18) "Unit" means the part of the Condominium Property described in Article V hereof.

(19) "Unit Owner", "Unit Owners" or "Owners" means any person who owns a condominium Ownership Interest in a Unit.

ARTICLE II

Establishment of Condominium and Division of Condominium Property

Grantor is the owner of Parcel No. 1 which, together with the other portions of the Condominium Property, is hereby submitted to the provisions of Chapter 5311 as a non-residential commercial condominium

ARTICLE III

Name

The Condominium Property shall be known as Pointe East
Condominium

ARTICLE IVGeneral Description of Condominium Property

Until expanded or amended as provided in Articles XV and XVI hereof respectively, the Condominium Property consists of the Parcel and the Buildings and other improvements located thereon, consisting of two (2) separate free standing Buildings, one (1) story without basement and containing a total of twenty three (23) units. The buildings have a total of 195 parking spaces allocated to them as Limited Common Areas and Facilities. The Common Areas and Facilities are shown graphically on the Drawings. The Building is constructed principally of masonry, structural steel, metal, wood, and wood framing.

Each Unit consists of one (1) enclosed space with a portion thereof intended to be useable as warehouse, commercial and/or manufacturing space and a portion thereof as office/showroom space, including permanent or moveable interior partition walls as each respective Unit Owner so desires. Such interior finishing shall be done at the cost and expense of the respective Unit Owner so that the Unit shall be consistent for the Particular use of such Unit in accordance with Article XI A. The interiors of the Units may be modified to suit the use of a Unit Owner should such use change by virtue of a subsequent change of ownership or at the election of an Owner to change such use. All Units have direct ingress and egress to the Common Areas and Facilities.

The legal description of each Unit shall consist of the identifying number of such Unit within such Building as shown on said Drawings. Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying letter and number as shown on said Drawings, and every such description shall be deemed good and sufficient for all purposes as provided in the Condominium Act.

ARTICLE VDescription of Units

Each Unit shall constitute a single freehold estate and shall consist of all of the space bounded by the horizontal and vertical planes formed by the undecorated interior surfaces (whether plaster, dry wall, wood, concrete, metal or other materials) of each of the Units in the Building, the perimeter walls, windows, doors, floors and ceilings of such Unit; projected, if necessary, by reason of structural divisions such as interior walls, floors, ceilings and other partitions, as may be necessary to form a complete enclosure of space with respect to such Unit (the layout and dimension of each Unit being shown on the Drawing).

Except as a tenant in common with other Owners, no Owner shall own any pipes, wires, conduits, public utility lines or structural components running through his or her Unit and serving more

than his or her Unit, whether or not such items shall be located in the floors, ceiling or perimeter or interior walls of the Units.

ARTICLE VI

Common Areas and Facilities

A. Description. Except as otherwise provided in this Declaration, the Common Elements shall consist of all portions of the Property except the Units.

B. Ownership of Common Elements. Each owner shall own an individual interest in the Common Elements as a tenant in common with all the other Owners of the Property and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of his or her Unit, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his or her Unit. Until amended as provided in Article XV hereof, Grantor has determined each Unit's corresponding percentage of ownership in the Common Elements in accordance with the Condominium Act based on the proportion the square footage of each Unit bears to the aggregate square footage of all Units on the date this Declaration is filed for record, and the same are set forth in Exhibit "D" attached hereto and made a part hereof. If Additional Property is added to the Condominium Property, then the corresponding rates of percentage of interest herein shall be adjusted in accordance with the provisions of Article XV hereof.

The undivided percentage of interest of the Unit Owners in Common Areas and Facilities and the fee title to the respective Units shall not be separated or separately conveyed, encumbered, inherited or divided; and, each undivided interest shall be deemed to be conveyed or encumbered with its respective Unit, even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to such Unit.

C. Partition. There shall be no partition of the Common Areas and Facilities through judicial proceedings or otherwise until this Declaration is terminated and the Condominium Property is withdrawn from its terms or from the terms of any statute applicable to condominium ownership; provided, however, that if any Unit shall be owned by two or more co-owners as tenants in common or as joint tenants, nothing herein contained shall be deemed to prohibit a voluntary or judicial partition of such Unit ownership as between such co-owners.

D. Combinations or Divisions of Units. In addition to the circumstances, rights, obligations and provisions set forth in this Declaration, but not in any way or to any extent in limitation thereof, in the event any Owner or Owners, including Grantor, and Grantor's successors and/or assigns, desire to: (a) combine two (2) or more then-existing Units, or any part or parts thereof, into one (1) or more new Units; and/or (b) divide one (1) or more then-existing

Units into two (2) or more new Units (any such change in Units being hereinafter referred to as a "Combination and/or Division"), and such Combination and/or Division shall be done in conformity with the provisions of this Section and shall be done pursuant to and confirmed by amendments to this Declaration and the Drawings showing such Combination and/or Division (except for Combination and/or Division by Grantor) as approved by Owners possessing not less than seventy-five percent (75%) of the voting power of the Association and by the unanimous written approval of any and all Owners, if any, whose respective percentages of Ownership Interests is or are directly affected by being changed.

Each such amendment to this Declaration and Drawings shall show: (a) each and every new Combined or Divided Unit or Units as constructed; and, (b) the respective percentages of Ownership Interests attributable to such new Combined or Divided Unit or Units. Any and all charges, costs and expenses, including engineers' and/or attorneys' fees and/or the cost of preparation of any such amendment or amendments to this Declaration and/or Drawings, for (or with respect to) such Combination and/or Division shall be charged to and be paid by the Owners of those Units whose Units are being Combined and/or Divided in such manner as they shall agree among themselves in a writing delivered to the President or other officer of the Association, all without any costs or expense to the Association and/or the Owners of any other then-existing Units.

Each Owner hereby expressly and specifically constitutes and appoints the Owner of those Units whose Units are being Combined and/or Divided as the true and lawful attorneys and agents-in-fact on behalf of each respective Owner to evidence and confirm the approval (and to take any action desirable in connection with such approval) of each Owner to the amendment of this Declaration and the Drawings with respect to any and all such Combinations and/or Divisions and such amendments shall be binding on each Owner and his or her respective heirs, administrators, executors, successors and/or assigns, and each Owner hereby grants (and the transfer of title to his or her Unit to such respective Owner shall be and be conclusively deemed to be a grant of) an irrevocable power of attorney (coupled with an interest) to the Owners of those Units whose Units are being Combined and/or Divided to execute, deliver and cause to be recorded such amendments to this Declaration and the Drawings and each Owner's approval thereof and any and all other appropriate documents and/or instruments with respect thereof as may be necessary or desirable to effectuate the foregoing, and each such Owner hereby confirms and ratifies such amendments, approvals thereto and/or any and all other documents and/or instruments referred to above, and any and all acts and things done in connection therewith, and agrees to be irrevocably bound thereby; provided, however, that none of the foregoing shall grant any right to the Owners of those Units whose Units are being Combined and/or Divided, or to anyone other than the then directly affected Owner himself or herself, to approve any amendment to this Declaration and/or the Drawings, which amendment changes the respective percentage of Ownership Interest of such Owner; and, provided further, however, that none of the foregoing shall grant any

right to the Owners of those Units which are being Combined and/or Divided, or to anyone other than each and all of the Owners of the then-existing Units each for himself or herself, to approve any amendment to this Declaration and/or the Drawings, which amendment would change any part or parts of the Condominium Property (other than the Units being Combined and/or Divided) by adversely affecting or jeopardizing' (in the judgment of the Board of Managers) the: (1) existence, support, maintenance and/or safety of (ii) access to any Common Areas and Facilities of, and/or (iii) any utility or service equipment, lines, pipes, wires, ducts or conduits serving the Condominium Property.

E. Use of Common Areas and Facilities. Each Unit Owner shall have the right to use the Common Areas and Facilities in accordance with the purposes for which they are intended and for all purposes incident to the use and occupancy of his or her Unit, and such rights shall be appurtenant to and run with his or her Unit; provided, however, that no person shall use the Common Areas and Facilities or any part thereof in such manner as to interfere with or restrict or impede the use thereof by others entitled to the use thereof or in any manner contrary to or not in accordance with (i) this Declaration, (ii) the By-Laws, and (iii) the Rules of the Association.

F. Use of Limited Common Areas and Facilities. Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy the Limited Common Areas and Facilities located within the bounds of his or her Unit or which serve only his or her Unit or are assigned to his or her Unit. The Limited Common Areas and Facilities with respect to each Unit shall consist of:

(1) all interior walls, doors, floors and ceilings located within the bounds of such Unit, excluding the structural and component parts thereof;

(2) all glass and screens within windows and doors affixed to the perimeter walls of such Unit;

(3) all ducts and plumbing, electrical and other fixtures, equipment and appurtenances, including heating and air conditioning systems and control devices, located within the bound of such Unit or immediately above, below or adjacent to such Unit, and which serve only such Unit;

(4) all gas, electric, water or other utility or service lines, pipes, wires and conduits located within the bounds of such Unit or immediately above, below or adjacent to such Unit, and which serve only such Unit;

(5) all other appurtenant improvements which serve only such Unit;

(6) all other Common Areas and Facilities as may be located within the bounds of such Unit and which serve only such Unit; and,

ARTICLE VIIUnit Owners' Association

A. Unit Owners' Association. Grantor has caused to be formed an organization called Pointe East Condominium Unit Owners Association, Inc. a non-profit Ohio corporation, which shall administer the Condominium Property, subject to the provisions of the Declaration. Each Unit Owner, upon acquiring an Ownership Interest in a Unit within the Condominium Property shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition of his or her Ownership Interest, at which time the new Owner of such Ownership Interest shall automatically become a member of the Association and shall be entitled to vote as set forth in the By-Laws.

B. Administration of Condominium Property. The administration of the Condominium Property shall be in accordance with the provisions of this Declaration and the By-Laws. Each Unit Owner and Occupant shall comply with the provisions of this Declaration, the By-Laws, the Rules and the decisions and resolutions of the Association or its representative, as lawfully amended from time to time, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action for damages or for injunctive relief.

ARTICLE VIIIManagement, Repair, Alterations and Improvements

A. Responsibilities of Association. Except as otherwise provided herein, the management, repair, alterations and improvements of the Common Elements shall be the responsibility of the Association. The Association may delegate all or any portion of its authority to discharge such responsibility to a manager or managing agent. Such delegation may be evidenced by a management contract which shall be terminable on ninety (90) days' written notice, and which shall provide for reasonable compensation of said manager or managing agent to be paid out of the maintenance fund hereinafter provided. Grantor retains the right, in a fiduciary capacity for the Unit Owners, to cause the Association to enter into a management contract, which contract shall not exceed a three (3) year period, unless renewed by the Association.

B. Maintenance of the Units.

(1) By the Association. The Association, at its expense, shall be responsible for the maintenance, repair and

replacement of those portions of each Unit which contribute to the support of the Building, excluding, however, interior walls, ceiling and floor surfaces. In addition, the Association shall maintain, repair and replace all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which may be located within the Unit boundaries as specified in Paragraph F of Article VI, exclusive of any portions of the foregoing which may be located at or extend from the wall outlets, into the Unit, or which may be the responsibility of an individual Owner under any other provision of this Declaration.

(2) By Each Owner. The responsibility of each Owner shall be as follows:

(a) to maintain, repair and replace at his or her expense all portions of his or her Unit, and all internal installations of such Unit and all fixtures, equipment and utilities immediately above, below or adjacent to such Unit which serve only such Unit such as appliances, heating, plumbing, electrical and air conditioning fixtures or installations, and any portion of any other utility service facilities located within the Unit boundaries as specified in Paragraph F or Article VI.

(b) to maintain, repair and replace at his or her expense such portions of the appurtenances to his or her Unit and of any exclusive use area licensed (as may be required by the terms of such license), granted or otherwise assigned to such Owner, except for the parking spaces reserved for a particular Unit which shall be maintained and repaired by the Association along with the unreserved parking and driveway areas. Until such time as the Association determines to the contrary, each Owner shall be responsible for the repair, maintenance and appearance of all windows, doors, vestibules and entryways, and of all associated structures and fixtures therein, which are appurtenances to his or her Unit. The foregoing includes, without limitation, responsibility for all breakage, damage, malfunctions and ordinary wear and tear of such appurtenances.

C. Construction Defects. The obligation of the Association and of Owners to repair, maintain and replace the portions of the Property for which they are respectively responsible under Paragraphs B(1) and B(2) of this Article VIII shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in material or workmanship in the construction of the Condominium Property. The undertaking of repair, maintenance or replacement by the Association or Owners shall not constitute a waiver of any rights against any warrantor but such rights shall be specifically reserved.

D. Effect of Insurance or Construction Guarantees. Notwithstanding the fact that the Association and/or any Owner may be entitled to the benefit of any guarantee or material and workmanship furnished by any construction trade responsible for any construction

defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of construction guarantees or insurance coverage shall not excuse any delay by the Association or any Owner in performing his obligation hereunder.

E. Separate Mortgage of Units. Each Owner shall have the right to mortgage and/or encumber his or her own respective Unit, together with his or her respective Ownership Interest in the Common Areas and Facilities as aforesaid.

F. Separate Real Estate Taxes. Each Unit and its percentage interest in the Common Areas and Facilities 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; however, in the event that for any year such taxes are not separately taxed to each Owner, but are taxed on the Condominium Property as a whole, then each Owner shall pay his or her proportionate share thereof in accordance with his or her respective percentage of Ownership Interest in the Common Areas and Facilities.

ARTICLE IX

Common Expenses and Assessments

A. General. Assessments for the maintenance, repair and insurance of the Common Areas and Facilities (including any additions or alteration to the Limited Common Areas and Facilities) and for the insurance of the Units (except such insurance to be provided by the Unit Owner) shall be Common Expenses, shall be made in the manner provided herein, and in the manner provided in the By-Laws.

B. Utilities. Each Owner shall pay for his or her own telephone, electricity, gas and other utilities which are separately metered or billed to each user by the respective utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Expenses.

C. Division of Common Profits and Common Expenses. The Common Profits of the Condominium Property shall be distributed among, and the Common Expense shall be assessed against, the Unit Owners by the Association according to the percentages of interest in the Common Areas and Facilities of their respective Units. Every Unit Owner shall pay his or her proportionate share of assessments for Common Expenses and any special assessments levied against him or her, and no Unit Owner shall exempt himself or herself from liability for such assessments by waiver of the use or enjoyment of any Common Areas and Facilities or by the abandonment of his or her Unit.

D. Lien of Association. The Association shall have a lien upon each Unit Owner's Ownership Interest for the payment of all assessments levied by the Association against such Unit which remain unpaid for ten (10) days after the same have become due and payable,

from the time a certificate therefore is filed with the Summit County Recorder, pursuant to authorization given by the Board. Such certificate shall contain a description of the Unit, the name or names of the Unit Owner or Owners thereof and the amount of such unpaid portions of the assessments and shall be subscribed by the President or other chief officer of the Association. Such lien shall remain valid for a period of five (5) years from the time of filing thereof, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of a court in an action brought to discharge all or any portion of such lien as hereinafter provided in Paragraph E of this Article IX. In addition, each Unit Owner shall be personally liable for all assessments and late charges levied by the Association against his or her Unit during the period he or she has an Ownership Interest therein, and any assessment not paid within ten (10) days after the same shall become due and payment shall bear interest from the date when due at ten percent (10%) per annum until such time as the same has been paid in full.

E. Priority of Association's Lien. The lien provided for in Paragraph D of this Article IX shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of first mortgages which has been theretofore filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Association by the President thereof pursuant to authority given to him or her by the Board. In any such foreclosure action, the Unit Owner of the Unit affected shall be required to pay a reasonable rental for such Unit during the pendency of such action, and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. In any such foreclosure action, the Association shall be entitled to become the purchaser at the foreclosure sale.

F. Dispute as to Common Expenses. Any Unit Owner who believes that the assessments levied by the Association against his or her Unit, for which a certificate of lien has been filed by the Association, have been improperly determined may bring an action in the Court of Common Pleas in Summit County, Ohio, for the discharge of all or any portion of such lien.

G. Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. Where the mortgagee of a first mortgage of record acquires an Ownership Interest in a Unit as a result of foreclosure of the first mortgage or of the acceptance of a deed in lieu of foreclosure or any purchaser who acquires an Ownership Interest in a Unit at a foreclosure sale, such mortgagee, its successors and assigns, or such purchaser at a foreclosure sale shall not be liable for any assessments levied against such Unit by such mortgagee or such purchaser. Any unpaid assessments shall be deemed to be Common Assessments and shall be assessed against all Unit Owners including the mortgagee or purchaser of the Unit foreclosed.

H. Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of an Ownership Interest in a Unit, other than by deed in lieu of foreclosure, the grantee of the Ownership Interest

shall be jointly and severally liable with the grantor for all unpaid assessments levied by the Association against such Unit prior to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such prospective grantee shall, upon written request, be entitled to a statement from the Board setting forth the amount of all unpaid assessments due the Association with respect to the Ownership Interest to be conveyed, and such grantee shall not be liable for, nor shall the Unit conveyed by subject to lien for, any unpaid assessments which became due prior to the date of the making of such request if the same are not set forth in such statement or if such statement is not furnished to the grantee within twenty (20) days from the request thereof. As used in this Paragraph, "grantor" shall include a decedent, and "grantee" shall include a legatee or intestate heir of said decedent.

ARTICLE X

Easements

A. Encroachments. In the event that, by reason of the construction, reconstruction, settlement or shifting of the Building, errors in the Drawings, or by reason of the partial or total destruction and rebuilding of the Building and/or part of the Condominium Property, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any Unit encroaches or shall hereafter encroach upon any part of the Common Elements, or if by reason of the design or construction of any Unit, it shall be necessary or advantageous to an Owner to use or occupy, for normal uses and purposes, any portion of the Common Elements, consisting of unoccupied space within the Building and adjoining his or her Unit including, without limitation, mains, pipes, ducts and/or conduits, valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit and the Common Elements, as the case may be, so long as all or any part of the Building shall a valid easement for any encroachment be created in favor of the Owner of any Unit or in favor of the Owners of the Common Elements if such encroachment occurred due to the willful conduct of said Owner or Owners.

B. Maintenance Easements. The Owner of each Unit shall be subject to easements for access arising from necessity of maintenance or operation of the entire Condominium Property or any part thereof. The Owner of each Unit shall have the permanent right and easement to and through the Common Areas and Facilities and wall for the use of water, sewer, power and other utilities now or hereafter existing within the walls, and further shall have an easement to hang pictures, mirrors and the like upon the walls of his or her Unit.

C. Easements for Certain Utilities and Ingress and Egress to the Property. The Board may hereafter grant easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace water mains and pipes,

sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wire over, under, along and on any portion of the Common Elements, or easements for ingress and egress which benefit the Property; and, each Owner and mortgagee hereby grants the Board an irrevocable power of attorney to execute, acknowledge and record, for and in the name of such Owner or such mortgagee, as the case may be, such instruments as may be necessary to effectuate the foregoing.

D. Easements Through Walls Within Walls. Easements are hereby declared and granted to install, lay, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the Unit boundaries.

E. Easement for Services. A non-exclusive easement is hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities and the Association, but not to the public in general, to enter upon the Common Areas and Facilities in the performance of their duties.

F. Easements for Future Parcels: Easements Reserved to Grantor. Non-Exclusive easements are hereby reserved in favor of Grantor, his heirs, successors, personal representatives and assigns and for the benefit of the owner(s) and future owner(s) to:

- (1) make and complete repairs and improvements;
- (2) construct any improvements or buildings or repair the same on land within or adjacent to the Condominium Property;
- (3) install, use, maintain, repair and replace pipes, wires, conduits or other utility lines, water lines, storm and sanitary sewer, electric, telephone and television lines, and services and appurtenances thereto, and to extend and tie into any such utility lines in the Common Elements;
- (4) make repairs required pursuant to warranties given by Grantor or pursuant to contracts of sale made with Unit purchasers;
- (5) traverse by motor vehicle or otherwise over all common roadways and walkways as a means of ingress and egress to a dedicated road;
- (6) establish the grade on each Parcel or any portion thereof with each other Parcel or any portion thereof and for access over each Parcel to construct the Buildings and other improvements on each Parcel or any portion thereof;
- (7) maintain one or more Units for sales offices, management offices, storage and model unit purposes;

- (8) use parking areas and/or roadways; and,
- (9) to make use for any purpose which will facilitate construction of new Units or the sales and rentals of Units, including, without limitation, the placement of signs and other promotional items in the Common Areas and Facilities.

G. Dedication of Roadways and Utilities. Grantor (so long as Grantor's option under Article XV exists) and the Association each reserve the right to dedicate for public purposes, roadways or streets within the Condominium Property and utility lines, wires, conduits, pipes and other utility appurtenances and facilities located within the Condominium Property, and in connection therewith enter into any agreements with public authorities as the Grantor or the Association, as the case may be, may deem desirable or appropriate in connection therewith. Each Unit Owner and such Unit Owner's mortgagees, by acceptance of the Deed conveying title to a Unit or a mortgage encumbering such Unit, as the case may be, hereby irrevocably appoints the Association and/or the Grantor, his Attorney-in-Fact, which appointment shall be deemed to be coupled with an interest, and authorizes, directs and empowers his Attorney-in-Fact, at the option of such Attorney-in-Fact, or either of them, to execute, acknowledge and record for and in the name of the Unit Owner and such Owner's mortgagees, such instruments of dedication which the Grantor and/or the Association deem necessary or desirable in connection with the foregoing.

H. Easements and Rights to Run With the Land. Each and every easement and right reserved, granted or described herein are easements appurtenant, running with the land, in perpetuity and at all times shall inure to the benefit of and be binding upon the Grantor, all Unit Owners, the Association, and each person for whose respective benefit such easements have been created, their respective heirs, administrators, executors, personal representatives, successors, assigns and grantees, and their respective tenants, subtenants, guests, visitors and invitees. Each Unit Owner and his respective mortgagees by acceptance of a deed conveying titled to a Unit or a mortgage encumbering such Unit, as the case may be, hereby irrevocably appoints the Association and/or the Grantor, his Attorney-in-Fact, which appointment shall be deemed to be coupled with an interest, and authorizes, directs and empowers such Attorney-in-Fact, at the option of said Attorney-in-Fact, or any one of them, to execute, acknowledge and deliver any and all instruments in recordable form which may be necessary or desired by any beneficiary of any such easement to effectuate and/or further manifest the easements and intentions set forth in this Paragraph. In the event of the removal of the Condominium Property from the provisions of the Act, all rights and obligations under this Paragraph shall devolve prorata upon the owners of the property so removed and their successors in title, as tenants in common, and any notice or action which was required to be made through the Association shall henceforth be made to them individually and directly, it being the intent that removal of such property from the Act shall not terminate the easements and rights set forth herein.

I. Limitations on Appointment of Attorney-in-Fact. Notwithstanding sections G and H of this Article X, the appointment of the Grantor as Attorney-in-Fact for a Unit Owner shall be ineffective with respect to a particular Unit Owner, if such Unit Owner, at the time in question, owns twenty-five percent (25%) or more of the total number of then-existing Units in B & D Condominium.

J. Reference to Easements in Deeds. Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed of conveyance or in any mortgage or trust deed or other evidence of obligation shall not defeat or fail to reserve said rights or easements but same shall be deemed conveyed or encumbered along with the Unit or property to which such easements appertain.

ARTICLE XI

Covenants and Restrictions as to Use and Occupancy

The Units and Common Elements shall be occupied and used as required by this Declaration and By-Laws as follows:

A. Purpose of the Condominium Property. The Condominium Property shall be used as multi-unit buildings for retail or wholesale sales and services, goods distribution, warehousing, administrative or business offices, and other commercial and light industrial purposes, in accordance with the Condominium Act, this Declaration, the By-Laws and all rules and regulations of the Association pertaining thereto, provided that such use is in accordance with applicable zoning. The Board of Managers may permit any use or uses of any Unit or Units which is or are not within the uses hereinabove referred to so long as such use or uses is or are not inconsistent with other uses of the Condominium Property and, in the discretion of the Board of Managers, will not unreasonably interfere with other existing uses of the Condominium Property. Notwithstanding the foregoing, vehicle and engine repair garages and specialty establishments related thereto such as but not necessarily limited to motor repairs, body and fender repair, radiator repair, motor tune-ups, muffler and brake shops and tire repair shall not be permitted unless approved by Owners possessing not less than seventy-five percent (75%) of the voting power of the Association.

B. Obstruction of Common Elements. There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Association except as herein expressly provided. Each Owner shall be obligated to maintain and keep in good order and repair his own Unit.

C. 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 Buildings, or contents thereof, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his or her Unit or in the Common Elements which will result in the cancellation of insurance on the Buildings, or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Elements.

D. Exterior Exposure of Building. Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the Building and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior written consent of the Association. Owners shall not cause or permit the placement of any sunscreen, blind or awning on any balcony or exterior opening; place any draperies or curtains at the Unit windows without a solid, light color liner facing the exterior; plant any plantings outside a Unit; erect any exterior lights or signs; place any signs or symbols in windows; erect or attach any structures or fixtures within the Common Elements.

E. Pets. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Elements, except as a normal incident to a permitted use of a Unit, subject to the Rules adopted by the Association; provided that any such animal causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property subject to these restrictions upon three (3) days' written notice from the Association.

F. Nuisances. No noxious or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Owners or Occupants. No Owner shall cause or permit any electrical, electronic and/or any other emissions from and/or in or about his or her Unit or the Common Elements which may be or become an annoyance or nuisance to the other Owners or Occupants, except that if the Board of Managers of the Association states in writing that any adverse effect thereof can be properly minimized and/or eliminated by appropriate shielding or other treatment thereof to be provided and maintained at the sole cost and expense of the Owner or Occupant of that Unit, then the Board of Managers may permit the same on suitable terms and conditions.

G. Impairment of Structural Integrity of Buildings. Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Buildings except as is otherwise provided herein.

H. Prohibited Activities and Signs. No "For Sale" or "For Rent" signs for the sale or rental of Units will be permitted by any Owner on any part of the Property, except in accordance with the Rules therefore adopted by the Association. The right is reserved by Grantor or its agent, to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units, and to place such other signs on the Property as may be required to facilitate the sale of unsold Units. The use of window displays and advertising in the windows of the Units for the sale of merchandise or services and the placement of names and organizations, on Directories or doors or other terms or materials shall be in accordance with the Rules of the Association and, if in conformity therewith, shall not be deemed a violation of this Section.

I. Alterations of Common Elements. Nothing shall be altered or constructed in or removed from the Common Elements, except upon the written consent of the Association.

J. Parking. Each Owner, for himself or herself and his or her employees, patrons, customers, invitees and other authorized Occupants of the Unit and/or visitors of the Owner shall be entitled to the non-exclusive use of parking space in common with other Owners provided, however, the Board of Managers of the Association may prescribe reasonable rules and regulations with respect to all parking areas, and each Owner shall use and occupy parking areas in conformity with such rules and regulations.

K. Exclusive Use Areas. Each Owner is hereby granted an exclusive, but revocable license to use and enjoy such Exclusive Use Areas ("Exclusive Use Areas") as the Association may designate and allocate to such Owner, upon and subject to terms and conditions (including the payment of a fee therefore to the Association) as the Association may determine. The Association may, also, hereafter designate specific, clearly defined parts of the Common Elements for a particular use or uses which serve the general welfare of all or a number of the Owners and are beneficial to the Condominium Property. All such part or parts and use thereof shall at all times be subject to such rules, terms and conditions as may be promulgated by the Association and shall at all times be subject to change and removal from the designation of Exclusive Use Areas by the Association. Without limiting the generality of the foregoing, the Association may at any time and from time to time revoke any license granted hereunder and reassign the use of such Exclusive Use Areas in accordance with such rules as it may establish from time to time. The Association may require that maintenance of any Exclusive Use Area shall be the sole responsibility of the licensee and/or user thereof.

ARTICLE XII

Insurance and Reconstruction

The insurance which shall be carried upon the Condominium Property shall be governed by the following provisions:

A. Authority to Purchase. All insurance policies upon the Condominium Property, except as hereinafter provided, shall be purchased by the Association for the benefit of the Unit Owners and their respective mortgagees as their interest may appear. All of said policies shall provide for:

- (1) the issuance of certificates of insurance with mortgagee endorsements to the holders of first mortgages on the Units, if any;
- (2) that the insurer waives its right of subrogation against Unit Owners, Occupants and the Association; and,

- (3) that the improvements to Units made by Unit Owners shall not affect the valuation for the purposes of such insurance of the Buildings and all other improvements upon the land.

Such policies and copies of all endorsements shall be deposited with Insurance Trustee (hereinafter provided for) who must first acknowledge that the policies and any proceeds thereof will be held in accordance with the terms hereof. The Association agrees for the benefit of the Unit Owners and each Unit mortgagee that it shall pay the premiums for the casualty insurance hereinafter required to be carried by the Association at least thirty (30) days prior to the expiration date of such policy and such premiums shall be assessed as a Common Expense. Each policy shall further provide that coverage thereunder shall not be terminated for non-payment of premiums without at least ten (10) days written notice to each Unit mortgagee. Within ten (10) days after an insurable casualty, all Unit mortgagees shall receive notice of such casualty if the estimated claim shall exceed Twenty Thousand Dollars (\$20,000.00).

B. Unit Owner's Insurance. Each Unit Owner may obtain insurance, at his or her own expense, affording coverage upon his or her personal property and for his or her personal liability and as may be required by law and may obtain casualty insurance, at his or her own expense, upon any improvements to his or her Unit made by him or her in which he or she would have an insurable interest in excess of his insurance policy, however, shall provide that it shall be without contribution as against the casualty insurance purchased by the Association or shall be written by the carrier of such insurance for the Association and shall contain the same waiver of subrogation as that referred to in sub-paragraph A(2) above.

C. Coverage. The Buildings and all other insurable improvements upon the Condominium Property and all personal property as may be owned by the Association shall be insured in an amount equal to the full insurable replacement value thereof excluding excavation and foundations, as determined annually by the insurance company affording such coverage. Such coverage shall grant protection against the following:

(1) loss or damage by fire and other hazards covered by the standard extended coverage endorsement including coverage for the payment of Common Expenses with respect to damaged Units during the period of reconstruction thereof.

(2) Such other risks as determined from time to time to be customary shall be covered with respect to buildings similar in construction, location and use as the Buildings including, but not limited to, vandalism, wind storm, water damage and malicious mischief. The policy providing such coverage shall provide that, notwithstanding any provision thereof which gives the carrier an election to restore damage in lieu of making a cash settlement therefor, such option shall not be exercised in case of the termination of the condominium as provided for in this Declaration or pursuant to the provisions of Chapter 5311 of the Ohio Revised Code.

The Association shall further insure itself, any managing agent, the Unit Owners and their respective patients, patrons, customers, invitees, and employees and all persons lawfully in possession or control of any part of the Condominium Property, against liability for personal injury, disease, illness or death, and for injury to or destruction of property occurring upon, in, or about, or arising from or relating to Common Areas and Facilities, including, without limitation, water damage, legal liability, hired automobile, non-owned automobile and off-premises employee coverage, such insurance to afford protection to a limit of not less than One Million Dollars (\$1,000,000.00) in respect to personal injury, disease, illness or death suffered by any one (1) person and to the limit of not less than One Million Dollars (\$1,000,000.00) in respect to any one occurrence and to the limit of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to damage to or destruction of property arising out of any one (1) accident. Such insurance shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units. All liability insurance shall contain cross-liability endorsements to cover liabilities of Unit Owners as a group to a Unit Owner.

D. Insurance Trustee - Distribution of Proceeds. All casualty insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their respective mortgagees as their respective interest may appear and shall provide that all proceeds payable as a result of casualty losses shall be paid to any bank insured by the Federal Deposit Insurance Corporation, as trustee, which is selected by the Association and located in Summit County, Ohio, with trust powers, which will accept and assume the responsibility and provisions hereinafter set forth. Said Insurance Trustee shall not be liable for payment of premiums nor for the renewal of the policies, nor for the sufficiency of coverage, nor for the form or contents of policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for distribution in accordance with the terms and conditions hereinafter set forth and for the benefit of the Association, Unit Owners and their respective mortgages.

E. Responsibility for Reconstruction or Repair.

(1) Unit Owner's. If the damage is only to those parts of one Unit for which the responsibility of maintenance and repairs is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty.

(2) Association's. If any part of the Common Areas and Facilities shall be damaged by casualty, such damaged portion shall be promptly reconstructed or repaired as hereinafter provided unless such damage renders one-half (1/2) or more of the Units untenable and the Unit Owners, by the vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power, as well as the consent of seventy-five percent (75%) of the first mortgagees, based upon one (1) vote for each mortgage owned, elect not to reconstruct or repair such damaged part, at a meeting which shall be called within ninety (90) days after the occurrence of the casualty, or if by such

date the insurance loss has not been finally adjusted, then within thirty (30) days after such final adjustment. Any such reconstruction or repair shall be substantially in accordance with the Drawings. Further, in all other instances, except as set forth in sub-paragraph E(1) above, the responsibility of reconstruction and repair after casualty shall be that of the Association. In the event the aforementioned election is held and it is determined that the damage shall not be reconstructed or repaired, then all of the Condominium Property shall be subject to an action for sale as one (1) entity. Said sale shall be negotiated and consummated by the Board with prior approval of seventy-five percent (75%) of the voting power of the Unit Owners and seventy-five percent (75%) of the first mortgagees, based upon one (1) vote for each mortgage owned. The net proceeds of the sale together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one (1) fund and shall be distributed to all Unit Owners in proportion to the respective percentages of interest in the Common Areas and Facilities. No Unit Owner, however, shall receive any portion of his or her share of such proceeds until all liens and encumbrances on his or her Unit have been paid, released or discharged.

F. Procedure for Reconstruction or Repair.

(1) Estimates of Cost. Immediately after a casualty damage to any portion of the Condominium Property for which the Association has the responsibility of maintenance and repair, and except in emergency situations, the Association shall obtain firm contract bids from at least three (3) reliable contractors for the cost to place the damaged property in condition as good as that before the casualty. All bids may require the contractor to deposit with the Association a performance and completion bond in the full amount of the contract price which must be issued by a corporate surety company authorized to do business in the State of Ohio and satisfactory to the Association. In addition, the cost may be increased by the Association to include professional fees and the Insurance Trustee's fees as the Board of Managers deems necessary. Notwithstanding the foregoing, the Association may proceed with any maintenance and repair without obtaining bids from three (3) contractors whenever the Board of Managers deems such requirement impracticable, e.g., by reason of the fact that a casualty damage is minor or by reason of the existence of an emergency or other pressing time considerations.

(2) Special Assessments. If the proceeds of the insurance policies are not sufficient to defray the estimated cost of reconstruction and repair by the Association including the aforesaid fees, one (1) or more special assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs, and such assessments shall be deposited with the Insurance Trustee.

(3) Disbursement of Construction Fund. The Association shall then deposit with the Insurance Trustee the contract, bonds, and the proceeds of the casualty insurance collected and heretofore referred to and the sums deposited with the Insurance Trustee by the Association from collections of special assessments as aforescribed.

Said money shall constitute a construction fund which shall be disbursed by the Insurance Trustee for the payment of the cost of reconstruction and repair of the areas and facilities for which the Association is responsible to reconstruct and repair, and said payment shall be made from time to time as work progresses, but not more frequently than once in any calendar month. The Trustee shall not accept for disbursement any sums less than an amount to pay in full the contract price for repair plus estimated fees. The Trustee shall make such payments upon the written request of the Association, accompanied by a certificate dated not more than fifteen (15) days prior to such request signed by the contractor, a responsible officer of the Association and by an architect, if any, in charge of the work, who shall be selected by the Association. If there be no architect in charge of the work, the contractor and two (2) officers of the Association shall be required to execute this certificate. The certificate shall set forth the following:

- (a) that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate;
- (b) that except for the amounts stated in such certificate to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the persons signing such certificate, after due inquiry, which might become the basis of a vendor's, mechanic's, materialmen's or similar lien arising from such work;
- (c) that the cost as estimated by the persons signing the certificate of work remaining to be done after the date of the certificate does not exceed the amount of the construction fund remaining in the hands of the Insurance Trustee after payment of the sum requested; and,
- (d) the contractor shall also issue an Affidavit as may be required by the Association and/or the Insurance Trustee in accordance with Chapter 1311 of the Ohio Revised Code with each certificate.

It shall be presumed that the first monies disbursed in payment of cost of reconstruction and repair shall be from insurance proceeds, and if there be a balance in any construction fund after the payment of all of the costs of the reconstruction, repair and fees for which the fund is established, such balance shall be disbursed to the Association. The Association shall then disburse said balance on a prorata basis to the Unit Owners as follows: first, to reimburse Unit Owners for all or any portion of the monies contributed as a "Special Assessment" in accordance with sub-paragraph F(2) of this Article; the

balance, if any, shall be distributed prorata based upon beneficial ownership jointly to the Unit Owners and their respective mortgagees. The above procedure pertaining to disbursement of construction funds through an Insurance Trustee as herein described can be waived by unanimous agreement of the Board, provided the cost of construction and repair does not exceed the sum of Twenty Thousand Dollars (\$20,000.00). Any other method of disbursement must receive the approval of all Unit mortgagees.

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

(5) Insurance Adjustments. Each Unit Owner shall be deemed to have delegated to the Board of Managers his or her right to adjust with insurance companies all losses under policies purchased by the Association except in any case where the damage is restricted to one (1) Unit, subject to the rights of mortgagees of such Unit.

(6) Encroachments. Encroachments upon or in favor of a Unit Owner or a Unit which may be created as a result of any reconstruction or repair shall not constitute a claim for the basis of a proceeding or action by a Unit Owner upon whose property such encroachment exists, provided that such reconstruction or repair was either substantially in accordance with the plans and specifications or as the Building was originally constructed. Such encroachment or encroachments shall be allowed to continue in existence for so long as the Building and/or Units stand.

ARTICLE XIII

Removal of the Property from Provisions of Chapter 5311

With prior written approval of one hundred percent (100%) of the first mortgagees (based on one [1] vote for each mortgage owned), the Owners may, by affirmative vote of one hundred percent (100%) of the total vote, at a meeting of the Unit Owners duly called for such purpose, elect to remove the Property from the provisions of Chapter 5311. Such action shall be binding upon all Unit Owners, and it shall thereunder become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts in manner or form as may be necessary to effect such sale. No Unit Owner, however, shall receive any portion of his or her share of the proceeds until all liens and encumbrances on his or her Unit have been paid, released or discharged.

ARTICLE XIV

Remedies for Breach of Covenants

A. Abatement and Enjoinment. The violation of any restriction, condition or regulation adopted by the Association, or

the Board of Managers, or the breach of any covenant or provision herein contained, shall give the Association the right, in addition to the rights set forth in the next succeeding section:

(1) to enter any Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and of the By-Laws, and Grantor, or its successors or assigns, or the Association, or its agents, shall not thereby be deemed guilty in any manner of trespass; or,

(2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

B. Involuntary Sale. If any Owner (either by his or her own conduct or by the conduct of any other Occupant, tenant, employee, patron, patient, customer, invitee or visitor of his or her Unit) shall violate any of the covenants or restrictions or provisions of the general law, the Condominium Act or of this Declaration or the By-Laws or the Rules adopted by the Association, or the Board of Managers, and such violation shall continue for thirty (30) days after notice in writing from the Association, or shall occur repeatedly during any thirty (30) day period after written notice or request to cure such violation from the Association, or Board of Managers, or member thereof, and the mortgagee, if any, has been served with written notice of such violation, then the Association shall have the power, by action of a majority of its Board of Managers, to issue to the defaulting Owner a ten (10) day notice in writing to terminate the rights of the said defaulting Owner to continue as an Owner and to continue to occupy, use or control his or her Unit and thereupon an action in equity may be filed by the Association against the defaulting Owner for a decree of mandatory injunction against the Owner or Occupant subject to the prior consent in writing of any mortgagee having a security interest in the Ownership Interest of the defaulting Owner, which consent shall not be unreasonably withheld. In the alternative, the action may pray for a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant, and ordering that all the right, title and interest of the Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Owner from re-acquiring his interest at such judicial sale. The Association, however, may acquire said interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, master's or commissioner's fees, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding, and all such items shall be taxed against the defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, may be paid to Owner. Upon the confirmation of such sale, the purchaser thereat shall thereupon be entitled to a deed to the Ownership Interest and to immediate possession of the Unit sold and may apply to

the court for a writ for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Property sold subject to the Condominium Act, this Declaration, the By-Laws and/or Rules of the Association, and the purchaser shall become a member of the Association in the place and stead of the defaulting Owner.

ARTICLE XV

Additions to Condominium Property

A. Reservation of Option. Grantor hereby explicitly reserves the right and option to expand the Condominium Property from time to time, in one (1) or more phases, by adding Additional Property to the Condominium Property. Such expansions may include, without limiting the generality of the foregoing, new construction and/or additions to the existing Buildings and/or improvements to create additional Units or for the enhancement, expansion or extension of improvements on the Parcel.

B. Limitations on Option. No consent of any Unit Owners shall be required to enable Grantor to expand the Condominium Property and there are no limitations on Grantor's right and option to expand the Condominium Property, provided, however, that if any Unit Owner owns, at the time such expansion is proposed, such number of Units as entitles such Unit Owner to exercise twenty-five percent (25%) or more of the total voting power of all the Unit Owners prior to such expansion, the written consent of such Unit Owner shall be required for such expansion, which consent shall not be unreasonably withheld or delayed. Any such consent shall be included as part of the amendment of the Declaration of Condominium ownership effecting such expansion of the Condominium Property. In the event consent for a proposed expansion is withheld by one (1) or more such Unit Owners from whom consent is required hereunder, Grantor shall have the right to demand arbitration before a mutually agreeable arbitrator, or for lack thereof, before the American Arbitration Association, in accordance with the Commercial Arbitration Rules. In such an arbitration, such non-consenting Unit Owner(s) shall have the burden to justify the reasonableness of refusing consent by establishing that the proposed expansion would result in significant adverse impact upon the value of the existing Units. An arbitration award in favor of Grantor may be included in the amendment in lieu of such consent.

C. Time Limit for Expansion. The Grantor's option to expand the Condominium Property shall expire four (4) years from the date this Declaration is filed for record with the Recorder of the County in which the Condominium Property is located; provided, however, that this time limit for exercise of the option to expand may be renewed for an additional three (3) years, at the option of the Grantor, exercisable within six (6) months prior to the expiration of the original four (4) year period and with the consent of the majority of the voting power of the Unit Owners other than the Grantor. The only circumstances that will terminate this expansion option prior to the time limits described above would be the written waiver of the option

by the Grantor at a time prior to the expiration of the option or renewal thereof.

D. Legal Description. A legal description, by metes and bounds of such of the Additional Property which consists of land, is attached hereto as Exhibit "A" and incorporated herein by reference thereto. A legal description, by metes and bounds of other Additional Property not consisting of land, being inapplicable, such Additional Property may include any and all improvements of every kind and nature and including, without limiting the generality of the foregoing, Buildings, structures, storm and sanitary sewers, water, electric, telephone, television and other utility lines, roadways, parking areas, landscaping, decor and facilities.

E. Limitations as to Portions Added. Neither all nor any portion of the Additional Property must be added to the Condominium Property, nor, if any Additional Property is added, shall it be required that a particular portion of the Additional Property must be added. Except as expressly provided herein, there are no limitations on the portions of the Additional Property that may be added to the Condominium Property.

F. Time for Adding Portions. Portions of the Additional Property may be added to the Condominium Property from time to time, and at different times, within the time limit previously described. There are no limitations fixing the boundaries of portions added or regulating the order in which portions are added excepting, however, that each portion added shall be contiguous, at some point, to what then constitutes the Condominium Property, so that at all times, the entire Condominium Property shall be an integral and contiguous development.

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

H. Maximum Number of Units. The maximum number of Units per acre that may be created on any portion of the Additional Property added to the Condominium Property shall be nine (9) Units per acre.

I. Compatibility of Structures. It is anticipated by the Grantor that any structures erected on any portion of the Additional Property subsequently added to the Condominium Property will be compatible with structures theretofore existing on the Condominium Property, but in order to be able to respond to the desires of the buying public, it is hereby provided that none of such structures need be compatible with structures on the submitted property in terms of quality of construction, the principle materials to be used and architectural style.

J. Improvements Other Than Structures. With respect to improvements to any portion of Additional Property added to the Condominium Property, other than structures, there is no requirement that any form of improvement must be made, nor are there any restrictions or limitations upon improvements that may be made, other than as elsewhere specifically set forth herein.

K. Types of Units. Although it is currently anticipated that additional Units which may be added to the Condominium Property will be compatible with then-existing Units, in order to respond to the desires of the buying public, it is hereby provided that such Units need not be substantially identical to Units then part of the Condominium Property, nor are there limitations on the types of Units which may be added.

L. Limited Common Areas. Grantor reserves the right with respect to all or any portion of the Additional Property added to the Condominium Property to create Limited Common Areas and Facilities therein or to designate Common Areas and Facilities within each portion that may be subsequently assigned as Limited Common Areas and Facilities of similar type, size and number as those areas then so designated as such in the Condominium Property including, without limiting the generality of the foregoing, parking spaces for the respective Units, dock or loading areas for the respective Units and/or any other improvements located within the bounds of a particular Unit which service only such Unit as described in Article VI F., and/or as may be specifically set forth in the Drawings added to Exhibit "C" with any amendments describing the Additional Property, whether such Limited Common Areas and Facilities are located on the Parcel or any portion thereof. The precise size and number of such newly created Limited Common Areas and Facilities cannot be ascertained precisely because those facts will depend on how large each portion added may be, the size, location and configuration of the Buildings, structures and other improvements on each portion, and other factors presently undetermined.

M. Supplementary Drawings. Attached hereto as part of Exhibit "C" is a plot plan showing the location and dimensions of the Parcel. The Grantor does not consider any other drawings or plans, other than the Drawings, presently appropriate in supplementing the foregoing provisions of this Article. However, at such time as the Grantor adds all or any portion of the Parcel or any other improvements as Additional Property, the Grantor shall file drawings and plans with respect to the Additional Property as required by the Condominium Act.

N. Reservation by Grantor. Grantor, on Grantor's own behalf, as the Owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves and reserves unto Grantor and each Unit Owner and his or her mortgagees by acceptance of the deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, and each mortgagee consenting to the Declaration thereby and hereby covenants to, approves and acknowledges such reservations as set forth in the provisions of this Article XV, including, without limiting the

generality of the foregoing, the amendment or amendments of this Declaration by Grantor in the manner provided herein; and, all such mortgagees, Unit Owners and their respective mortgagees, upon request of Grantor, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Grantor to be necessary or proper to effectuate said provisions, subject, however to section B of this Article XV.

With respect to the Additional Property or portions thereof which Grantor does not add to the Condominium Property as provided in this Declaration, the Grantor reserves and retains the right at any and all times to construct improvements on such Additional Property or portions thereof as may be allowed by the appropriate governmental authorities.

ARTICLE XVI

Amendment of Declaration

Except for amendments adding property to the Condominium Property in accordance with Article XV hereof and Chapter 5311 of the Ohio Revised Code, this Declaration may be amended effective upon the filing for record with the County Recorder of an instrument in writing setting forth specifically the item or items to be amended and any new matter to be added, which instrument shall have been duly executed by the number of Unit Owners having such aggregate interest in the Common Areas and Facilities as may be required by Chapter 5311 of the Ohio Revised Code. In the case of an amendment for the purpose of adding to the Condominium Property pursuant to Article XV hereof, such amendment shall be executed by Grantor or a duly authorized officer of Grantor as required by Chapter 5311 of the Ohio Revised Code. All such amendments must be executed with the same formalities as this instrument and must refer to the volume and page in which this instrument and its attached exhibits are recorded and must contain an affidavit by the President of the Association or the Grantor, as the case may be, that a copy of the amendment has been mailed by certified U. S. Mail to all Unit Owners and all mortgagees having bona fide liens of record against any Ownership Interest. Except as hereinabove provided with respect to amendments for the purpose of making additions to the Condominium Property as provided in Article XV hereof, no amendments shall have any effect, however, upon Grantor, the rights of Grantor under this Declaration and upon the rights of bona fide mortgagees until the written consent of Grantor and/or such mortgagees to such amendment has been secured. Such consents shall be retained by the Secretary of the Association or the Grantor, as the case may be, and his certification or the Grantor's, as the case may be, in the instrument of amendment as to the consent or non-consent of Grantor and the names of the consenting and non-consenting mortgagees of the various Units may be relied upon by all persons for all purposes.

ARTICLE XVIICondemnation

A. Entire Taking. In the event all of the Common Areas and Facilities are taken by condemnation, the net proceeds of the award shall be paid to the Association and considered as one fund, and shall be distributed to all Unit Owners and their respective mortgagees jointly and proportioned to each Unit Owner's respective percent of interest in the Common Areas and Facilities.

B. Partial Taking. In the event of a partial taking of the Common Areas and Facilities, this condominium shall automatically and of and by itself be amended so that the parcel of land taken by the condemning authorities is excluded from this Declaration. The Unit Owners' share in the Common Areas and Facilities remaining of the condominium shall be in proportion to their respective prior interest in the condominium. Each Unit Owner shall be entitled to secure an award from the condemning authority for the taking of their respective Unit or residual damage to their respective Unit and in this regard, payment shall be made directly to the Unit Owner and their respective mortgagee jointly in the ordinary course under eminent domain procedures. All awards granted for the taking of Common Areas and Facilities and/or damage to the residual of the Common Areas and Facilities shall be paid to the Association and distributed to individual Unit Owners and their mortgagees jointly as determined by three (3) reputable real estate appraisers (who shall be members of the Master Appraisers Institute or the Society of Real Estate Appraisers or, if such are not in existence, then another similar association of professional appraisers acceptable to the Board), two (2) of whom shall be appointed by the Board and the third (3rd) of whom shall be appointed by the first two (2) appraisers. The appraisers shall render written instructions to the Board allocating the total award to the Units in such proportion as they, in their sole discretion, determine to be the damages caused to the Units. It is agreed that their determination shall be final and binding upon all Unit Owners and their respective mortgagees.

ARTICLE XVIIIMiscellaneous Provisions

A. Grantor's Rights. Until such time as Grantor calls the first meeting of the Unit Owners in accordance with Article I Section 5(a) of the By-Laws, and members of the Board of Managers are elected containing members other than Grantor or its agents, the Grantor may exercise the powers, rights, duties and functions of the Association and the Board of Managers in a fiduciary capacity for the Unit Owners, including, without limitation, the power to determine the amount of and to levy special assessments and assessments for Common Expenses.

B. Copies of Notice to Mortgage Lenders. Upon written request to the Board, the holder of any duly recorded mortgage against any Ownership Interest shall be given a copy of any and all notices

any Ownership Interest shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Owner or Owners whose Unit Ownership is subject to such mortgage or trust deed. Upon the request of Grantor or the Association, each Unit Owner shall supply and/or confirm in writing to the Grantor or Association, as the case may be, the name and mailing address of all mortgagees of any Ownership Interest in the particular Unit or Units owned by such Unit Owner.

C. Service of Notice on Board and Service of Process. Notices required to be given to the Board of Managers or the Association may be delivered to any member of the Board of Managers, or officer of the Association, either personally or be certified U. S. mail addressed to such member or officer at his Unit or such other address on record with the Association. The name of the person to receive service of process for the Association, and that person's residence or place of business is: William B. Consolo, 2112 E. Aurora Road, Twinsburg, Ohio 44087. In the event this individual, for any reason, ceases to be registered with the Secretary of the State of Ohio as Statutory Agent for the Association, the person so registered shall be the person who receives service of process for the Association.

D. Service of Notices on Devises and Personal Representatives. Notices required to be given any devisee or personal representative of a deceased Owner may be delivered either personally or by certified U. S. mail to such party at his, her or its address appearing in the records of the court wherein the estate of such deceased Owner is being administered.

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

F. Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration and/or 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.

G. Waiver of Damages. Except as may be guaranteed or warranted by Grantor, neither Grantor nor its representatives or designees shall be liable for any claim whatsoever arising out of or

by reason of any actions performed pursuant to any authority granted or delegated to it by or pursuant to the Condominium Act, this Declaration and/or the By-Laws, or in Grantor's (or Grantor's representatives' or designees') capacity as Grantor, contractor, Owner, manager or seller of the Property, whether or not such claim (i) shall be asserted by any Owner, Occupant, the Association or by any person or entity claiming through any of them; (ii) shall be on account of injury to a person or persons or damage to or loss of property wherever located and however caused; or, (iii) shall arise ex contractu or (except in the case of gross negligence) ex delictu. Without limiting the generality of the foregoing, the foregoing enumeration includes all claim for, or arising by reason of, the Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or negligence of any Owner, Occupant, the Association and their respective agents, employees, guests and invitees, or by reason of any neighboring property or personal property located on or about the Property, or by reason of the failure to function or disrepair of any utility services (including, but not limited to, heat, air conditioning, electricity, gas, water, sewer, etc.). Notwithstanding the foregoing, however, this Paragraph G shall not apply in a particular case if the effect of its application would be to relieve an insurance carrier of liability under any insurance policy carried by a Unit Owner, Occupant or the Association.

H. Amendments to Declaration. The provisions of Article V Paragraphs A, B, C, E and F or Article VI (except as provided in Article XV), Paragraph A of Article VII, Article XV, Article XVI, Article XVII and Paragraphs G and H of this Article XVIII of this Declaration, may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Association, all of the Owners and all mortgagees having bona fide liens of record against any Ownership Interests. Other provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission as set forth in Article XVI.

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

J. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by this Declaration and/or the By-Laws shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of George Bush President of the United States, and Queen Elizabeth II of England.

K. Ownership of Units by Grantor. So long as Grantor owns one (1) or more of the Units established and described herein, Grantor

shall be subject to the provisions of the Condominium Act, this Declaration and the By-Laws; and, Grantor covenants to take no action which would adversely affect the right of the Association with respect to assurances against latent defects in the Condominium Property or other right assigned to the Association by reason of the establishment of the condominium. Grantor shall assume its rights and obligations as a Unit Owner in its capacity as an owner of condominium Ownership Interests.

L. Headings. The heading to each Article and to each Section hereof are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Declaration nor in any way affect this Declaration.

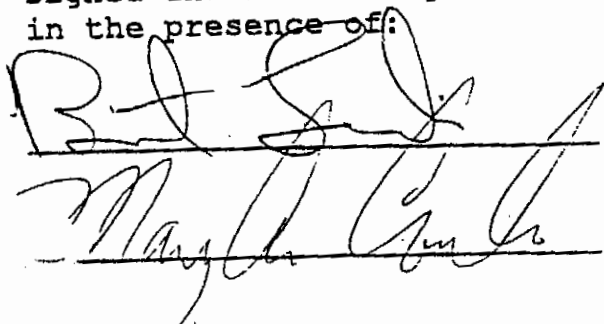
M. Interchangeability of Terms. The singular of any word shall also include the plural of such word, and the masculine gender shall also include the neuter and feminine.

N. Interpretation of Declaration. The provisions of this Declaration shall be liberally construed under the laws of the State of Ohio to effectuate its purpose of creating a uniform plan for the development and operation of a first class condominium.

O. Completion of Construction and Sale of Units. Notwithstanding any provision of this Declaration to the contrary, Grantor shall have the absolute right to complete construction of any Unit or interior finish thereof during normal business hours for construction and to exhibit such Units for sale during such times as Grantor may deem appropriate. Grantor shall cause such construction and exhibiting for sale in a manner consistent with Article XI(A) but in no event shall such activities be deemed an obstruction of the Common Elements or the creation of a nuisance

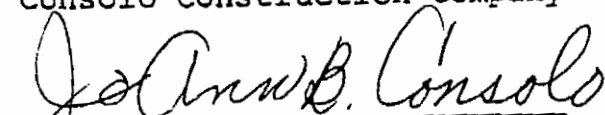
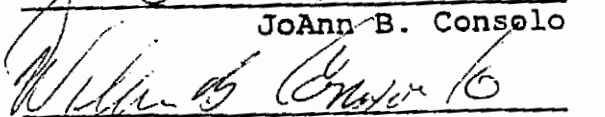
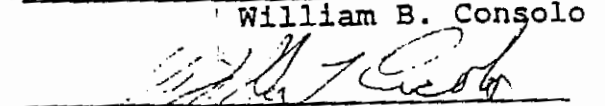
IN WITNESS WHEREOF, the undersigned JoAnn B. Consolo, William B. Consolo, and William T. Consolo, Jr. have executed this instrument this 14th day of February, 1997.

Signed and acknowledged
in the presence of:



Notarial clause continued
on following page.

Signing as sole owners of
Consolo Construction Company


JoAnn B. Consolo

William B. Consolo

William T. Consolo, Jr.

STATE OF OHIO

COUNTY OF SUMMIT

BEFORE ME, a Notary Public in and for said County, personally appeared the above named JoAnn B. Consolo, William B. Consolo, and William T. Consolo Jr., who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Twinsburg, Ohio, this day of 1997.



BRENT W. LARKIN, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

Legal Description for Pointe East Condominium

Situated in the City of Twinsburg, County of Summit and State of Ohio and known as being part of Original Twinsburg Township Lot Number 12, Tract 3, and further bounded and described as follows:

Beginning at the point of intersection of the center line of Ravenna Road, 60 feet wide, with the center line of Depot Road, 40 feet wide; thence S.55°26'00"E., a distance of 588.73 feet along said center line of Ravenna Road, to the true place of beginning of the parcel of land herein described;

Thence N.34°34'00"E., a distance of 491.50 feet to a iron pipe found on the north line of said Original Twinsburg Township Lot Number 12 and passing over a iron pin found 30.00 feet from the center line of said Ravenna Road;

Thence S.81°29'01"E., along the north line of said Original Twinsburg Township Lot Number 12, a distance of 374.86 feet to a point;

Thence S.34°34'00"W. a distance of 466.12 feet to a point;

Thence S.55°26'00"E. a distance of 22.00 feet to a point;

Thence S.34°34'00"W. a distance of 190.00 feet to a point in the center line of said Ravenna Road;

Thence N.55°26'00"W., along the center line of said Ravenna Road, a distance of 358.78 feet to the true place of beginning and containing 4.532 acres of land more or less but subject to all legal highways, as determined by Fred H. Bliss, Registered Surveyor No. 4669, November 1996.

EXHIBIT A

Pointe East Condominium

Building No. 1 (10 units)

UNIT Building No. 1	Square Feet	Percentage of Total for
A	2260.22	12.68
B	1734.22	9.72
C	1734.22	9.72
D	1734.22	9.72
E	1734.22	9.72
F	1734.22	9.72
G	1734.22	9.72
H	1734.22	9.72
I	1734.22	9.72
J	1700.44	9.56
Total Sq. Ft.	17834.42	% of sq. ft. 100.00

Building No. 2 (13 units)

A	2260.22	9.84
B	1734.22	7.55
C	1734.22	7.55
D	1734.22	7.55
E	1734.22	7.55
F	1734.22	7.55
G	1734.22	7.55
H	1734.22	7.55
I	1734.22	7.55
J	1734.22	7.55
K	1734.22	7.55
L	1734.22	7.55
M	1634.79	7.11
Total Sq. Ft.	22971.43	% of sq.ft. 100.00