

0372151

DECLARATION AND BY-LAWS

CREATING AND ESTABLISHING A PLAN FOR

CONDOMINIUM OWNERSHIP

UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO

FOR

HARBOUR POINT CONDOMINIUM

CERTIFICATE OF AUDITOR

October 20, 1987

Receipt is hereby acknowledged of a copy of the Declaration, By-Laws, and Drawings of the above-named Condominium.

James W. Mickson  
Auditor

This conveyance has been examined and the Grantor has complied with the provisions of the Revised Code.

FILED \_\_\_\_\_

James W. Mickson County Auditor

Transit  
Oct 20, 1987  
James W. Mickson  
Fee 3.80

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DECLARATION

This is the Declaration of Harbour Point Condominium made on or as of the \_\_\_\_\_ day of October, 1987, pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio.

Recitals

A. Admiral's Harbour, Inc., an Ohio corporation, "Declarant", is the owner in fee simple of all of the real property hereinafter described and the improvements thereon and appurtenances thereto.

B. The Declarant desires to create of this property a site of individually owned units, and commonly owned areas and facilities, and to these ends to submit this property to condominium ownership under the Condominium Act.

Definitions

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

1. "Articles" and "Articles of Incorporation" mean the articles, filed with the Secretary of State of Ohio, incorporating Harbour Point Condominium Association as a corporation not-for-profit under the provisions of Chapter 1702 of the Revised Code of Ohio, as the same may be lawfully amended from time to time. (The State of Ohio's enabling non-profit corporation act.)

2. "Association" and "Harbour Point Condominium Association" mean the corporation not-for-profit created by the filing of the Articles and is also one and the same as the association created for the Condominium under the Condominium Act.

3. "Board" and "Board of Trustees" mean those persons who, as a group, serve as the board of trustees of the Association and are also one and the same as the board of managers of the Condominium established for the Condominium under the Condominium Act.

4. "Boat Space" is a space of water adjacent to the docks on the northeast or water side of the Condominium intended for the docking and mooring of a boat and is a Limited Common Area.

5. "By-Laws" mean the by-laws of the Association, as the same may be lawfully amended from time to time, created under and pursuant to the Condominium Act for the Condominium, and which also serve as the code of regulations of the Association under and pursuant to the provisions of Chapter 1702. A true copy of the By-Laws is attached hereto and made a part hereof.

6. "Common Areas" means all of the Condominium Property, except that portion described in this Declaration as constituting a Unit or Units, and is that portion of the Condominium Property constituting "common areas and facilities" of the Condominium under the Condominium Act.

7. "Condominium" and "Harbour Point Condominium" mean the condominium regime for the Condominium Property created under and pursuant to the Condominium Act.

8. "Condominium Act" means Chapter 5311 of the Revised Code of Ohio, as the same may be amended from time to time.

9. "Condominium instruments" means this Declaration, the By-Laws, the Drawings, and, as provided by the Condominium Act, "all other documents, contracts, or instruments establishing ownership of or exerting control over a condominium property or unit."
10. "Condominium organizational documents" means the Articles, the By-Laws, the Drawings, and this Declaration, as the same may lawfully be amended from time to time.
11. "Condominium Property" means the tract of land hereinafter described as being submitted to the Condominium Act, all buildings, structures and improvements situated thereon, and all easements, rights and appurtenances belonging thereto.
12. "Declarant" means whoever is designated in the recitals of this Declaration as creating the Condominium, and Declarant's successors and assigns, provided the rights specifically reserved to Declarant under the Condominium organizational documents shall accrue only to such successors and assigns as are designated in writing by Declarant as successors and assigns of such rights.
13. "Declaration" means this instrument, by which the Condominium Property is hereby submitted to the Condominium Act, and any amendment hereto, from time to time.
14. "Dock Facilities" means all docks, piers, pilings, retaining walls and all other facilities or improvements constructed, maintained or improved from time to time for the purpose of maintaining or improving, or facilitating the use of, the Boat Spaces.
15. "Drawings" means the drawings for the Condominium, as the same may be lawfully amended from time to time, and are the Drawings required pursuant to the Condominium Act. A set thereof is attached hereto, but the same may be detached and filed separately herefrom by the appropriate public authorities.
16. "Eligible holder of a first mortgage lien" means the holder of a valid recorded first mortgage on a Unit, which holder has given written notice to the Association stating the holder's name, address and Unit or Units subject to its mortgage.
17. "Garage Facilities" means the garage itself and all portions thereof, exclusive of the actual parking spaces within the garage and the floor of the parking space itself, but including without limiting the generality of the foregoing, all other structural elements, the roof, and the perimeter and interior walls.
18. "Garage Space" is an enclosed space in the garage designed for the parking of an automobile and is a Limited Common Area.
19. "The Harbour" is the entire planned development lying north of Harbour Parkway, Sandusky, Erie County, Ohio, that has been subjected to a master plan of restrictions, easements and agreements for the benefit of the entire development by prior owners of the property that constitutes The Harbour. The Condominium is part of The Harbour.
20. "Harbour Master Association" is an Ohio corporation not-for-profit named "The Harbour Homeowners Association, Inc.", formed by prior owners of the property that constitutes The Harbour to administer The Harbour's master plan of restrictions,

easements and agreements. Each Unit owner automatically becomes a member of the Harbour Master Association upon obtaining title to a Unit, and continues to be a member until such time as that Unit owner ceases to own a Unit.

21. "Limited Common Areas" means those Common Areas serving exclusively one Unit or more than one but less than all Units, the enjoyment, benefit or use of which are reserved to the lawful occupants of that Unit or Units either in this Declaration, or by the Board, and is that portion of the Condominium Property constituting "limited common areas and facilities" of the Condominium under the Condominium Act.

22. "Master Declaration" means the "Declaration of The Harbour Homeowners Association", dated November 1, 1984, and recorded in Volume 512 of Deeds, at page 61 et seq., Erie County, Ohio, and all lawful amendments thereto.

23. "Occupant" means a person lawfully residing in a Unit, regardless of whether that person is a Unit owner.

24. "Person" means a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

25. "Trustee" and "Trustees" mean that person or those persons serving, at the time pertinent, as a trustee or trustees of the Association, and mean that same person or those persons serving in the capacity of a member of the board of managers of the Association, as defined in the Condominium Act.

26. "Unit" and "Units" mean that portion or portions of the Condominium Property described as a unit or units in this Declaration, and is that portion of the Condominium constituting a "unit" or "units" of the Condominium under the Condominium Act.

27. "Unit owner" and "Unit owners" mean that person or those persons owning a fee-simple interest in a Unit or Units, each of whom is also a "member" of the Association, as defined in Ohio's enabling non-profit corporation act.

The Plan

NOW, THEREFORE, Declarant hereby makes and establishes the following plan for condominium ownership of the below-described property under and pursuant to the provisions of the Condominium Act:

ARTICLE I

THE LAND

A legal description of the land constituting a part of the Condominium Property, located in the City of Sandusky, Erie County, Ohio, and consisting of 1.6935 acres, more or less, is attached hereto and marked "Exhibit A".

ARTICLE II

NAME

The name by which the Condominium shall be known is "Harbour Point Condominium".



## ARTICLE III

PURPOSES; RESTRICTIONS

Section 1. Purposes. This Declaration is being made to establish separate individual parcels from the Condominium Property to which fee-simple interests may be conveyed; to establish a unit owners' association to administer the Condominium; to provide for the preservation of the values of Units and the Common Areas; to provide for and promote the benefit, enjoyment and well being of Unit owners and occupants; to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth; and to raise funds through assessments to accomplish these purposes.

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

(a) Unit Uses. Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility. Notwithstanding the foregoing: (i) an occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees or invitees coming to the Unit), making professional telephone calls or carrying on correspondence, in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions; (ii) it shall be permissible for the Declarant to maintain, during the period of its sale or rental of Units, but for no longer than the earlier of (a) a two year period of time from the time of the closing of the first sale of a Unit to a bona fide purchaser, and (b) the time when Declarant has closed the sale of seventy-five percent (75%) of the Units in the Condominium to bona fide purchasers, one or more Units as sales and rental models and offices, and for storage and maintenance purposes; and (iv) one or more Units may be maintained for the use of the Association in fulfilling its responsibilities.

(b) Common Areas Uses. The Common Areas (except the Limited Common Areas) shall be used in common by Unit owners and occupants and their agents, servants, customers, invitees and licensees, in accordance with the purposes for which they are intended, reasonably suited and capable, and as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of Units. Unless expressly provided otherwise herein, no Common Areas shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation or enjoyment of Unit owners and occupants.

(c) Limited Common Areas Uses. Those portions of the Common Areas described herein and shown on the Drawings as Limited Common Areas shall be used and possessed

of a Unit, nor for fewer than thirty (30) days, nor for longer than one year, or with renewal rights extending beyond one year, without the prior written approval of the Board, given at its sole discretion. Any lease agreement shall be in writing, shall provide that the lease shall be subject in all respects to the provisions hereof, and to the rules and regulations promulgated from time to time by the Board, and shall provide that the failure by the tenant to comply with the terms of the Condominium organizational documents and lawful rules and regulations shall be a default under the lease. Prior to the commencement of the term of a lease the Unit owner shall notify the Board, in writing, the name or names of the tenant or tenants and the time during which the lease term shall be in effect.

(h) Signs. No sign of any kind shall be displayed to the public view on the Condominium Property except: (a) on the Common Areas, signs regarding and regulating the use of the Common Areas, provided they are approved by the Board; (b) on the interior side of the window of a Unit, one professionally prepared sign not in excess of nine square feet in size, advertising the Unit for sale or rent; and (c) on the Common Areas and model Units, signs advertising the sale and/or rental of Units by the Declarant during the initial sale and rental period.

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

(j) Structural Integrity. Nothing shall be done in any Unit, or in, on or to the Common or Limited Common Areas, which may impair the structural integrity of any improvement.

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

(l) Animals. Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or on the Common Areas. Notwithstanding the foregoing, inoffensive birds, and no more than one dog and one cat, not bred or maintained for commercial purposes, may be maintained in a Unit, or on boats in Boat Spaces provided that: (i) no animals shall be permitted in any portion of the Common Areas except on a leash (not longer than six feet in length) maintained by a responsible person; (ii) the permitting of animals shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the right to place limitations on the size, number and type of such pets, and the right to levy enforcement charges against persons who do not clean up after their pets; and (iii) the right of

exclusively by the Unit owners and occupants of the Unit or Units served by the same, as specified in this Declaration, and shall be used only for the purposes intended. Boat Spaces shall be used only for the docking and mooring of boats and Garage Spaces shall be used only for the parking of vehicles, and shall be used only by the owners and occupants of the Units to which they are appurtenant, and their authorized guests, and the lawful assignees of the right to use such spaces, as hereinafter provided.

(d) Visible Areas. Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except inoffensive drapes, curtains, or louvered blinds) or placed on the outside walls of a building or otherwise outside of a Unit, or any part thereof, or on the Dock Facilities, and no sign, awning, canopy, shutter or television or citizens' band or other radio antenna or transmitter, or any other device or ornament, shall be affixed to or placed upon the exterior walls or roof or any part thereof, or in, on, or over a patio or balcony, unless authorized by the Board; and no clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed on any part of the Common Areas, boats, or Dock Facilities.

(e) Offensive Activities. No noxious or offensive activity shall be carried on in any Unit, or upon the Common or Limited Common Areas, nor shall any be used in any way or for any purpose which may endanger the health of or unreasonably disturb any occupant or user of a Boat Space. Except in areas specifically designated and intended for such purposes, no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs shall be permitted on the Dock Facilities or on any part of the Common Areas.

(f) Vehicles. No truck, boat, or mobile home shall be allowed to park on the Common Areas for a period exceeding twenty-four (24) hours except in an enclosed structure. No trailer shall be allowed to be parked over twelve (12) hours on the Common Areas unless in an enclosed structure. In no event shall any trailer be allowed to park on the Common Areas on a regular basis unless it is in an enclosed structure. In addition, the Board may promulgate rules and regulations restricting or prohibiting the parking of automobiles, inoperable vehicles, trucks, trailers, boats and recreational vehicles on the Common Areas, or parts thereof, and may enforce such regulations or restrictions by levying enforcement charges, having such vehicles towed away, or taking such other actions as it, in its sole discretion, deems appropriate.

(g) Renting and Leasing. No Unit or part thereof, unless the same is owned by the Association, shall be rented or used for transient or hotel purposes, which is defined as: (i) rental for any period less than thirty (30) days; (ii) rental under which occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; or (iii) rental to roomers or boarders, that is, rental to one or more persons of a portion of a Unit only. No lease of a Unit may be of less than an entire Unit. No Boat Space or Garage Space shall be leased or rented to other than the owner or occupant

an occupant to maintain an animal shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Condominium or other Units or occupants.

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

(n) Discrimination. No action shall at any time be taken by the Association or its Board which in any manner would discriminate against any Unit owner in favor of another.

(o) Architectural Control. No building, dock, fence, wall, sign or other structure shall be commenced, erected or maintained upon the Condominium Property, or any part thereof, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Board or its designated representative, as to lawfulness and appropriateness, and as to harmony of design, color and location in relation to surrounding structures and topography. In the event the Board, or its designated representative, fails to approve or disapprove such plans and specifications within sixty (60) days after they have been submitted to it, approval will not be required and these provisions will be deemed to have been fully complied with. The provisions of this subsection shall not apply to Declarant with respect to improvements installed or to be installed by it as part of its plan for the development of the Condominium Property.

(p) Rules and Regulations. In addition to adopting and enforcing rules and regulations in the instances specifically hereinbefore mentioned, the Board may, from time to time, adopt and enforce such further reasonable rules and regulations concerning use of the Condominium Property, or any part thereof, as it deems necessary or desirable to promote harmony, to serve the best interests of the Unit owners, as a whole, and to protect and preserve the nature of the Condominium. A copy of all rules and regulations shall be furnished by the Board to the owners of each Unit prior to the time when the same shall become effective.

(q) Disputes Between Owners. In the event of any dispute between Unit owners as to the application of the

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

(r) Harbour Master Association Restrictions. Pursuant to the provisions of the Master Declaration various restrictions and agreements were created with respect to The Harbour, of which the Condominium is a part. Use and ownership of a Unit shall be subject, in all instances, to the restrictions and agreements set forth in each of this Declaration and the Master Declaration. As an illustration, the provision of the restriction herein requiring approval of the Board of Trustees of the Association to the making of certain improvements on the Condominium Property is a requirement in addition to and not in substitution for a similar requirement for approval of such improvements by the Trustees of the Master Association.

#### ARTICLE IV

##### IMPROVEMENT DESCRIPTIONS

Section 1. Residential Building. Part of the Condominium Property consists of a three story villa type building containing a total of twenty-four (24) dwelling units. The building is of standard frame construction on a masonry block and concrete slab foundation with hip accent roof and Class A fiberglass shingles. The exterior of the building is finished with redwood siding and white trim. The street side of the building has a wood deck walkway at the second and third floor levels and a concrete sidewalk at the first floor level. The building has two concrete step stairwells and one centrally located 2500 pound capacity elevator leading to the second and third floor levels. At the rear of each dwelling unit on the first floor level is a partially enclosed patio and at the rear of each dwelling unit on the second and third floor levels is a balcony. Each dwelling unit is individually metered for gas and electricity, and water is sub-metered to each dwelling unit by the Association. There is a fire wall constructed between dwelling units, vertically, consisting of staggered studs with 5/8ths inch fire-code drywall on each side. There are horizontal separations consisting of rated wood systems with channels and 5/8ths inch fire-code drywall on the ceilings of the lower dwelling units. In addition, there is a two hour fire wall vertically separating each half of the building which consists of staggered 2 x 4 studs on 2 x 6 wood plates with two layers of 5/8ths inch fire-code drywall from the first floor up to the underside of roof sheathing. The principal materials of which this building is constructed are wood, glass, concrete, masonry block, redwood siding, asphalt shingle, and drywall. The residential building is located as shown on the Drawings.

Section 2. Other. Other improvements a part of the Condominium are walkways, an asphalt roadway and parking spaces, green and landscaped areas, a garage building, and eleven floating docks anchored to a bulkhead wall along the Pipe Creek and/or Sandusky

Bay (northeast) side of the Condominium.

Three of the floating docks, each thirty-four feet in length, extend into waters a part of Pipe Creek and/or Sandusky Bay, and thus project beyond the boundary line of the Condominium Property and are therefore, in part, not in the Condominium. The floating docks, together, provide a total of twenty-two boat docking spaces (Boat Spaces), each of which will accommodate a boat of typical profile up to thirty-five feet in length. As a consequence of three of the docks projecting beyond the boundary line of the Condominium four of the boat docking spaces are situated primarily outside of the Condominium and three of the boat docking spaces may not accommodate, within the Condominium Property itself, boats of fully thirty-five feet in length.

The garage building is a one-story building of wood stud construction built with an asphalt floor with concrete footers, and has horizontal cedar siding, cedar trim, and an asphalt roof. The garage building contains eight separately enclosed parking spaces (Garage Spaces).

Other than the access to the water from the Condominium Property, and the boat docks, there are no recreation facilities a part of the Condominium, but there are various recreation facilities a part of The Harbour and available for use by Unit owners.

#### ARTICLE V

##### UNITS

Section 1. Unit Designations. Each of the twenty-four (24) dwelling units, each of which is called a "Unit", is designated by a three digit number on the Drawings where that Unit is located. Information concerning the Units, with a listing of proper Unit designations, is shown on the attached "Exhibit B". The location and designation of each Unit is also shown on the plot plan attached hereto as "Exhibit C". The Boat Spaces and Garage Spaces are not Units but are Limited Common Areas.

##### Section 2. Composition of Units.

(a) Unit Composition. Each Unit constitutes a single freehold estate and consists of the space in the building designated by that Unit's designation on the Drawings that is bounded by the undecorated interior surfaces of the perimeter walls, the unfinished surface of the floor, and the unfinished interior surface of the ceiling, all projected, if necessary by reason of structural divisions such as interior walls and partitions, to constitute a complete enclosure of space, and all improvements within that space. Without limiting the generality of the foregoing, or, as appropriate, in addition, each Unit shall include:

- (1) the decorated surfaces, including paint, lacquer, varnish, wall covering, tile and other finishing material applied to floors, ceilings, and interior and perimeter walls, carpeting, if any, and also the floors and ceilings themselves, and the dry-wall, paneling and other finishing wall material;
- (2) all windows, screens and doors, including storm doors and windows, if any, and the frames, sashes and jambs, and the hardware therefor;
- (3) all fixtures and appliances installed for the exclusive use of that Unit, commencing at the point of disconnection from the structural body of

the building and from utility pipes, lines or systems serving the entire building or more than one Unit thereof, including, without limiting the generality hereof, built-in cabinets, dishwashers, garbage disposal units, refrigerators, stoves and hoods, television antennas and cables, furnaces, hot water heaters, heat pumps, air-conditioning units (even though located outside the bounds of a Unit), and components of the foregoing, if any;

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

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

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

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

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

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

(1) any supporting element of the building contained in interior walls;

(2) all plumbing, electric, heating, cooling and other utility or service lines, pipes, sump pumps and accessories thereto, wires, ducts and conduits which serve any other Unit; and

(3) fireplace stacks and chimneys, if any.

(b) Unit Types, Sizes, Locations and Components. There are four types of Units in the Condominium, Type A, B, C, and D. The Type B Unit is identical to the Type A Unit except that it has a reverse floor plan, while the Type D Unit is identical to the Type C Unit except that it has a reverse floor plan. The composition of each type of Unit, including the approximate interior area and the rooms in each type, is described on the attached Exhibit B. The type of each Unit as well as the floor on which it is located are also shown on Exhibit B. The location, dimensions, type and composition of each Unit are also shown on the Drawings. Each Unit has direct access to a Common Area, which leads directly to Marina Point Drive, a roadway over which each Unit and its owners and occupants have a permanent easement for ingress and egress, and which, in turn, leads to Harbour Parkway, a public street.

## ARTICLE VI

### COMMON AND LIMITED COMMON AREAS

Section 1. Common Areas - Description. All of the Condominium Property, including all of the land and all improvements

thereon and appurtenances thereto, except those portions labeled or described herein or on the Drawings as a part of a Unit, are Common Areas.

Section 2. Limited Common Areas - Description. Those portions of the Common Areas that are labeled or designated "LCA" or "limited common areas" on the Drawings, or hereinafter described, are Limited Common Areas, and consist of the following:

(a) Patios and Balconies. Each Unit on the first level has an appurtenant patio and each Unit on the second and third levels has an appurtenant balcony. At one end of each balcony and patio is an enclosed storage room with an entryway door. The space within each such patio, balcony and storage room is a Limited Common Area reserved for the exclusive use of the owners and occupants of the Unit contiguous thereto and which was designed to be served thereby, and is so designated on the Drawings.

(b) Boat Spaces. Along the eleven (11) docks on the northeast or water side of the Condominium are twenty-two (22) spaces of water adjacent to the docks, the Boat Spaces. These Boat Spaces are Limited Common Areas, and are designated on the Drawings by the prefix "B.S." and by a suffix of the numbers 1 through 22, inclusive. An illustration of a designation of a Boat Space is "B.S. 15".

The exclusive and permanent use of a Boat Space will be transferred by Declarant to Unit purchasers as Units are transferred by it. Upon a Unit purchaser acquiring the exclusive and permanent right to use a specified Boat Space, use of that Boat Space and the appurtenant area in the Dock Facilities shall be permanently and exclusively reserved to that purchasing Unit owner and occupants of that Unit, and to the successor owners of that Unit and its occupants, provided the owner of that Unit shall have the right to rent or lease the same on the terms and conditions hereinafter set forth. Declarant reserves the right to sell and assign the right to the exclusive use of a Boat Space to Unit owners on a first come, first reserved basis.

In the event all Units are sold and any Boat Space has not been assigned by Declarant, it or they will forthwith after the closing of the sale by Declarant of the last remaining unsold Unit, be assigned by it to the Association, without charge, whose Board shall thereafter have the right to sell and assign the permanent and exclusive right to use of that Boat Space, and use of the appurtenant area in the Dock Facilities, to a Unit owner and the occupants of that Unit, or to lease the same to a Unit owner or occupant, or to make the same available to all Unit owners and occupants on such terms and conditions as the Board may from time to time determine. In the event use of a Boat Space vests in the Association, no Unit owner or occupant shall have any right to the use thereof, unless specifically authorized by the Board.

The holding of the right to the exclusive use of a Boat Space includes and encompasses all riparian and littoral rights in the shore and portion of Pipe Creek and/or Sandusky Bay which are contiguous to that Boat Space.



Neither Declarant nor the Association, nor the directors, trustees, officers, employees or agents of either, shall be liable at any time for any loss of or damage occurring to any boat owned or used by any Unit owner or occupant or to the hull, rig, engines, contents, equipment or other appurtenances caused by flood, wind, ice, rain, snow, tornado, fire, theft, vandalism, pilferage or any other cause whatsoever.

(c) Garage Spaces. There are eight separately partitioned parking spaces in the garage building. These parking spaces, the Garage Spaces, are Limited Common Areas and are designated on the Drawings by the prefix "G.S." and by a suffix of the numbers 1 through 8, inclusive. An illustration of a designation of a Garage Space is "G.S. 6".

The exclusive and permanent use of a Garage Space will be transferred by Declarant to Unit purchasers as Units are transferred by it. Upon a Unit purchaser acquiring the exclusive and permanent right to use a specified Garage Space, use of that Garage Space shall be permanently and exclusively reserved to that purchasing Unit owner and occupants of that Unit, and to the successor owners of that Unit and its occupants, provided, the owner of that Unit shall have the right to rent or lease the same on the terms and subject to the conditions hereinafter set forth. Declarant reserves the right to sell and assign the right to the exclusive use of a Garage Space to Unit owners on a first come, first reserved basis.

In the event all Units are sold and any Garage Space has not been assigned by Declarant, it or they will forthwith after the closing of the sale by Declarant of the last remaining unsold Unit, be assigned by it to the Association, without charge, whose Board shall thereafter have the right to sell and assign the permanent and exclusive right to use of that Garage Space to a Unit owner and the occupants of that Unit, or to lease the same to a Unit owner or occupant. In the event use of a Garage Space vests in the Association, no Unit owner or occupant shall have any right to the use thereof unless specifically authorized by the Board.

(d) Transfers. Once use of a Boat Space or Garage Space has been transferred by Declarant to other than the Association, or by the Association to a Unit owner, that Boat Space or Garage Space shall thereafter and permanently be appurtenant, as a Limited Common Area, to the Unit owned by such transferee, and the exclusive right to the use of the same shall automatically vest in the owner or owners of that Unit, from time to time, immediately upon the transfer, whether or not the transfer is set forth in the instrument of conveyance of that Unit or any other document, or otherwise.

(e) Records. The Association shall at all times maintain a permanent record of the Units to which Boat Spaces and Garage Spaces are appurtenant.

Section 3. Undivided Interest. The undivided interest in the Common Areas of each Unit is shown on the attached Exhibit B, and, in each case, is based on each Unit having an equal par

value of one, but adjusting the undivided interests of Units by one-thousandth, in order to have the undivided interests total precisely 100.000%. It has been determined by Declarant that these assignments are appropriate since the estimated replacement cost of each Unit is the same. The Common Areas shall be owned by the Unit owners as tenants in common, and ownership thereof shall remain undivided. No Unit owner may waive or release any rights in the Common Areas. Further, the undivided interest in the Common Areas of a Unit shall not be separated from the Unit to which it appertains.

## ARTICLE VII

### UNIT OWNERS' ASSOCIATION

Section 1. Establishment of Association. The Association has been formed to be and to serve as the Unit owners' association of the Condominium. The Declarant is presently the sole member of the Association.

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

Section 3. Voting Rights. Each Unit owner shall be entitled to one vote for each Unit owned in fee simple, and a proportionate part of a vote for ownership of an undivided fee simple interest in a Unit, provided, that unless timely challenged by an owner of a fee simple interest in a Unit, any owner of a fee simple interest in that Unit may cast the entire vote with respect to that Unit.

Section 4. Board of Trustees. The Board initially shall be those three persons named as the initial Trustees pursuant to the provisions of the Articles, or such other person or persons as may from time to time be substituted by Declarant. No later than the time that Units to which 25% of the undivided interests in the Common Areas appertain have been sold and conveyed by the Declarant, the Unit Owners shall meet, and the Unit owners other than the Declarant shall elect one Trustee at such meeting to replace whichever Trustee Declarant designates.

Within thirty days after the earlier of (a) three years from the date of the establishment of the Association, and (b) the sale and conveyance, to purchasers in good faith and for value, of Units to which 75% of the undivided interests in the Common Areas appertain, the Association shall meet and all Unit owners, including the Declarant, shall elect three Trustees to replace all of those Trustees earlier elected or designated by the Unit owners or Declarant, respectively. The terms of the three trustees shall be staggered so that the term of one of the Trustees will expire and a successor be elected at each annual meeting of the Association. Thereafter, at such annual meetings, a successor to the Trustee whose term then expires shall be elected to serve a three-year term. Notwithstanding the foregoing, the members, by the vote of members exercising not less than a majority of the voting power of members, may, from time to time, change the number and terms of Trustees,

provided, that in any such event the terms of not less than one-third of the Trustees shall expire annually.

Notwithstanding the foregoing, Declarant shall have the right at any time to waive its right to select one or more Trustees or to vote in an election of Trustees.

Section 5. Authority. The Board shall have all authority, under law, and under the provisions of the Condominium organizational documents, that is not specifically and exclusively reserved to the Unit owners by law or by other provisions thereof, or that is not exclusively vested in the Harbour Master Association pursuant to the Master Declaration, to administer the Condominium Property and the Association's affairs.

Section 6. Delegation of Authority; Professional Management. The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense, provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty (30) days' written notice; shall be terminable by either party, without penalty, on ninety (90) days' written notice; shall not exceed one year unless renewed by agreement of the parties for successive one-year periods; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing. Subject to the foregoing, nothing contained herein shall preclude Declarant, or any other entity designated by Declarant, from being employed as managing agent. The managing agent, or the Board, if there is no managing agent, shall have the authority to enter into contracts with Declarant or an affiliate of Declarant, as defined by an institutional first mortgagee or an agency or organization which purchases or insures first mortgages, for goods, services, or for any other thing, including, without limiting the generality of the foregoing, contracts for the providing of management, maintenance, and repair services, provided the same are bona fide and commercially reasonable to the Unit owners at the time entered into under the circumstances then prevailing and are terminable by the Association, without cause and without penalty, on ninety (90) days' written notice. Nothing contained herein shall abridge or impair the right and authority of the Harbour Master Association to exercise those rights and fulfill those responsibilities vested in or imposed upon it pursuant to the provisions of the Master Declaration.

## ARTICLE VIII

### AGENT FOR SERVICE

The name of the person to receive service of process for the Association, and that person's residence or place of business, which is in Erie County, Ohio, where the Condominium is situated, is:

Robert D. Ransom  
2001 Cleveland Road  
Sandusky, Ohio 44870

In the event this individual for any reason ceases to be registered with the Secretary of State of Ohio as Statutory Agent for

the Association, the person so registered shall be the person to receive service of process for the Association.

## ARTICLE IX

### MAINTENANCE AND REPAIR

Section 1. Association Responsibility. Except as hereinafter provided, the Association, to the extent funds are available for the same, shall maintain and repair the Common Areas, including the Limited Common Areas, and including but not limited to utility facilities serving more than one Unit, utility lines in the Common Areas, fireplace stacks, liners and chimneys, and the structural portions and exterior portions of all buildings which are a part of the Common Areas and that do not constitute part of a Unit. Notwithstanding the foregoing, the Harbour Master Association has responsibility, among other things, to maintain the seawalls and shoreline, canals and channels, streets, drives, and parking areas, lawns, shrubs, trees and other landscaping in the The Harbour, including the mowing of all green areas and snowplowing, and, accordingly, even though some of these items are in and a part of the Condominium Property, the Association shall not fulfill these responsibilities or perform these functions unless the Harbour Master Association fails to do so.

In addition, the Association shall repair and maintain the Dock Facilities and the Garage Facilities, but the cost thereof, in the case of the Dock Facilities, shall be equally apportioned among the Units to which the Dock Spaces are appurtenant, and, in the case of the Garage Spaces, shall be equally apportioned among the Units to which the Garage Spaces are appurtenant, and charged and assessed against those Units and the owners thereof as special individual Unit assessments pursuant to the provisions of Article XV hereof. In the cases of Dock Spaces and Garage Spaces assigned to the Association, the Association shall bear such costs in the proportion, in each such case, that the spaces assigned to the Association is to the total number of such spaces.

Section 2. Individual Responsibility. Each Unit owner shall repair and maintain the Unit or Units, and all components thereof, owned by that Unit owner, and perform cleaning, housekeeping, and routine maintenance with respect to Limited Common Areas appurtenant to that owner's Unit. Without limiting the generality of the foregoing, this repair and maintenance responsibility of a Unit owner shall include repair, maintenance and replacement of all windows, screens and doors, including the frames, sashes and jams, and the hardware therefor, exclusively serving that Unit. In the event a Unit owner shall fail to make such repair or perform such maintenance, or in the event the need for maintenance or repair of any part of the Common Areas or Limited Common Areas is caused by the negligent or intentional act of any Unit owner or occupant, or is as a result of the failure of any Unit owner or his, her or its predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law, the Association may perform the same, and if the cost of such repair or maintenance is not covered by insurance, the cost thereof shall constitute a special individual Unit assessment, as hereinafter defined, on the Unit owned by such Unit owner. The determination that such maintenance or repair is necessary, or has been so caused, shall be made by the Board.

## ARTICLE X

UTILITY SERVICES

Each Unit owner by acceptance of a deed to a Unit agrees to pay for utility services separately metered or separately charged by the utility company to that Unit, and to reimburse the Association for that owner's Unit's share of any utility cost that the Board reasonably determines is attributable to use by that owner's Unit. To the extent reasonably possible, utilities serving the Boat Spaces and Garage Spaces will be allocated, charged and assessed in the same manner as previously described with respect to the allocation and assessment of repair and maintenance expenses of Dock Facilities and Garage Facilities. All other utility costs shall be common expenses and paid by the Association.

## ARTICLE XI

INSURANCE; LOSSES BONDS

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

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

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

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

(d) shall be written in the name of the Association for the use and benefit of the Unit owners, or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit owners;

(e) shall contain or have attached the standard mortgagee clause commonly accepted by institutional first mortgage holders, insurers, and guarantors, which (i) must provide that the carrier shall notify the named insured and each first mortgagee named in the mortgage clause at least ten days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy, and (ii) must be endorsed to provide that any loss shall be paid to the Association (or its insurance trustee), as a trustee for each Unit owner and each such Unit owner's mortgagee, and, unless otherwise prohibited by a nationally recognized institutional first mortgage holder, insurer, or guarantor, to the holders of first mortgages on Units;

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

(g) shall be paid for by the Association, as a common expense; and

(h) unless otherwise determined by the Board, shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Trustees, and all Unit owners.

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

Section 3. Fidelity Bond. The Board shall obtain and maintain at the Association's cost and as a common expense, a fidelity bond providing coverage for the Association against dishonest acts on the part of directors, managers, trustees, employees, agents, or volunteers responsible for or handling funds belonging to or administered by the Association. The fidelity bond must name the Association as the named obligee or insured and shall be written in an amount sufficient to provide protection, which is in no event less than the greater of (a) an amount equal to the Association's reserve funds plus three months' assessments on all Units, and (b) the maximum amount that will be in the custody of the Association or its managing agent at any time while the bond is in force. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The bond or policy shall provide that it shall not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten days' prior written notice to the Association, and any insurance trustee, and any servicer on behalf of any holder, guarantor or insurer of any mortgage on a Unit who requires such rights.

Any management agent that handles funds of the Association shall maintain a fidelity bond providing coverage no less than that required of the Association, which bond names the Association as an additional obligee.

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

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

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

Section 7. Unit Owners' Insurance. Any Unit owner or occupant may carry such insurance in addition to that provided by the Association pursuant hereto as that Unit owner or occupant may determine, subject to the provisions hereof, and provided that no Unit owner or occupant may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried pursuant hereto by the Association. In the event any Unit owner or occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit owner who acquired or whose occupant acquired such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss of proceeds. Without limiting the foregoing, a Unit owner or occupant may obtain insurance against liability for events occurring within a Unit, losses with respect to personal property and furnishings, and losses to improvements owned by the Unit owner or occupant, provided that if the Association obtains insurance for permanent improvements and built-in fixtures and equipment, then the insurance obtained by the Unit owner with respect to improvements within the Unit shall be limited to the type and nature of coverage commonly referred to as "tenants' improvements and betterments". All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and Trustees, and all other Unit owners and occupants.

Section 8. Sufficient Insurance. In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall be used in payment therefor; provided, however, that in the event that within sixty (60) days after such damage or destruction the Unit owners and eligible holders of first mortgages, if they are entitled to do so pursuant to the provisions of this Declaration, shall elect to terminate the Condominium, then such repair, restoration or reconstruction shall not be undertaken.

Section 9. Insufficient Insurance. In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless the Unit owners and eligible holders of first mortgages if they are entitled to do so pursuant to the provisions of this Declaration shall elect within sixty (60) days after such damage or destruction not to make such repair, restoration or reconstruction, the Association shall make repairs, restoration or reconstruction of the Common Areas so damaged or destroyed at the expense (to the extent not covered by insurance) of all Unit owners in proportion to their respective undivided interests in the Common Areas, provided that the cost of repair, restoration or reconstruction of the Dock Facilities and the Garage Facilities (to the extent not covered by insurance) shall be apportioned, charged, and assessed against the Units to which such Boat Spaces and Garage Spaces are appurtenant on the same basis and in the same manner as provided herein with respect to costs to repair and maintain those facilities. Should any Unit owner refuse or fail after reasonable notice to pay that Unit owner's share of such cost in excess of available insurance proceeds, the amount so advanced by the Association shall be assessed against the Unit of such Unit owner and that



assessment shall have the same force and effect, and, if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments.

## ARTICLE XII

### DAMAGE; RESTORATION; REHABILITATION AND RENEWAL

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

Section 2. Election Not to Restore. The Association may, with the consent of Unit owners entitled to exercise not less than eighty percent (80%) of the voting power of Unit owners, and the consent of eligible holders of first mortgage liens hereinafter provided, determine not to repair or restore such damage or destruction, or reconstruct such Unit or Units. In such an event, all of the Condominium Property shall be sold as upon partition. In the event of such an election not to repair or restore substantial damage or destruction or reconstruct such Unit or Units, the net proceeds of insurance paid by reason of such damage or destruction, or the net amount of any award or proceeds of settlement arising from such proceedings, shall be added to the proceeds received from the sale as upon partition, and the total amount distributed among the owners of the Units, and the holders of their respective first mortgage liens, (as their interests may appear), in the proportions of their undivided interests in the Common Areas, provided, that the portion of such net proceeds allocable to the Dock Facilities and the Garage Facilities shall be allocated, apportioned and distributed among the Unit owners of the Units to which the Dock Spaces and Garage Spaces are appurtenant on the same basis, and in the same manner as provided herein with respect to costs to repair and maintain those facilities.

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

## ARTICLE XIII

### CONDEMNATION

Section 1. Standing. Except as hereinafter provided, the Association, or its designated representative, or authorized successor, as trustee, shall represent the Unit owners in any condemnation or eminent domain proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of all or any part of the Condominium Property, and shall have the sole and exclusive right to settle losses with the condemning authority and to receive the award or proceeds of settlement, for the use and benefit of the Unit owners and

their mortgagees as their interests may appear. Notwithstanding the foregoing, in the event that a Unit owner may lawfully separately pursue and realize upon a claim for incidental and consequential losses or damage to that Unit owner resulting from a taking under the power of eminent domain, such as for relocation and moving expenses, loss of favorable mortgage terms, and other such individual incidental or consequential losses, that Unit owner may, at his, her or its election, separately pursue such claim, provided, that the pursuing of the same, or the realization of an award thereof, neither jeopardizes, in any way, an action by the Association to recoup the losses incurred by it, any other Unit owner, or the direct loss with respect to the Unit itself, or with regard to the useability thereof, nor diminishes any award for any such loss.

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

Section 3. Insufficient Proceeds. If the award or proceeds are insufficient for such purpose, the excess cost shall be paid by the Association and, to the extent funds of the Association are insufficient therefor, in the judgment of the Board, such excess cost shall be a common expense and assessed among the Units in the same manner as special assessments for capital improvements are assessed, provided that to the extent that such excess cost is attributable to restoring or replacing the Dock Facilities or the Garage Facilities, the excess cost shall be apportioned, charged, and assessed against the Units to which the Boat Spaces and Garage Spaces are appurtenant on the same basis and in the same manner as provided herein with respect to costs to repair and maintain those facilities. Except as hereinafter provided, the balance of any such award or proceeds of settlement, if there is an excess, shall be allocated and disbursed to the Unit owners, and their first mortgagees, as their interests may appear, in proportion to the relative undivided interests of the Units in the Common Areas.

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

allocated among all other Units, since each Unit prior thereto had an equal vote, and (b) the undivided interest of that Unit will be reallocated among all other Units in the proportions of their relative undivided interests prior to such taking.

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

#### ARTICLE XIV

##### GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS

Section 1. Easements of Enjoyment; Limitations. Every Unit owner shall have a right and easement of enjoyment in, over and upon the Common Areas and an unrestricted right of access to and from his, her or its Unit, and to ingress and egress over and upon all common properties of The Harbour, which rights and easements shall be appurtenant to and shall pass with the title to a Unit, subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Areas and the Limited Common Areas, provided that no such rule or regulation shall limit or prohibit the right of ingress and egress to a Unit, or any part thereof, or to that Unit's parking facilities. Any Unit owner may delegate that Unit owner's right of enjoyment to the Common Areas and to ingress and egress to the occupants of that owner's Unit.

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

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

Section 4. Easement for Support. Every portion of a building or utility line or any improvement on any portion of the Condominium

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

Section 5. Easements for Utilities. Easements to the Association shall exist upon, over and under all of the Condominium Property for ingress to and egress from, and the installation, replacing, repairing and maintaining of, all utilities, including, but not limited to water, sewer, gas, telephone, electricity, security systems, master television antennas and cable television. By these easements it shall be expressly permissible for the Association to grant to the providing companies permission to construct and maintain the necessary poles and equipment, wires, circuits and conduits on, above, across and under the Condominium Property, so long as such poles, equipment, wires, circuits and conduits do not unreasonably interfere with the use and enjoyment of the Condominium Property. Should any company furnishing a service request a specific easement by separate recordable document, the Board shall have the right to grant such easement without conflicting with the terms hereof.

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

Section 7. Easements Reserved to Declarant. Non-exclusive easements are hereby reserved to Declarant, its successors and assigns, over and upon the Common Areas and Limited Common Areas (a) for a one year period of time from the date of the closing by Declarant of the first sale of a Unit to a bona fide purchaser, for access for and for the purpose of completing improvements for which provision is made in this Declaration, provided that such right of access shall be to the extent, but only to the extent, that access thereto is not otherwise reasonably available, (b) for the periods provided for warranties hereunder, or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with Unit purchasers, and (c) for the initial sales and rental period, but for no longer than the earlier of (i) two years from the time of the closing of the first sale of a Unit to a bona fide purchaser, and (ii) the time when Declarant has closed the sale of seventy-five percent (75%) of the Units in the Condominium to bona fide purchasers, to maintain one or more Units and appurtenances thereto for sales and management offices and for storage and maintenance, and model Units, parking areas for sales and rental purposes, and advertising signs.

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

Section 9. General. The easements and grants provided herein shall in no way affect any other recorded grant or easement.

Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said rights or easements but the same shall be deemed or encumbered along with the Unit.

ARTICLE XV

ASSESSMENTS AND ASSESSMENT LIENS

Section 1. Types of Assessments. The Declarant for each Unit within the Condominium hereby covenants and agrees, and each Unit owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to pay to the Association: (1) annual operating assessments, (2) special assessments for capital improvements, and (3) special individual Unit assessments, all of such assessments to be established and collected as hereinafter provided.

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

Section 3. Elements-Apportionment: Due Dates.

(a) Annual Operating Assessments.

(1) Prior to the time any Unit owner other than Declarant is to be charged assessments by the Association, and prior to the beginning of each fiscal year of the Association after the period for which the first assessments are levied, the Board shall estimate, and prorate among all Units on the basis of the undivided interest of each Unit in the Common Areas, common expenses of the Association consisting of the following:

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

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

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

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

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

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

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

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

(4) If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units on the same basis as heretofore set forth, provided, that if common expenses are incurred by the Association prior to the time the Association commences to levy assessments against the Units, Declarant shall pay the same (subject to its right, if any, to reimbursement from Unit purchasers contained in individual contracts for the sale of a Unit or Units).

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

(b) Special Assessments for Capital Improvements.

(1) In addition to the annual operating assessments, the Board may levy, in any fiscal year, special assessments to construct, reconstruct or replace capital improvements on the Common Areas to the extent that reserves therefor are insufficient, provided that new capital improvements not replacing existing improvements shall not be constructed nor funds assessed therefor, if the cost thereof in any fiscal year would exceed an amount equal to five

percent (5%) of that fiscal year's budget, without the prior consent of Unit owners exercising no less than seventy-five percent (75%) of the voting power of Unit owners and the consent of eligible holders of first mortgages hereinafter provided.

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

(c) Special Individual Unit Assessments. The Board shall levy assessments against an individual Unit, or Units, to reimburse the Association for those costs incurred in connection with that Unit or Units properly chargeable by the terms hereof to a particular Unit (such as, but not limited to, the cost of making repairs the responsibility of a Unit owner, a Unit owner's enforcement and arbitration charges and the charges applicable to a Unit with respect to its appurtenant Boat Space and/or Garage Space). Any such assessment shall become due and payable on such date as the Board determines, and gives written notice to the Unit owners subject thereto. Additionally, during the first years of the Condominium's existence, and until such time as real estate taxes and assessments are split into separate tax bills for each Unit, the Association shall have the right to pay the real estate taxes and assessments attributable to the Condominium Property in the event the same have not been paid, when due, and assess each Unit owner for his, her or its share of such real estate taxes and assessments as a special individual Unit assessment. The share of those taxes and assessments attributable to a Unit shall be computed by multiplying the total taxes and assessments for all of the Condominium Property by the undivided interest in Common Areas attributable to that Unit. The calculation by the Association of the Units' shares of taxes and assessments shall be binding upon all Unit owners.

Section 4. Effective Date of Assessment. Any assessment created pursuant hereto shall be effective, provided it is created as provided herein, if written notice of the amount thereof is sent by the Board to the Unit owner subject thereto at least ten (10) days prior to the due date thereof, or the due date of the first installment thereof, if to be paid in installments. Written notice mailed or delivered to a Unit owner's Unit shall constitute notice to that Unit owner, unless the Unit owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address shall constitute notice to that Unit owner.

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

(a) If any assessment or any installment of any assessment is not paid within ten (10) days after the same has become due, the Board, at its option, without demand or notice, may (i) declare the entire unpaid balance of the assessment immediately due and payable, (ii) charge interest on the entire unpaid balance (or on an overdue installment, alone, if it hasn't exercised its option to declare the entire unpaid balance due and payable), at the highest rate of interest then permitted

by law, or at such lower rate as the Board may from time to time determine, and (iii) charge a reasonable, uniform, late fee, as determined from time to time by the Board.

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

(c) At any time after an installment of an assessment levied pursuant hereto remains unpaid for ten (10) or more days after the same has become due and payable, a certificate of lien for all or any part of the unpaid balance of that assessment, interest, late fees, and costs, including reasonable attorney fees, may be filed with the recorder of the county in which the Condominium Property is located, pursuant to authorization given by the Board. The certificate shall contain a description of the Unit against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessments and charges, and shall be signed by the president or other chief officer of the Association.

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

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

(f) Each such assessment together with interest, late fees, and costs, including reasonable attorney fees, shall also be the joint and several personal obligation of the Unit owners who owned the Unit at the time when the assessment fell due. The obligation for delinquent assessments, interest, late charges and costs shall not be the personal obligation of that owner or owners' successors in title unless expressly assumed by the successors, provided, however, that the right of the Association to a lien against that Unit, or to foreclose any lien thereon for these delinquent assessments, interest, late charges and costs, shall not be impaired or abridged by reason of the transfer, but shall continue unaffected thereby.

(g) The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees, and costs, including reasonable attorney fees, bring an action at law against



the owner or owners personally obligated to pay the same, and an action to foreclose a lien, or any one or more of these. In any foreclosure action, the owner or owners affected shall be required to pay a reasonable rental for that Unit during the pendency of such action, and the Association as plaintiff in any such foreclosure action shall be entitled to become a purchaser at the foreclosure sale. In any such foreclosure action, interest and costs of such action (including reasonable attorneys' fees) shall be added to the amount of any such assessment, to the extent permitted by Ohio law.

(h) No owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use of the Common Areas, or any part thereof, or by abandonment of his, her or its Unit.

Section 6. Subordination of the Lien to First Mortgages.

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

Section 7. Certificate Regarding Assessments.

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

Section 8. Harbour Master Association Assessments.

The Association shall not collect assessments of the Harbour Master Association from Unit owners and shall not be responsible for paying any such assessments to the Harbour Master Association.

ARTICLE XVI

CONDOMINIUM INSTRUMENT REQUIREMENTS

Section 1. General.

The Condominium Act requires that certain information be provided in the Condominium instruments. Much of this is provided elsewhere in the Condominium organizational documents and in other documents, but in order that all such information be provided in this Declaration, various items of that information are set forth in the following sections of this article.

Section 2. Deposits.

Any deposit or down payment made in connection with a sale of a Unit by Declarant or its agent will be held in trust or escrow until delivered at the time of the closing of the sale or returned to or otherwise credited to the buyer, or forfeited to the Declarant. If, in the case of any such sale, a deposit or down payment of two thousand dollars or more is held for more than ninety (90) days, interest at the rate of at least four percent per annum for any period exceeding ninety (90)

days shall be credited to the buyer at the time of the closing of the sale or upon return or other credit made to the buyer, or added to any forfeiture to the Declarant. Deposits held in trust or escrow pursuant to sales by Declarant or its agent shall not be subject to attachment by creditors of Declarant or the buyer.

Section 3. Association Control. Except in its capacity as a Unit owner of unsold Units, the Declarant or its agent will not retain a property interest in any of the Common Areas after control of the Association is assumed by the Association, except as expressly provided herein. The owners of Units that have been sold by the Declarant or its agent will assume control of the Association and the Common Areas, as elsewhere provided herein, in compliance with the requirements of the Condominium Act. Neither the Association nor the Unit owners will be subject to any management contract or agreement executed prior to the assumption of control of the Association by Unit owners other than Declarant for more than one year subsequent to that assumption of control unless such a contract or agreement is renewed by a vote of the Unit owners pursuant to the provisions of the By-Laws. The foregoing, of course, does not apply to contracts that may have been entered into by Harbour Master Association affecting the Condominium Property.

Section 4. Limited Warranties. Following are the limited warranties (and limitations thereon) which the Declarant gives to the buyers of a Unit from it, which are not binding upon the Declarant nor enforceable by the buyers unless and until the sale of the Unit to the buyers is closed:

A. Units. Except as provided in subparagraph C, below, the Declarant warrants to provide and pay for the full cost of labor and materials for any repair or replacement of structural, mechanical, and other elements pertaining to the Unit, occasioned or necessitated by a defect in material or workmanship, that arise within a period of one year from the date the deed to the buyers for that Unit is filed for record.

B. Common Areas and Facilities. The Declarant warrants to provide and pay for the full cost of labor and materials for any repair or replacement of the roof and structural components, and mechanical, electrical, plumbing, and common service elements serving the Condominium as a whole, occasioned or necessitated by defects in material or workmanship, that arise within a period of two years from the date the deed is filed for record following the first sale of a unit in the Condominium to a purchaser in good faith for value.

C. Appliances, etc. In the case of ranges, refrigerators, disposals, and other appliances, if any, installed and furnished by the Declarant as part of the Unit, the Declarant assigns to the buyers all express and implied warranties of the manufacturer, and the Declarant's warranty with respect to such items is limited to the Declarant's warranty that the same have been properly installed.

D. Extended Warranties. The Declarant assigns to the buyers any warranties made to the Declarant that exceed the time periods for warranties that the Declarant has given to the buyers by this limited warranty.

E. Limitations.

(1) No responsibility is assumed for damage from any cause, whatsoever, other than to repair or replace, at the Declarant's cost, items containing defects covered by Declarant's warranty.

(2) No responsibility is assumed for consequential or incidental damage except to the extent, if any, not permitted to be excluded or limited by law.

(3) Implied warranties, if any, are limited to one year from the date on which the Unit is deeded to the buyers, except to the extent, if any, that limitation is not lawful.

(4) These written warranties are the only express warranties the Declarant gives to the buyers unless additional warranties are included in a written contract between the Declarant and the buyers.

(5) Any request for service must be sent in writing to the Declarant at such address as the Declarant may designate, from time to time, in writing to the buyers. The Declarant or the Declarant's designated representative will commence performance of the Declarant's obligations under this warranty within thirty (30) days after receipt of the buyers' request for service, and complete the same as soon as reasonably possible. All repairs and adjustments will be made Monday through Friday, 8:00 a.m. to 5:00 p.m.

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

G. Exclusive Remedies. The remedies provided in this Section 4 shall be the exclusive remedies for breach of any warranty by Declarant, and any claim for breach of warranty not made by a Unit owner or the Association within forty-eight (48) hours after the expiration of the applicable warranty period, in writing, to Declarant, delivered to its agent or its last known address, shall be deemed waived.

Section 5. Declarant's Obligations. Declarant will assume the rights and obligations of a Unit owner in its capacity as owner of Units not yet sold, including, without limitation, the obligation to pay common expenses attaching to such Units, from a date no later than that upon which common expenses are first charged with respect to any other Unit.

ARTICLE XVIII

NOTICES TO AND VOTING RIGHTS OF MORTGAGEES

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

(a) any proposed addition to, change in, or amendment of the Condominium organizational documents

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

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

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

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

liens on Units to which at least seventy-five percent (75%) of the votes subject to mortgages held by eligible holders of first mortgage liens appertain.

## ARTICLE XIX

### AMENDMENTS

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

(a) the consent of all Unit owners shall be required for any amendment effecting a change in:

(i) the boundaries of any Unit;

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

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

(iv) the fundamental purposes to which any Unit or the Common Areas are restricted;

(b) the consent of Unit owners exercising not less than eighty percent (80%) of the voting power of Unit owners shall be required to terminate the Condominium; and

(c) in any event, Declarant reserves the right and power, and each Unit owner by acceptance of a deed to a Unit is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable (except by Declarant), for a period of three (3) years from the date of the filing of the Declaration, to amend the Condominium organizational documents, to the extent necessary to conform to the requirements then governing the making of a mortgage loan or the purchase, guaranty, or insurance of mortgages by an institutional lender or an institutional guarantor or insurer of a mortgage on a Unit, provided that the appropriate percentage (as described elsewhere herein) of eligible holders of first mortgage liens is obtained, or to correct typographical errors or obvious factual errors or omissions the correction of which would not impair the interest of any Unit owner, mortgagee, insurer, or guarantor, provided, further, that if there is a Unit Owner other than the Declarant, the Declaration shall not be amended to increase the scope or the period of control of the Declarant. An eligible holder of a first mortgage on a Unit who receives a written request to approve changes, additions, or amendments that are not material, and who does not deliver or post to the requesting party a negative response within thirty (30) days, shall be deemed to have approved such request.

Section 2. Method to Amend. An amendment to this Declaration (or the Drawings or the By-Laws), adopted with the consents of Unit owners and eligible holders of first mortgages hereinbefore required, shall be executed with the same formalities as to execution as this Declaration by two officers of the Association and shall contain their certification that such amendment was duly adopted in accordance with the foregoing provisions. Any amendment adopted by the Declarant or a duly empowered successor Declarant pursuant to authority granted it pursuant to the Declaration shall be duly executed by it with the same formalities as to execution as this Declaration and shall contain the certification of such signor or signors that such amendment is made pursuant to authority vested in Declarant or any duly empowered successor Declarant by the Declaration. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the auditor and recorder of the county in which the Condominium Property is located.

## ARTICLE XX

### GENERAL PROVISIONS

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

Section 2. Actions. In addition to any other remedies provided in this Declaration, Declarant, (only with respect to those rights directly benefiting the Declarant), the Association, and each Unit owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or in the By-Laws or now or hereafter imposed by or through the Association's rules and regulations. Failure by Declarant, the Association or by any Unit owner to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge. Further, the Association and each Unit owner shall have rights of action against each other for failure to comply with the provisions of the Condominium organizational documents, rules and regulations, and applicable law, and with respect to decisions made pursuant to authority granted thereunder, and the Association shall have the right to assess reasonable charges against a Unit owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration. Notwithstanding the foregoing, in the event of any dispute between the Association and any Unit owner or occupant, other than with regard to assessments, that cannot be settled by an agreement between them, the matter shall first be submitted to arbitration in accordance with and pursuant to the arbitration law of Ohio then in effect (presently Chapter 2711 of the Revised Code of Ohio), by a single independent arbitrator selected by the Board.

Section 3. Severability. Invalidation of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions,

which provisions shall remain in full force and effect. In the event any language of this Declaration conflicts with mandatory provisions of the Condominium Act, the latter's requirements shall prevail and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall in no wise affect any other provisions of this Declaration, which provisions shall remain in full force and effect.

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

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

IN WITNESS WHEREOF, the undersigned have executed this instrument this 14<sup>th</sup> day of October, 1987.

Signed and acknowledged in the presence of:

ADMIRAL'S HARBOUR, INC.

Alvin J. Yarnall  
Mary Ann Sloan

By [Signature] President  
Robert D. Ransom, President

STATE OF OHIO  
COUNTY OF Frie, SS:

This instrument was acknowledged before me by Robert D. Ransom, the President of Admiral's Harbour, Inc., an Ohio corporation, on its behalf, this 14<sup>th</sup> day of October, 1987.

Mary Ann Sloan  
Notary Public  
My Commission Expires 7-10-89



## EXHIBIT A

DECLARATION OF CONDOMINIUM  
HARBOUR POINT CONDOMINIUMLegal Description, Condominium Property

Situated in the City of Sandusky, County of Erie and State of Ohio. Being known as part of Outlot 6 in Darling's Survey East of Sycamore line, bounded and described as follows:

Beginning at the intersection of the centerline of Causeway Drive with the centerline of the Old New York Central Pier Track right-of-way. Thence South 48°01'50" East along the centerline of the Old New York Central Pier Track right-of-way, a distance of 1286.63 feet to a point. Thence North 41°58'10" East, a distance of 913.36 feet to the principal place of beginning.

Thence North 12°52'23" West, a distance of 176.57 feet to a point.  
 Thence North 27°08'50" East, a distance of 35.93 feet to a point.  
 Thence North 63°21'15" East, a distance of 19.26 feet to a point.  
 Thence North 26°38'45" West, a distance of 13.10 feet to a point.  
 Thence North 63°21'15" East, a distance of 24.00 feet to a point.  
 Thence North 27°48'18" East, a distance of 63.05 feet to a point.  
 Thence North 38°44'10" East, a distance of 32.92 feet to a point.  
 Thence North 6°55'30" West, a distance of 16.36 feet to a point.  
 Thence South 85°56'23" East, a distance of 80.09 feet to a point.  
 Thence South 56°29'21" East, a distance of 45.86 feet to a point.  
 Thence South 45°00'00" East, a distance of 80.03 feet to a point.  
 Thence Due South, a distance of 94.50 feet to a point.  
 Thence Due East, a distance of 15.00 feet to a point.  
 Thence Due South, a distance of 119.86 feet to a point.  
 Thence South 41°58'10" West, a distance of 86.97 feet to a point.  
 Thence North 48°01'50" West, a distance of 67.00 feet to a point.  
 Thence North 74°35'44" West, a distance of 40.25 feet to a point.  
 Thence North 48°01'50" West, a distance of 60.00 feet to a point.  
 Thence South 18°25'02" West, a distance of 56.00 feet to a point.  
 Thence South 77°07'37" West, a distance of 39.50 feet to the principal place of beginning, embracing 1.6935 acres of land, but being subject to all legal highways.

Last Transfer: \_\_\_\_\_

Tax Parcel No: \_\_\_\_\_

Declarant's Mailing Address: Admiral's Harbour, Inc.  
 2001 Cleveland Road  
 Sandusky, Ohio 44870



## EXHIBIT B

DECLARATION OF CONDOMINIUM  
HARBOUR POINT CONDOMINIUMUnit Information

<u>Unit Designation</u>	<u>Type</u>	<u>Floor Location</u>	<u>Undivided Interest</u>
130	D	1st	4.166%
131	C	1st	4.166
132	B	1st	4.166
133	A	1st	4.166
134	A	1st	4.166
135	B	1st	4.166
136	C	1st	4.166
137	D	1st	4.166
138	D	2nd	4.167
139	C	2nd	4.167
140	B	2nd	4.167
141	A	2nd	4.167
142	A	2nd	4.167
143	B	2nd	4.167
144	C	2nd	4.167
145	D	2nd	4.167
146	D	3rd	4.167
147	C	3rd	4.167
148	B	3rd	4.167
149	A	3rd	4.167
150	A	3rd	4.167
151	B	3rd	4.167
152	C	3rd	4.167
153	D	3rd	4.167
		Total	<u>100.000%</u>

Unit Types

The composition of each type of Unit is as follows:

Types A and B: Contain a total of approximately 1305 "gross interior square feet," which means the area of space that constitutes a Unit, and is measured from the undecorated interior surfaces of exterior walls inward, and includes space occupied by interior partitions. Each Unit of these types is a one-level Unit which contains an entry foyer, kitchen, a living room/dining room, a family room, a master bedroom with dressing area and walk-in closet and bath, a guest bedroom with an adjacent full bath/dressing area and a linen closet, and an enclosed utility room piped for washer/dryer with a connecting storage room. Each Unit has as an appurtenant Limited Common Area the exclusive use of a 10 square foot enclosed outdoor storage area and a 124 square foot patio space (Units at the first floor level) or balcony (Units at the second and third floor levels).

Types C and D: Contain a total of approximately 1312 gross interior square feet. Each Unit of these types is a one-level Unit which contains an entry foyer, kitchen

## EXHIBIT B

DECLARATION OF CONDOMINIUM  
HARBOUR POINT CONDOMINIUMUnit Information

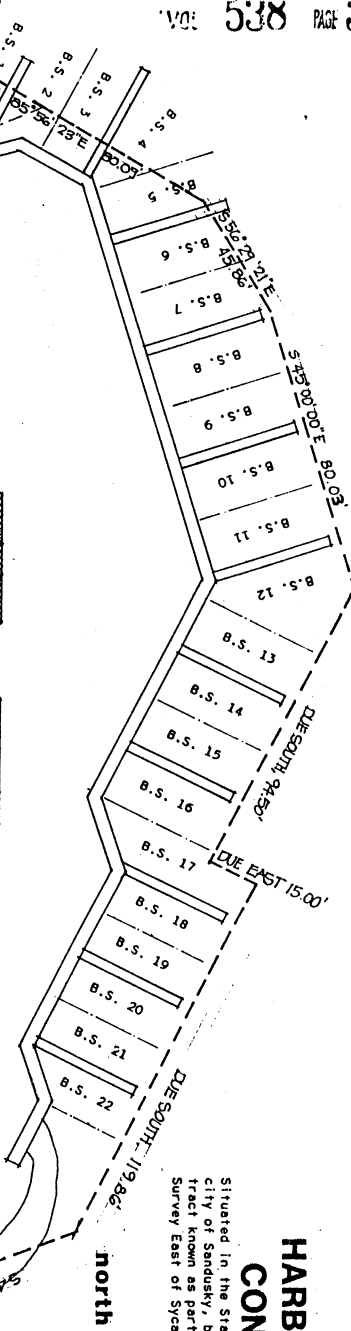
with appliances, a living room/dining room, a family room, a master bedroom with dressing area and walk-in closet and bath, a guest bedroom with an adjacent full bath/dressing area and linen closet, and a storage room and a connecting utility room piped for washer/dryer. Each Unit has as an appurtenant Limited Common Area the exclusive use of a 13 square foot enclosed outdoor storage area and a 141 square foot patio space (Units at the first floor level) or balcony (Units at the second and third floor levels).

In addition each Unit is flued for installation of a fireplace in the living room, and has an exterior air-conditioning compressor located on the ground at the water side of the building.

# EXHIBIT "C" DECLARATION OF CONDOMINIUM

## HARBOUR POINT CONDOMINIUM

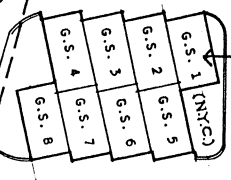
Situated in the State of Ohio, County of Erie, City of Sandusky, being part of that 1.6935 acre tract known as part of outlot 6 in Declaring's Survey, East of Sycamore line.



### NOTES

1. Limited Common Area
2. Areas labeled B.S. and G.S. are respectively, boat spaces and garage spaces, which are limited common areas.
3. All areas not designated as limited common area or by a 3 digit unit designation are common areas.
4. The acreage in the condominium is 1.6935 acres.
5. (N.Y.C.) = not yet completed
6. Legend in parenthesis, designates location of unit:
  - (1) designates unit on 1st floor
  - (2) designates unit on 2nd floor
  - (3) designates unit on 3rd floor

NOT YET COMPLETED



### PLOT PLAN

1" = 30'-0"

CONDOMINIUM PROPERTY



**john mckay & associates a.i.a.**  
 architects planners interiors  
 17 e. brickel street  
 columbus, ohio 43215