

44P
on
6TC

Tax ID Nos. (previously as Tax ID Nos. 17/17/1/17, 17/17/1/18, and 17/17/1/22)

Unit A – 17/17/1/17

Unit B – 17/17/1/17-1

Unit C – 17/17/1/17-2

Unit D – 17/17/1/17-3

Common Area Units A, B, C & D – 17/17/1/17-4

Common Area Units A, B, D – 17/17/1/17-5

DECLARATION OF CONDOMINIUM

OF

PLAZA 611 CONDOMINIUM

Pursuant to the provisions of the
Pennsylvania Uniform Condominium Act,
68 Pa. C.S. Section 3101 et seq.

Date: September 19, 2016

DECLARATION OF CONDOMINIUM

ARTICLE I

SUBMISSION; DEFINED TERMS

Section 1.1. DECLARANT; PROPERTY; COUNTY; NAME. DEPG BARTONSVILLE ROUTE 611 PLAZA, L.P., a Pennsylvania limited partnership (the “**Declarant**”), owner in fee simple of certain real estate located at the intersection of Route 611 and Suburban Drive in Stroud Township (hereinafter referred to as the “**Township**”), Monroe County, Pennsylvania, as more specifically described in **Exhibit “A”** attached hereto (“**Real Estate**”), hereby submits the Real Estate, including all easements, rights, and appurtenances thereto and any improvements erected thereon to the provisions of the Pennsylvania Uniform Condominium Act, 68 Pa. C.S. Section 3101 et seq. (the “**Act**”), and hereby creates with respect to the Property a non-residential condominium, to be known as “Plaza 611 Condominium” (“**Condominium**”).

Section 1.2. EASEMENT AND RESTRICTIONS. The easements, rights and appurtenances referred to in Section 1.1 above shall be as specifically set forth in **Exhibit “B”** attached hereto.

The recital of the easements, rights, agreements and restrictions as set forth in **Exhibit “B”** hereto shall not be construed as an acknowledgment of the validity thereof, an extension thereof or a renewal thereof in the event that they, or any of them, do not affect the Real Estate or have expired or become unenforceable by their own terms or by limitation, violation or for any other reason.

Section 1.3. DEFINED TERMS. Capitalized terms not otherwise defined herein or in the Plats and Plans shall have the meaning specified or used in the Act. The following terms shall have specific meanings as follows:

A. “Annual Assessment” means a Unit’s share of the anticipated Common Expenses for each fiscal year of the Association as reflected in its budget for such year, collected in such intervals as are determined by the Association.

B. “Association” means the Unit Owners’ Association of the Condominium and shall be known as “Plaza 611 Condominium Association”.

C. **“Bylaws”** means the document providing for the governance of the Association pursuant to Section 3306 of the Act, as such document may be amended from time to time.

D. **“Common Elements”** means that part of the Property other than the Units, but specifically including all utility lines and facilities serving the Units, including, without limitation, the on-site and off-site storm water management facilities serving the Condominium as the same may be installed or removed from time to time, whether within the boundaries of the Real Estate or outside of the boundaries of the Real Estate. The portion of the road connecting relocated Wigwam Park Road and Suburban Drive, including all related curb-cuts, lighting, landscaping and other improvements, designed on the Plats and Plans as “Common Area for Units A, B, C and D”, is a Common Element allocated to all of the Units.

E. **“Common Expenses”** means expenditures made or liabilities incurred by or on behalf of the Association together with any allocation to a reserve.

F. **“Common Expense Liability”** means the liability for Common Expenses allocated to a Unit in accordance with the Act and this Declaration.

G. **“Condominium”** means the Condominium described in Section 1.1 above.

H. **“Constant Dollars”** means the value of the U.S. dollar to which such phrase refers, as adjusted from time to time. An adjustment shall occur on the 1st day of June of the sixth (6th) full calendar year following the date of this Declaration, and thereafter at five (5) year intervals. Constant Dollars shall be determined by multiplying the dollar amount to be adjusted by a fraction, the numerator of which is the Current Index Number and the denominator of which is the Base Index Number. The “Base Index Number” shall be the level of the Index for the year this Declaration commences; the “Current Index Number” shall be the level of the Index for the year preceding the adjustment year; the “Index” shall be the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor for U.S. City Average, All Items (1982-84=100), or any successor index thereto as hereinafter provided. If publication of the Index is discontinued, or if the basis of calculating the Index is materially changed, then the Executive Board shall substitute for the Index comparable statistics as computed by an agency of the United States Government or, if none, by a substantial and responsible periodical or publication of recognized authority most closely approximating the result which would have been achieved by the Index.

I. **“Declarant”** means the Declarant described in Section 1.1 above, except that any successor to such Declarant as to Special Declarant Rights shall as to such Special Declarant Rights be the “Declarant”.

J. **“Declaration”** means this document and the Plats and Plans, as the same may be amended from time to time.

K. **“Executive Board”** or **“Board”** means the Executive Board of the Association.

L. **“Identifying Number”** means the distinct number that identifies each Unit as shown on the Plats and Plans.

M. **“Limited Common Elements”** means those portions of the Common Elements designated in this Declaration, including the Plats and Plans, as being Limited Common Elements, as the same may be modified or supplemented by the Declarant’s exercise of an option to subdivide or convert any Unit into two or more Units, Limited Common Elements, or a combination Units and Limited Common Elements. Without limiting the foregoing, the following are Limited Common Elements for the benefit of the Units so indicated: (i) the portion of the driveway and road designated on the Plats and Plans as “Common Area for Units A, B and D” is a Limited Common Element allocated to Units A, B and D; (ii) the retaining wall separating Unit D from Units A and C is a Limited Common Element allocated to Units A, B and D; (iii) the free standing sign located in the area designated on the Plats and Plans as “Sign” is a Limited Common Element allocated to Units C and D (the **“Free Standing Sign”**); and (iv) the “Underground Stormwater Basin” located on Unit A and Unit B as shown on the Plats and Plans is a Limited Common Element allocated to Unit A and Unit B.

N. **“Percentage Interest”** means the percentage of the individual ownership interest in the Common Elements appurtenant to each Unit, as set forth on **Exhibit “C”** hereto and as may be adjusted from time to time.

O. “Permitted Mortgage” means any mortgage to (i) the seller of the Unit; (ii) a bank, trust company, savings bank, savings and loan association, mortgage service company, insurance company, credit union, pension fund, real estate investment trust or like institutional investor or lender; and (iii) any other mortgagee approved by the Executive Board.

P. “Permitted Mortgagee” means the holder of a Permitted Mortgage.

Q. “Plats and Plans” means the Plats and Plans attached hereto as **Exhibit “D”** and made a part hereof, as the same may be amended from time to time.

R. “Property” means the Real Estate described in Section 1.1 above.

S. “Rules and Regulations” means such rules and regulations as are promulgated by the Association from time to time with respect to various matters relating to the use of all or any portion of the Condominium, which either supplement or elaborate upon the provisions of this Declaration or the Bylaws.

T. “Special Assessment” means an individual Unit’s share of any assessment made by the Association in addition to the Annual Assessment.

U. “Unit” means a portion of the Condominium designated for separate ownership, the boundaries of which are described herein and in the Plats and Plans, including such as exist on the Real Estate and such as may hereafter be created by the Declarant’s exercise of an option to subdivide or convert any Unit into two or more Units, together with the Percentage Interest appurtenant to each Unit.

V. “Unit Building(s)” means the building(s) erected on any Unit.

W. “Unit Improvements” means the building(s) and related site improvements, such as parking areas, driveways and curb-cuts, erected or installed on any Unit.

X. “Unit Owner” or “Owner” means the Declarant or any other person who owns a Unit but excluding a person having an interest in a Unit solely as security for the performance of an obligation.

ARTICLE II
ALLOCATION OF PERCENTAGE INTERESTS AND COMMON
EXPENSE LIABILITIES; VOTING RIGHTS; UNIT BOUNDARIES;
LIMITED COMMON ELEMENTS; RESERVE COMMON ELEMENTS;
MAINTENANCE RESPONSIBILITIES.

Section 2.1. DESCRIPTION OF COMMON ELEMENTS. The Common Elements consist of all portions of the Property as so designated in Section 1.3.D. above, as the same may be amended by the Declarant's exercise of an option to subdivide or convert any Unit into two or more Units or Limited Common Elements, or a combination of Units and Limited Common Elements pursuant to Section 3.7.

Section 2.2. PERCENTAGE INTEREST. Attached hereto as **Exhibit "C"** is a list of the initial Units within the Real Estate, listed by their Identifying Numbers and the Percentage Interest in the Common Elements appurtenant to each such Unit. The Percentage Interest appurtenant to a Unit is the quotient obtained by dividing the number of gross acres in such Unit as set forth on the Plats and Plans, by the aggregate number of gross acres in all Units. The Common Expense Liability of each Unit is assessed in accordance with each Unit's Percentage Interest. If and when the Declarant exercises its option to subdivide or convert any Unit into two or more Units or Limited Common Elements, or a combination of Units and Limited Common Elements, the amendment to this Declaration as described in Section 5.2 shall show the revised Percentage Interests of all Units.

Section 2.3. ALLOCATION OF UNIT OWNERS' VOTING RIGHTS. The number of votes to which the Unit Owners in the Condominium Association are entitled shall be the Percentage Interest allocated to such Unit multiplied by 100 so that there are at all times 100 votes in the Association.

Section 2.4. UNIT BOUNDARIES.

A. The Plats and Plans show the location and dimensions of the Units comprising the Property, and which are hereby created.

B. The vertical boundaries of the Unit shall be the vertical planes, extended to intersections with each other and without any upper or lower boundaries, which vertical planes shall be located on the lines showing the dimensions and location of Units, as more particularly shown on the Plats and Plans.

C. Each Unit Owner shall have the right to construct Unit Improvements upon its Unit strictly in accordance with the provisions of this Declaration. Except as otherwise specifically set forth herein, all of the Unit Improvements constructed upon each Unit shall become part of that Unit as and when they are constructed.

D. Except as otherwise specifically set forth herein, no part of a Unit or other improvements located within a Unit by a Unit Owner shall be considered a Common Element.

Section 2.5. LIMITED COMMON ELEMENTS. Any portions of the Property expressly identified as a "Limited Common Element" on the Plats and Plans, herein or as defined in the Act are designated as Limited Common Elements.

Section 2.6. MAINTENANCE RESPONSIBILITIES.

A. Notwithstanding the ownership of various portions of the Common Elements and the Units by virtue of the boundary description set forth in this Declaration, the Units and Common Elements shall be maintained and repaired by each Unit Owner and by the Association in accordance with the provisions of Section 3307 of the Act, except as expressly set forth to the contrary herein. Without limiting the foregoing, the "Underground Stormwater Basin" located on each of Unit C and Unit D shall be included in such Units and maintained by the applicable Unit Owner. All Common Expenses associated with the maintenance, repair and replacement of a Limited Common Element shall be assessed against the Unit or Units to which such Limited Common Element was assigned at the time the expense was incurred, in the same proportions as the respective Percentage Interest of all of such Units to which such Limited Common Element was assigned at the time such expense was incurred. For example, if a Limited Common Element

benefits only two (2) units, one of whose Percentage Interest is 10% and the other of whose Percentage Interest is 20%, a Common Expense of \$100.00 will be allocated as follows: \$33.33 to the Unit with a 10% Percentage Interest ($10\%/30\% = 33.33\%$) and \$66.67 to the Unit with a 20% Percentage Interest ($20\%/30\% = 66.67\%$).

B. The Real Estate is subject to a [Cooperation Agreement] with [St. Lukes] pursuant to which the owner of the Real Estate is obligated to pay a share of the costs to maintain and operate the traffic signal at the intersection of the relocated Wigwam Park Road and Route 611 (the “**Traffic Signal Expenses**”). The Association shall be responsible for payment of the Traffic Signal Expenses and such costs shall be a Common Expense. The Real Estate is also party to an easement agreement with the neighboring property owner, DEPG Stroud Associates, L.P., which provides cross-access between the Real Estate and such property. The easement area is a Common Element and any costs in connection with such access easement shall be a Common Expense.

ARTICLE III
RESTRICTION ON USE, SALE AND LEASE OF UNITS;
RELOCATION OF UNIT BOUNDARIES; PARKING; ADJACENT PROPERTY

Section 3.1. GENERAL PROVISIONS.

A. The provisions of this Declaration are designed to create a uniform plan for the orderly development and operation of an attractive and efficient commercial complex that will facilitate adequate and convenient parking and the free flow of traffic. Accordingly, the occupancy and use of the Units and Common Elements are restricted exclusively to non-residential uses, provided that hotels and motels are expressly permitted. Subject to the restrictions set forth herein, each Unit Owner shall have the right to use its Unit for any lawful non-residential purpose permitted under the then applicable zoning code of the Township and such other applicable governmental ordinances, codes and regulations, and neither the Executive Board nor the Association shall have the right to restrict such lawful use.

B. Notwithstanding anything herein to the contrary, the following uses are prohibited at the Property: a theater of any kind; bowling alley, skating rink, amusement park, carnival or circus; meeting hall, place of instruction, sporting event or other sports facility, auditorium or any other like place of public assembly; mortuary or funeral parlor; establishment selling cars or other motor vehicles, motor vehicle maintenance or repair shop or gas station, or any establishment selling trailers; billiard parlor; tavern, pub, bar or liquor store; pawn shop; or amusement center, flea market, massage parlor, "disco" or other dance hall, tattoo or body piercing parlor; casino, gaming room, or "off track betting" operation; for the sale of paraphernalia for use with illicit drugs or for the sale of medicinal marijuana; or for the sale, rental or display of pornographic materials.

In addition, during the term of the lease with Chick-fil-A, Inc. for Unit B, (a) no portion of the Condominium other than Unit B will be leased, used or occupied as a restaurant selling or serving chicken as a principal menu item. For the purposes of this Declaration, "a restaurant selling or serving chicken as a principal menu item" means a restaurant deriving twenty-five percent (25%) or more of its gross sales from the sale of chicken, (b) no portion of the Condominium other than Unit B will be leased, used or occupied by or for any of the following uses: McDonald's, Wendy's, Arby's, Boston Market, Kentucky Fried Chicken, Popeye's, Church's, Bojangle's, Mrs. Winner's, Carl's Jr., Hardees, Chicken Out, Zaxby's, Ranch One, El Pollo Loco, Pollo Campero, Pollo Tropical, Raising Cane's, Chester's, Bush's Chicken, Biscuitville, Chicken Now, PDQ, ChikWich, or Ezell's Famous Chicken. However, the Owner of Unit A shall have the right to permit Unit A to be used as a Taco Bell restaurant as operated in the northeast region of the United States without restriction, and (c) the building on Unit A shall be no greater than 3,000 square feet of total space with a drive-thru or no greater than 3,500 square feet without a drive-thru. If

the building on Unit A is constructed without a drive-thru, no greater than 2,000 square feet of the maximum 3,500 square feet may be used for food use.

No portion of the Condominium other than Unit A shall be used for any of the following: (a) any of the following establishments expressly listed: Del Taco, Moe's, Baja Fresh, Chipotle, Qdoba, and El Limon or (b) a quick service or fast-food restaurant with a drive-through whose primary use is a Mexican-themed, Mexican-inspired or Mexican food. If a Taco Bell is not operating in Unit A for more than twelve (12) months, the restriction in this paragraph shall automatically terminate. The foregoing shall not restrict the operation of a Chick-fil-A restaurant as the same are operated by Chick-fil-A from time to time.

Section 3.2. CONSTRUCTION OF UNIT IMPROVEMENTS.

A. The Unit Owners may construct and alter any Unit Improvements on their Units so long as the same (a) do not affect any permits held by other Unit Owners, (b) comply with all applicable codes, (c) do not alter any Common Elements, (d) do not materially interfere with access between the Units, and (e) comply with the terms of this Declaration. In addition, no buildings shall be constructed outside of the building envelopes shown on the Plats and Plans. During the term of the lease with Chick-fil-A, Inc. for Unit B, no buildings or structures shall be constructed on Unit A in the area designated as "No Build Area" on the Plats and Plans.

B. All Unit Improvements, including any modifications, alterations, or additions thereto shall comply with the following criteria:

(1) All areas of a Unit not covered by a Unit Building or paving shall be landscaped and maintained by the Unit Owner, at its sole expense, in accordance with such reasonable requirements as the Executive Board may require.

(2) Storage tanks, cooling towers, transformers and other above-ground utility equipment, fire escapes, roof access ladders, structures supporting piping, conduits and other accessory structures shall be either (a) completely enclosed within a Unit Building, (b) located outside and screened, or (c) placed underground.

(3) All parking areas shall be paved in a manner and with materials consistent with all other parking areas on the Property. No Unit Owner may make any changes to its Unit that would reduce the number of parking spaces on its Unit.

(4) All utility lines and facilities shall be located underground to the extent possible.

(5) Fencing shall be permitted only to temporarily secure a staging area, secure permitted outdoor storage or in connection with design screening. All fencing on a Unit shall be constructed with materials compatible with those used in the Unit Building. All fencing must be approved by the Declarant (so long as it owns a Unit) and the Executive Board. In no event shall barriers be erected between the Units.

(6) No parking shall be permitted in any Common Element. Each Unit Owner shall be responsible for compliance with the foregoing by its employees and visitors. The location, number and size of parking spaces shall be subject to the requirements of the Township; provided that any Units A and B may satisfy any Township parking requirements by counting the parking spaces on the other Unit. In addition, during the term of the Chick-fil-A lease for Unit B, (i) if the building on Unit C contains 8,000 square feet or more, then not more than 2,000 square feet in such building may be used for restaurant purposes, and (ii) if the building on Unit C contains less than 8,000 square feet, then the Owner of Unit C shall provide not less than ten (10) parking spaces on Unit C for each 1,000 square feet of the building on Unit C dedicated to restaurant uses.

(7) Each Unit Owner shall:

- (i) Refrain from making any alteration that will violate any applicable law, ordinance or governmental rule, regulation or order;
- (ii) Expeditiously complete all alterations;
- (iii) Pay the full cost of performing all such alterations without incurring any mechanics' or materialmen's liens;
- (iv) Minimize disturbance of neighbors; and
- (v) Pay all costs and expenses incurred in connection with the preparation, review, execution and recording of any amendment to this Declaration (including the Plats and Plans), if needed, in order to reflect the condition of the Unit Improvements after the completion of such alterations, which amendment shall be in recordable form and shall be recorded by the Association in accordance with the Act.

Section 3.3. SIGNS.

A. The Unit Owners may erect and alter building signs on their Unit Improvements so long as the same comply with all applicable laws.

B. Except for the Free-Standing Sign shown on the Plats and Plans, there shall be no monument, pylon or other free-standing signs on the Real Estate without the prior written consent of the Executive Board; provided, however, directional signs (such as "enter", "exit" or similar signs) and drive-through signage on or in the immediate vicinity of a building or drive-through lane or lanes is permitted subject to compliance with all applicable laws. However, if the Free-Standing Sing has only two (2) sign panels (one for Unit C and one for Unit D, the Owner of Unit A shall have the right to seek governmental approvals to install a free standing sign on Unit A in a location, and having a size and design, reasonably acceptable to the Executive Board.

Section 3.4. RULES AND REGULATIONS. Reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Units and the Common Elements, may be promulgated from time to time by the Executive Board. All Rules

and Regulations shall be reasonably, equally and consistently applied to all of the Units. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Unit Owners by the Executive Board promptly after adoption of such Rules and Regulations or any amendments thereto.

Section 3.5. QUIET ENJOYMENT. The Common Elements shall be used only for the benefit and enjoyment of the Unit Owners and the occupants of all Units and their business invitees. No Unit Owner may carry on any practice, or permit any practice to be carried on, which unreasonably interferes with the quiet enjoyment by the occupants of any other Unit.

Section 3.6. REPAIR, CONDITION AND APPEARANCE OF UNITS. Except as herein otherwise provided, Unit Owners shall be responsible for maintaining their Units in good order, repair and attractive appearance consistent with a quality commercial complex at their own expense. The foregoing shall apply regardless of whether any business is being conducted in such Unit and shall include, without limitation, the obligation to (x) keep all access roads, parking areas, curb-cuts and sidewalks free of snow and ice, trash, debris and other obstructions; and (y) regularly mow the grass and maintain all landscaping in a neat and good condition. In the performance of its obligations hereunder, each Unit Owner shall (i) maintain or cause to be maintained the exterior of its Unit Building, including, without limitation, all loading docks, loading dock and truck wells, all outdoor sales and storage areas, and all sidewalks within or abutting its respective Unit Building, in a state of good repair (ordinary wear and tear, damage or destruction due to casualty or a taking, or sale in lieu thereof, pursuant to a power of eminent domain excepted), and free of trash and debris; (ii) maintain all other exterior portions of its Unit; and (iii) arrange for the collection of all garbage and rubbish from its Unit Building. If a Unit Owner refuses or otherwise neglects to maintain his Unit or Unit Improvements in accordance with the provisions hereof, the Executive Board shall have the right, but not the obligation, after sixty (60) days prior written notice to such Unit Owner specifying the required repairs or maintenance to be performed, to effect such repairs on behalf of such Unit

Owner and to bill such Unit Owner for the cost thereof and the same shall constitute a Special Assessment. No such notice shall be required of the Executive Board in the event of an emergency situation which jeopardizes the general safety of other Unit Owners or their business invitees.

Section 3.7. SUBDIVISION OF UNITS. Upon compliance with the requirements of Section 3215 of the Act, a Unit may be subdivided by the Declarant, without the consent or approval of the Executive Board or the Unit Owners, into two (2) or more Units, Limited Common Elements, or a combination of Units, Common Elements and Limited Common Elements.

Section 3.8. LIGHTING. Each Unit Owner shall be responsible for the maintenance, repair, replacement and operation of the lighting systems located on its Unit, and such lighting systems shall illuminate the Unit and provide a minimum illumination as set forth in the Township's code. Such responsibility shall include the maintenance and repair of all lighting facilities (including conduits and switchgear) and standards and replacement of light bulbs. Subject to compliance with applicable law, the type of lighting for each Unit shall be determined by the Owner of such Unit. Subject to the Township's code, each Unit Owner shall keep parking lot lights lit during all non-daylight hours even if a business is not being conducted on such Unit.

Section 3.9. OUTSIDE STORAGE. No outdoor storage of manufactured product, inventory or equipment not normally stored out-of-doors shall be permitted whether or not totally or partially screened, closed or otherwise segregated unless approved in writing by the Declarant (so long as it owns a Unit) and the Executive Board, and subject to such reasonable conditions as the Executive Board may impose to screen such storage from view from other Units and roads or streets.

ARTICLE IV EASEMENTS

Section 4.1. ADDITIONAL EASEMENTS. In addition to the easements provided for by Sections 3216, 3217 and 3218 of the Act, the following easements are hereby created:

A. Each Unit Owner is hereby granted an easement in common with each other Unit Owner for ingress and egress to and from the Units and any and all roads, easements or rights-of-way to which any Unit may now or in the future have access. In furtherance of the foregoing, each Unit Owner hereby grants and conveys to the other Unit Owners a perpetual, non-exclusive right and easement over the driveways and other paved areas of such Owner's Unit for pedestrian and vehicular ingress, egress and access to and from such Unit. Nothing contained in this paragraph shall in any way limit or restrict any Unit Owner from making any alterations or improvements to its Unit in accordance with this Declaration, provided such Unit Owner provides the other Unit Owners and their respective tenants, employees, agents, contractors, licensees and invitees a means of access over its Unit to roads, easements or rights-of-way.

B. The Units and Common Elements are subject to easements in favor of the Unit Owners, the Declarant, the Association and appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Section 4.1.B. shall include, without limitation, rights of the Declarant, Unit Owners, or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits and equipment, over, under, through, along and on the Common Elements. Notwithstanding the foregoing provisions of this Section 4.1.B., unless approved in writing by the Unit Owner or Unit Owners affected thereby, such easement shall be located in substantially the same location as such facilities or similar facilities are shown on the approved land development plans for the development of the Property.

C. The Association shall have an easement, on, over and under the Common Elements for the purpose of maintaining and correcting drainage of surface roof or storm water in

order to maintain reasonable standards of health, safety and appearance. The easement created by this Section 4.1.C. expressly includes the right to cut or remove any vegetation, to grade the soil, or to take any other action reasonably necessary to achieve this purpose, which does not materially interfere with the use and occupancy of the area by any Unit Owner, following which the Executive Board shall restore the affected area as closely to its original condition as practicable.

D. The Association shall have an easement over the Common Elements (including, but not limited to any Limited Common Elements) for inspection, operation, maintenance, repair, improvement and replacement of the Common Elements and for correction of emergency conditions or casualties to the Common Elements.

E. Declarant reserves an easement (until Declarant shall have satisfied all of its obligations under any Condominium Document and all commitments in favor of any Unit Owner and the Association) to use portions of the Common Elements and any Units owned by Declarant for construction related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Property.

F. During the Declarant Control Period and for a period of two (2) years thereafter, the Declarant shall have an easement through the Units for any access necessary to complete any construction to be performed by Declarant, or to satisfy any warranty obligations of Declarant.

G. The Owners of Unit A and Unit B and their respective guests, customers and invitees are hereby granted an easement for parking of passenger vehicles only in the parking areas designated from time to time on Unit A and Unit B; provided, however, neither Owner of Unit A or Unit B shall permit truck or construction vehicle parking, overnight parking, or employee parking on the other Owner's Unit. The Owners of Unit A and Unit B shall not reduce the number of parking spaces on its Unit without the prior written consent of the Owner of the other Unit. Except provided in this Section, each Owner shall park, and shall cause its agents, contractors, employees, licensee

and invitees to parking only on their respective Units. In addition, the Owners of Unit A and Unit B are hereby granted an easement to allow employees of the businesses on Unit A and Unit B to park in the parking spaces from time to time located on Unit D. Such right is for employees only, and not for contractors, customers or other invitees.

H. The Condominium is subject to any easements described in the Plats and Plans.

Section 4.2. COVENANTS RUN WITH LAND. All easements, rights and restrictions described herein are easements appurtenant, running with the Property and shall continue in full force and effect until the termination of this Declaration, as it may be amended from time to time.

ARTICLE V AMENDMENT OF DECLARATION

Section 5.1. AMENDMENT GENERALLY. Except in cases of amendments that may be executed by the Declarant under Section 3210(f) of the Act; the Association under Sections 3107 and 3215(a) of the Act; or certain Unit Owners under Sections 3209(b) and 3214(a) of the Act, this Declaration, including the Plats and Plans, may be amended only by unanimous written consent of the Unit Owners. Except as otherwise set forth herein, this Declaration may be amended only in accordance with the procedures specified in Section 3219 of the Act and the express provisions of this Declaration. No amendment may materially and adversely affect the rights or obligations of any Unit Owner without the prior written consent of such Owner. Notwithstanding any other provisions of this Declaration to the contrary, if any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provisions of the Declaration that are defective, missing or inconsistent with any other provisions thereof, then at any time and from time to time the Executive Board may affect an appropriate corrective amendment without the approval of any of the Unit Owners or the holders of any liens on all or part of the Property, upon receipt by the Executive Board of an opinion from independent legal counsel to the effect that the proposed

amendment is permitted by the terms of this sentence. Each amendment of the type described in this Section shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, which instrument has been executed and acknowledged by one or more officers of the Executive Board.

Section 5.2. AMENDMENT PROCEDURE APPLICABLE TO SUBDIVISION OF UNITS. This Declaration, upon the subdivision or conversion of any Unit pursuant to Section 3.7, shall be amended in accordance with the procedures specified in Section 3215 of the Act and the express provisions of this Declaration.

ARTICLE VI MORTGAGES AND INSURANCE

Section 6.1. PERMITTED MORTGAGES. A Unit Owner other than the Declarant may not voluntarily encumber or subject his or its Unit to any lien, other than the lien of a Permitted Mortgage. Whether or not they expressly so state, all mortgages and the obligations secured thereby shall be deemed to provide, generally, that the mortgage, and the rights and obligations of the parties thereto, shall be subject to the terms and conditions of the Act and this Declaration. No Unit Owner shall deliver any mortgage, or any obligation to be secured thereby, unless it has first notified the Executive Board of the name and address of the proposed mortgagee. The Secretary shall maintain a register of such Permitted Mortgages, showing the names and addresses of the Permitted Mortgagees. Any holder of a mortgage which is not a Permitted Mortgage or which is in conflict with the provisions of this Declaration shall not be entitled to the rights described in Section 6.3; however, the validity of the lien of such mortgage shall not be affected thereby.

Section 6.2. SUBORDINATION OF MORTGAGES TO DECLARATION. The lien of a Permitted Mortgage, whether or not the Permitted Mortgage shall expressly so state, shall be subordinate and subject to the terms and conditions of the Act and this Declaration; provided,

however, that the lien of any assessment in accordance with the Act, Declaration and Bylaws shall be subordinate and subject to the lien of a Permitted Mortgagee now or hereafter encumbering any Unit.

Section 6.3. REPORTS AND NOTICES TO PERMITTED MORTGAGEES. Upon the specific written request of a Permitted Mortgagee (or its servicer) to the Executive Board, a Permitted Mortgagee shall be entitled to receive some or all of the following as designated in the request:

A. Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Executive Board to the Unit Owner whose Unit is encumbered by the Permitted Mortgage;

B. Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Unit Owners;

C. Copies of notices of meetings of the Unit Owners and the right to designate a representative to attend such meetings;

D. Notice of the decision of the Unit Owners to make any material amendment to this Declaration;

E. Notice of substantial damage to or destruction of any part of the Common Elements (the repair of which would cost in excess of One Hundred Thousand Dollars (\$100,000.00) in Constant Dollars;

F. Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Property;

G. Notice of any violation under this Declaration by the Unit Owner whose Unit is encumbered by the Permitted Mortgage, if such violation is not cured by the Unit Owner within thirty (30) days after the giving of notice by the Association to the Unit Owner of the existence of the violation; or

H. The right to examine the books and records of the Executive Board at any reasonable time.

The request of a Permitted Mortgagee (or its servicer) shall specify which of the above items it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Executive Board. The Executive Board need not inquire into the validity of any request made by a Permitted Mortgagee hereunder. Failure to comply with the requirements set forth above shall in no way invalidate otherwise proper actions of the Association and the Executive Board.

Section 6.4. INSURANCE.

A. Each Unit Owner shall maintain fire and extended coverage insurance in amounts adequate to prevent the application of any co-insurance provisions, or if such policies do not contain co-insurance provisions, equal to the replacement cost of the Unit Improvements on or comprising its Unit. Copies of such policies shall be delivered by the Unit Owner to the Executive Board.

B. Each Unit Owner shall maintain commercial general liability insurance (or its equivalent) on its Unit with an insurer and in amounts satisfactory to the Executive Board, but not less than \$2,000,000.00 per occurrence, in Constant Dollars, for bodily injury or death and property damage, and naming the Association as an additional insured. Copies of such policies shall be delivered by the Unit Owner to the Executive Board.

C. The Association shall obtain, as a Common Expense, such types and amounts of insurance with respect to the Common Elements as it deems appropriate, but not less than \$2,000,000.00 per occurrence, in Constant Dollars, for bodily injury or death and property damage.

D. If the insurance premiums or charges for any insurance procured by the Association are increased, or established at a higher premium than would otherwise be payable, as the result of the act or omission of a particular Unit Owner or Unit Owners, the Executive Board

shall have the right, but shall have no obligation, to bill such Unit Owner or Owners the amount of the additional insurance premium or charge resulting therefrom as a Special Assessment.

E. The provisions of Section 3312 of the Act are waived in their entirety.

F. Each Unit Owner and the Executive Board hereby waives and releases any and all claims which he or it may have against any other Unit Owner, the Association, the Executive Board and members thereof, the Declarant and their respective employees and agents, for damage to the Common Elements, the Units, the Unit Improvements or to any personal property located in the Units or Common Elements, caused by fire or other casualty or any act or omission of any such party to the extent that such damage is covered, or required to be covered, by fire or any other form of hazard insurance.

G. If the act or omission of a Unit Owner, or of the servants or employees of such Unit Owner, shall cause damage to the Common Elements or to a Unit or Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then such Unit Owner causing damage or the need for repairs or replacements shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Executive Board, to the extent such payment is not waived or released under the provisions of Subparagraph F. above.

H. Any release or waiver referred to in Subparagraphs F. and G. hereof shall be valid only if such release or waiver does not affect the right of the insured under the applicable insurance policy to recover thereunder. The Unit Owners and the Executive Board, with regard to the insurance carried by each of them, shall use their commercially reasonable efforts to see that their insurance carriers agree that such release or waiver does not affect their rights to recover.

ARTICLE VII LEASING

A Unit Owner may lease or sublease his Unit, in whole or part, at any time and from time to time provided that each Unit Owner shall promptly, diligently and in good faith enforce the easements, covenants, conditions and restrictions set forth in the Declaration, Bylaws and any Rules and Regulations against any lessee or other occupant of its Unit that fails to comply therewith. The Executive Board shall have the right, but shall not be obligated, to take such action (including legal proceedings) as it deems appropriate and desirable against any Unit Owner to enforce the provisions of this Declaration, and all costs (including actual attorneys' fees) of so doing shall be charged against the Unit Owner who (or whose lessee or other occupant) has failed to fulfill the obligations imposed herein.

**ARTICLE VIII
BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT**

Section 8.1. ANNUAL BUDGET. The Executive Board shall cause to be prepared an estimated Annual Budget for each fiscal year of the Association in accordance with the provisions of the Act, Declaration and Bylaws.

Section 8.2. SPECIAL ASSESSMENTS. If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover the actual Common Expenses for such fiscal year for any reason (including, by way of illustration and not limitation, any Unit Owner's non-payment of his assessment), the Executive Board shall have the power, at any time (and from time to time) it deems necessary and proper, to levy one or more Special Assessments against the Unit Owners, assessed on the basis of each Unit's Percentage Interest, and payable as and when required by the Executive Board.

Section 8.3. MONTHLY PAYMENTS. All Common Expense assessments made in order to meet the requirements of the Association's annual budget shall be payable in monthly installments and shall be due and payable in advance on the first day of each calendar month.

Special Assessments shall be due and payable as determined by the Executive Board. Common Expense assessments not paid when due shall bear interest at the rate set forth on Section 8.10.

Section 8.4. ASSESSMENT LIENS. Common Expense assessments shall be a lien against each Unit Owner's unit in accordance with the provisions of the Act, Declaration and Bylaws. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a conveyance by him in fee of such Unit. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter for the Common Expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefor; provided, however, that any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within five (5) days following a written request therefor to the Executive Board and such purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and, provided further that, subject to Section 3315(b)(2) of the Act, each record holder of a Permitted Mortgage on a Unit who comes into possession of a Unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid assessments or charges against such Unit which accrue prior to the time such holder comes into possession thereof.

Section 8.5. SUBORDINATION OF CERTAIN CHARGES. Any fees, charges, late charges, fines and interest which may be levied by the Executive Board pursuant to Sections 3302(a)(10), (11) and (12) of the Act, shall be subordinate to the lien of a mortgage constituting a first lien on a Unit.

Section 8.6. SURPLUS. Any amounts accumulated from assessments for Common Expenses and income from the operation of the Common Elements to which such Common Expenses pertain in excess of the amount required for actual Common Expenses and reserves for future

Common Expenses shall be credited to each Unit Owner in accordance with such Unit's Percentage Interest, said credits to be applied to the next payments of Common Expenses due from said Unit Owners under the current fiscal year's budget, and thereafter, until exhausted.

Section 8.7. FAILURE TO FIX NEW ASSESSMENTS. If the Executive Board shall fail to fix new assessments for Common Expenses for the subsequent fiscal year before the expiration of any fiscal year, the Unit Owners shall continue to pay the same sums they were paying for such assessments during the fiscal year just ended and such sum shall be deemed to be the new assessments for the succeeding fiscal year. If the Executive Board shall change the assessment at a later date, such new assessment shall be treated as if it were a Special Assessment under Section 8.2 above.

Section 8.8. NO EXEMPTION BY WAIVER. No Unit Owner may exempt himself from liability with respect to the Common Expenses by waiving the right to use or enjoy any of the Common Elements or by abandoning his Unit or otherwise.

Section 8.9. ACCELERATION. After a Unit Owner is in default in the payment of the aforesaid charges or assessments for thirty (30) days, the Executive Board may, in addition to all other remedies in the Act or Declaration contained, accelerate all other assessments to become due for the fiscal year in which such default occurs; provided, however, a foreclosing Permitted Mortgagee shall be entitled to automatic subordination of such assessments in excess of the amounts given priority over mortgage liens in the Act.

Section 8.10. INTEREST AND CHARGES. All sums assessed by the Executive Board against any Unit Owner as a regular or special assessment shall bear interest thereon at the then maximum legal rate (but not more than fifteen percent (15%) per annum) from the tenth (10th) day following default in payment of any assessment when due. Further, any assessment not paid within ten (10) days after its due date shall accrue a late charge at such rate as may be determined by the Executive Board (but not more than Twenty-Five Dollars (\$25.00) per day). Any delinquent Unit

Owner shall also be obligated to pay (i) all expenses of the Executive Board, including reasonable attorneys' fees, incurred in the collection of the delinquent assessments by legal proceedings or otherwise, and (ii) any amounts paid by the Executive Board for taxes or on account of superior liens or otherwise to protect its liens, which expenses and amounts, together with accrued interest and late charges, shall be deemed to constitute part of the delinquent assessments and shall be collectible as such.

ARTICLE IX

EXECUTIVE BOARD

Section 9.1. MEMBERS. The Executive Board shall initially consist of four (4) members, one (1) from each Unit. The Owner of each Unit shall designate an individual to serve on the Executive Board from time to time on behalf of its Unit. The members of the initial Executive Board shall be appointed, removed and replaced from time to time by the Declarant without the necessity of obtaining resignations. Upon the sale of a Unit, the Declarant-appointed member of the Executive Board shall be replaced with a members appointed by the new Unit Owner. Upon the subsequent sale or transfer of a Unit, the buyer or transferee shall appoint a new Executive Board member who shall replace the member appointed by the seller/transferor.

Section 9.2. POWERS OF EXECUTIVE BOARD. The Executive Board of the Association shall possess all of the duties and powers granted to the Executive Board by the Act. The Executive Board shall have no power to take any action which is unreasonably discriminatory against any Unit without the consent of the Unit Owner so affected. Nothing herein contained shall, however, limit the right of the Executive Board to enforce the terms and provisions of this Declaration, the Bylaws and reasonable Rules and Regulations promulgated by the Executive Board concerning the use and enjoyment of the Units and the Common Elements not in conflict with the provisions of the Declaration.

Section 9.3. DISPUTES. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of this Declaration (including the Plats and Plans), the Bylaws or the Rules and Regulations, the ultimate determination with respect thereto shall be by the Executive Board. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief or order to assist it in carrying out its responsibilities under this Section 9.3. All costs of obtaining such a judgment shall be borne by the disputants, or in the absence of disputants, by the Association as a Common Expense.

Section 9.4. ABATING AND ENJOINING VIOLATIONS BY UNIT OWNERS. The violation of any Rules and Regulations, the breach of any provision contained in the Bylaws or the breach of any provision of this Declaration or any applicable provision of the Act by any Unit Owner or any tenant of such Unit Owner, shall give any other Unit Owner and/or the Executive Board the right, in addition to any other rights to which it may be entitled, and subject to the provisions of Article X below, to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, and all costs so incurred, including accrued attorneys' fees, and all damages resulting therefrom, shall be assessed against the Unit Owner committing the breach.

Section 9.5 CONTROL OF EXECUTIVE BOARD. The Owner of Unit D shall control the operation of the Executive Board and shall make all decisions to be made by the Executive Board; provided, however, all such decisions shall be reasonable and non-discriminatory, no decision or action may materially and adversely affect another Unit or Unit Owner without such Unit Owner's prior written consent, and any decision requiring the expenditure of more than One Hundred Thousand Dollars (\$100,000.00) in Constant Dollars shall require the approval of Executive Board members representing Units with an aggregate Percentage Interest of sixty percent (60%) or more.

**ARTICLE X
LIMITATION OF LIABILITY**

Section 10.1. LIMITED LIABILITY OF THE EXECUTIVE BOARD. The Executive Board, and its members in their capacity as members, officers and employees of the Association:

A. Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit Owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Unit(s), or from any of the pipes, drain conduits, appliances, or equipment, or from any other place, unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;

B. Shall not be liable to the Unit Owners as a result of the performance of the Executive Board members' duties for any mistake of judgment, negligence or otherwise, except for the Executive Board members' own willful misconduct or gross negligence;

C. Shall have no personal liability in contract to a Unit Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;

D. Shall not be liable to a Unit Owner, or such Unit Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by any Unit Owner or his tenants, employees, agents, customers or guests in a Unit, or in or on the Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;

E. Shall have no personal liability in tort to a Unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Executive Board members' own willful misconduct or gross negligence in the performance of their duties; and

F. Shall have no personal liability arising out of the use, misuse or condition of any buildings located on the Property, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the Executive Board members' own willful misconduct or gross negligence.

Section 10.2. INDEMNIFICATION. Each member of the Executive Board, in his capacity as an Executive Board member, and each officer of the Association, in his capacity as an officer of the Association, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board or Association, or any settlement of any such proceeding, whether or not he is an Executive Board or Association member, officer or both at the time such expenses are incurred, except in such cases where such Executive Board or Association member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interest of the Association; and provided further that, indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his conduct was unlawful. The indemnification set forth in this Section 10.2 shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any

of the rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

Section 10.3. DEFENSE OF CLAIMS. Complaints brought against the Association, Executive Board or officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole shall be directed to the Executive Board, which shall promptly give written notice thereof to the Unit Owners and such complaints shall be defended by the Association. The Unit Owners and the holders of mortgages on Units shall have no right to participate in such defense other than through the Association, unless such Unit Owner or holder of a mortgage on such Unit is named as a defendant in such action. Complaints against one or more but less than all Unit Owners or Units shall be defended by such Unit Owners who are defendants themselves and such Unit Owners shall promptly give written notice of the institution of any such suit to the Association.

ARTICLE XI SPECIAL DECLARANT RIGHTS

Section 11.1. SPECIAL DECLARANT RIGHTS. Anything in this Declaration or in the Bylaws to the contrary notwithstanding, Declarant reserves the Special Declarant Rights as defined in Section 3103 of the Act, those set forth elsewhere in this Declaration and as follows (collectively, the “**Special Declarant Rights**”):

A. Declarant shall have the right to control the actions of the Executive Board and its officers for the period specified below (“**Period of Declarant Control**”), subject only to the rights of the Unit Owners other than Declarant to appoint that number of members to the Executive Board at the times and in the manner set forth below and in Section 9.1. As used in the preceding sentence and elsewhere in this Declaration, the following words and phrases shall have the meanings ascribed to them below:

(i) “**Declarant Control**” refers to the right of the Declarant, at any time and from time to time during the Period of Declarant Control, to appoint and remove the

representatives who have been designated by Declarant to serve as members of the Executive Board and as its officers;

(ii) “**Period of Declarant Control**” refers to the period ending on the earlier of (a) five (5) years from the date of the first conveyance of a Unit to purchaser other than Declarant or (b) one hundred eighty (180) days after the conveyance of seventy-five percent (75%) or more of Units to Unit Owners other than Declarant.

B. Declarant reserves the unrestricted right to sell, lease and/or mortgage any Units which it continues to own after the recording of this Declaration.

C. Declarant reserves the unrestricted right to maintain advertising and sales information signs and promotional displays in, about or on any portion of the Common Elements and to relocate or remove the information signs and promotional displays, all at the sole discretion of Declarant and without the necessity for approval of the Executive Board.

D. Declarant reserves the unrestricted right, as it deems appropriate, to complete all improvements to the Common Elements including Limited Common Elements.

E. Declarant shall have the right to maintain sales offices and management offices on the Units owned by Declarant.

Section 11.2. EASEMENTS. The Declarant hereby reserves for itself, its employees, agents or other representatives and its customers and other invitees, as well as its successors and assigns, such easements and licenses as may be necessary or desirable, in the judgment of Declarant, to realize all of the intended benefit of the Special Declarant Rights.

Section 11.3. ASSIGNMENT. Any one or more of the Special Declarant Rights, as created and reserved under this Article XI, may be transferred by Declarant to any other party and that transfer shall be effective as to all persons or parties affected thereby if at such time the instrument evidencing such transfer is executed both by the transferor and the transferee of the subject Special Declarant Rights and is recorded in the Office for the Recording of Deeds in and for

Monroe County. The holder of any mortgage obligation may succeed to the Special Declarant Rights.

**ARTICLE XII
WAIVER OF CHAPTER 34 OF ACT**

Each and every immediate and subsequent purchaser of a Unit waives each and every provision contained in Chapter 34 of the Act.

**ARTICLE XIII
UNITS SUBJECT TO CONDOMINIUM DOCUMENTS; EMINENT DOMAIN;
DAMAGE OR DESTRUCTION**

Section 13.1. UNITS SUBJECT TO CONDOMINIUM DOCUMENTS. Each present and future owner, lessee, occupant and mortgagee of a Unit shall be subject to and shall comply with the provisions of the Act, this Declaration, the Plats and Plans, the Bylaws and the Rules and Regulations and with the covenants, conditions and restrictions as set forth in this Declaration, the Plats and Plans, the Bylaws, the Rules and Regulations and the deed to such Units; provided that nothing contained herein shall impose upon any lessee or Permitted Mortgagee of a Unit any obligation which the Act or one or more of such documents, or both, make applicable only to Unit Owners (including, without limitation, the obligation to pay assessments for Common Expenses). The acceptance of a deed or mortgage to any Unit, or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the Act, this Declaration, the Plats and Plans, the Bylaws, the Rules and Regulations and the covenants, conditions and restrictions set forth in the deed to such Unit are accepted and ratified by such grantee or lessee, and are deemed unobjectionable by such Permitted Mortgagee. All of such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

Section 13.2. EMINENT DOMAIN. Whenever all or part of the Common Elements shall be taken, injured or destroyed by eminent domain, each Unit Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, but in any proceedings for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Unit Owner's interest therein. The award or proceeds of settlement shall be payable to the Association for the use and benefit of the Unit Owners and their mortgagees as their interest may appear.

Section 13.3. DAMAGE OR DESTRUCTION.

A. If any Unit Improvements shall be damaged or destroyed by fire or other hazard, then, within thirty (30) days after the occurrence of such damage or destruction, the Unit Owner thereof shall install temporary safety provisions and shall within ninety (90) days after the occurrence of such damage or destruction, commence and thereafter diligently pursue, either (i) repair, rebuilding and restoration of such Unit Improvements to a condition as nearly as may be reasonably practicable to or better than the condition of such Unit Improvements immediately prior to such damage or destruction, or (ii) the demolition and razing of such damaged Unit Improvements, filling in all excavations, planting grass and performing such other work as may be necessary to leave the area on which such damaged Unit Improvements were located in a clean, sightly and safe condition. The required commencement of any action required under this Section 13.3.A shall be subject to receipt of any necessary governmental approvals and/or permits required in connection therewith; provided that the Unit Owner responsible to perform or cause the performance of any action required hereunder shall promptly apply for and diligently pursue the receipt of any such permit and/or approval. During the entire course of all construction, demolition or razing required by this Section 13.3.A, the construction site shall be screened.

B. If any of the Common Elements shall be damaged or destroyed by fire or other hazard, whether or not such is required to be insured under this Declaration, then (unless the

Condominium is terminated in accordance with the Act), as soon as practicable and not more than sixty (60) days after the occurrence of such damage or destruction (subject to delays in obtaining insurance proceeds and permits for restoration), the Association shall commence, and thereafter shall diligently pursue, restoration, repair or rebuilding of the damaged or destroyed Common Elements to a condition comparable to or, subject to the provisions of Article II hereof, better than their condition immediately prior to such damage or destruction; provided, however, that if the damage or destruction occurred as a result of a casualty which is uninsurable under any broad form extended coverage endorsement (regardless of the cost thereof), the cost of the restoration, repair or rebuilding of the Common Elements so damaged or destroyed shall be included in Common Expenses assessed against the Unit Owners in accordance with Article VIII hereof, and, in such case, the Association shall provide the Unit Owners with evidence of such insurability.

ARTICLE XIV MANAGEMENT

The Association in its discretion may employ a professional, experienced managing agent (who may be an affiliate of Declarant or its principals) who shall oversee the daily operation of the Condominium, in accordance with the provisions of the Act, Declaration, Bylaws and Rules and Regulations, and the fees, expenses and charges of such management company shall be a Common Expense so long as the fee is standard in the area of the Property for similar projects.

ARTICLE XV CLAIMS

A Unit Owner (hereinafter called the “**Contracting Unit Owner**”) will defend, indemnify and save harmless, at its expense, the Association and any other Unit Owner, against and from all liabilities, penalties, damages, expenses and judgments, including attorneys’ fees, which may be imposed upon or incurred by or asserted against the Association or such other Unit Owner by any architect, contractor, sub-contractor, engineer, attorney, real estate broker, supplier or any other employee or agent of the Contracting Unit Owner, except for specific work or services contracted for

in writing by the Association or such other Unit Owner with such employee or agent of the Contracting Unit Owner.

ARTICLE XVI TERMINATION

Section 16.1. STATUTE. The Condominium may be terminated as provided by Section 3220 of the Act.

Section 16.2. BY UNANIMOUS AGREEMENT. The Condominium may be terminated at any time by the unanimous agreement, in writing, in the form of a Deed of Revocation, executed by all of the Unit Owners and by the holders of all Permitted Mortgages. Such Deed of Revocation shall become effective upon being recorded.

Section 16.3. OWNER AFTER TERMINATION. Upon termination of the Condominium, each Unit Owner shall thereby become a tenant-in-common of the Property as provided in Section 3220 of the Act, and the mortgagee and lienor of a former Unit Owner shall have a mortgage and lien solely and exclusively upon the respective interest of such tenant in the Property after the termination.

ARTICLE XVII GENERAL PROVISIONS

Section 17.1. HEADINGS. The headings used in this Declaration and the table of contents are inserted solely as a matter of convenience for the readers of this Declaration and shall not be relied upon or used in construing the effect or meaning of any of the provisions of this Declaration.

Section 17.2. SEVERABILITY. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof unless such deletions shall destroy the uniform plan of development and operation of the Condominium project which this Declaration is intended to create.

Section 17.3. APPLICABLE LAW. This Declaration shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania.

Section 17.4. INTERPRETATION. The provisions of this Declaration shall be liberally construed in order to effect Declarant's desire to create a uniform plan for development and operation of the Condominium project.

Section 17.5. EFFECTIVE DATE. This Declaration shall become effective when it and the Plats and Plans have been recorded.

Section 17.6. NOTICES. All notices, demands, bills, statements or other communications under this Declaration and the Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or five (5) days after sent by registered or certified mail, return receipt requested, postage prepaid (or otherwise as the Act may permit), (i) if to a Unit Owner, at the single address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, or (ii) if to the Association or to the Executive Board, at the principal office of the Association or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. If a Unit is owned by more than one (1) person, each such person who so designates a single address in writing to the Secretary shall be entitled to receive all notices hereunder.

Section 17.7. EXHIBITS. All exhibits attached to this Declaration are hereby made a part of this Declaration.

SCHEDULE OF EXHIBITS

- Exhibit "A" - Property Description
- Exhibit "B" - Easements, Rights and Appurtenances
- Exhibit "C" - Percentage of Individual Ownership Interest in the Common Elements
- Exhibit "D" - Plats and Plans

Exhibit "A"

Property

All that certain lot or piece of land, situate, lying, and being in the Township of Stroud, County of Monroe, Pennsylvania, as shown on a plan entitled "PLAZA 611 SHOPPING CENTER, LOT CONSOLIDATION PLAN (RECORD PLAN)" prepared by Langan Engineering & Environmental Services, Drawing No. CB-101, dated January 23, 2014, last revised May 18, 2016 and being more particularly bounded and described as follows:

Beginning at a found iron pin at the northwesterly corner of parcel no. 17/17/1/17, and on the easterly line of parcel no. 17/17/1/16 and extending thence;

1. North $60^{\circ}06'12''$ East a distance of 298.80 feet to a point; thence,
2. North $60^{\circ}21'42''$ East a distance of 330.50 feet to a point; thence,
3. South $46^{\circ}27'03''$ East a distance of 223.02 feet to a point; thence,
4. South $21^{\circ}11'43''$ East a distance of 250.00 feet to a point; thence,
5. South $05^{\circ}30'47''$ East a distance of 26.47 feet to a point in the northerly right-of-way line of Wigwam Park Road (T-469); thence,
6. Along the northerly right-of-way line of Wigwam Park Road (T-469) on a curve to the left with an arc length of 68.21 feet, with a radius of 225.07 feet, with a chord bearing of South $86^{\circ}41'53''$ West, with a chord length of 67.95 feet to a point; thence,
7. South $78^{\circ}52'27''$ West a distance of 16.53 feet to a point of curvature; thence,
8. Along a curve to the left with an arc length of 84.58 feet, with a radius of 952.50 feet, with a chord bearing of South $73^{\circ}47'11''$ West, with a chord length of 84.55 feet to a point of compound curvature; thence,
9. Along a curve to the left with an arc length of 56.05 feet, with a radius of 307.01 feet, with a chord bearing of South $63^{\circ}00'47''$ West, with a chord length of 55.98 feet to a point of compound curvature; thence,
10. Along a curve to the left with an arc length of 56.05 feet, with a radius of 307.05 feet, with a chord bearing of South $52^{\circ}33'08''$ West, with a chord length of 55.98 feet to a point of cusp; thence,
11. Along a curve to the left with an arc length of 105.11 feet, with a radius of 1540.40 feet, with a chord bearing of South $59^{\circ}17'01''$ West, with a chord length of 105.09 feet to a point of compound curvature; thence,
12. Along a curve to the left with an arc length of 103.25 feet, with a radius of 1052.29 feet, with a chord bearing of South $54^{\circ}48'01''$ West, with a chord length of 103.21 feet to a point; thence,

13. South $52^{\circ}23'00''$ West a distance of 36.06 feet to a point in the northeasterly right-of-way line of PA Route 611 (S.R. 0611) (70 feet wide); thence,
14. Along the northeasterly right-of-way line of PA Route 611 on a curve to the left with an arc length of 209.31 feet, with a radius of 2342.01 feet, with a chord bearing of North $84^{\circ}51'01''$ West, with a chord length of 209.24 feet to a point; thence,
15. Leaving said line and extending along the easterly line of Parcel No. 17/17/1/16, North $23^{\circ}09'18''$ West a distance of 132.31 feet to a point; thence,
16. North $60^{\circ}06'12''$ East a distance of 1.60 feet to a point; thence,
17. North $23^{\circ}08'48''$ West a distance of 201.00 feet to the first mentioned point and place of beginning.

The above described area encompassing 6.828 acres (297,444 square feet) of land, more or less.

Exhibit "B"

Easements, Rights and Appurtenances

1. Rights granted to Pennsylvania Power and Light(s) Co. as set forth in Record Book 1075 Page 269.
2. Sewer Easement and Right-of-Way Agreement with the Stroud Township Sewer Authority recorded in Record Book 2099 Page 3795.
3. Rights granted to Metropolitan Edison Co. as set forth in Record Book 360 Page 463.
4. Declaration of Taking as set forth in Record Book 2388 Page 2785. (Parcel II only).

Exhibit "C"

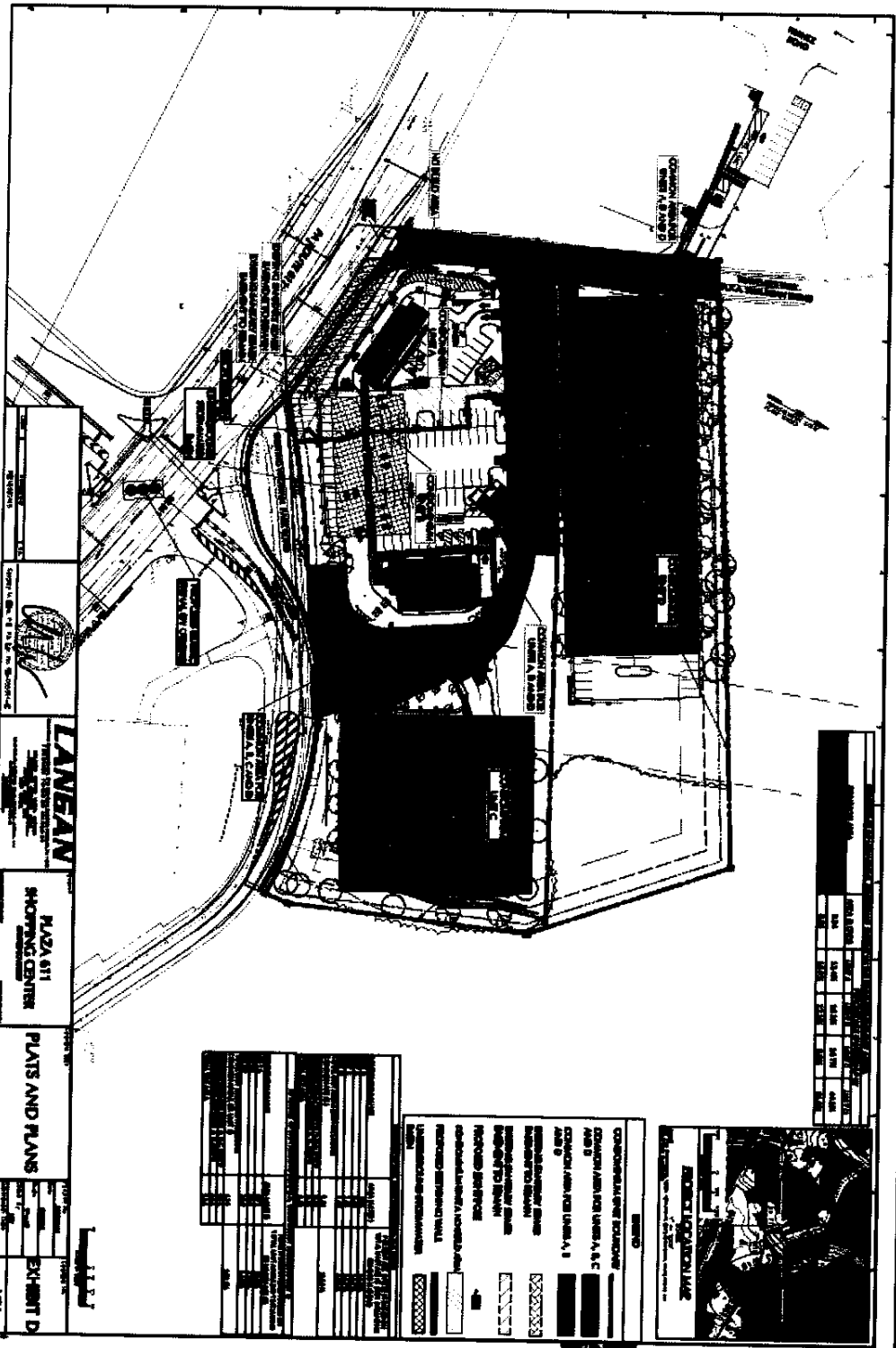
Percentage Interests

<u>Unit</u>	<u>Percentage Interest</u>
A	12.4%
B	16.2%
C	26.7%
D	44.8%

Exhibit "D"

Plats and Plans

See Attached



NO.	DESCRIPTION	AREA	PERCENT	TOTAL AREA
1	PLAZA 811	10,000	100	10,000
2	PARKING	15,000	150	15,000
3	LANDSCAPING	5,000	50	5,000
4	WALKWAYS	2,000	20	2,000
5	UTILITIES	1,000	10	1,000
6	ROADS	1,000	10	1,000
7	DRIVEWAYS	1,000	10	1,000
8	STAIRS	1,000	10	1,000
9	ELEVATORS	1,000	10	1,000
10	MECHANICAL	1,000	10	1,000
11	ELECTRICAL	1,000	10	1,000
12	PLUMBING	1,000	10	1,000
13	HEATING	1,000	10	1,000
14	Cooling	1,000	10	1,000
15	Other	1,000	10	1,000
TOTAL		50,000	500	50,000



LEGEND

CONSTRUCTION SOLUTIONS
 CHANGING AREA WITH LINES A, B, C
 AND D
 EXISTING AREA WITH LINES A, B
 AND D

REVISIONS

DATE: 10/15/87

BY: [Signature]

PROJECT: PLAZA 811 SHOPPING CENTER

DATE: 10/15/87

BY: [Signature]

NO.	DESCRIPTION	AREA	PERCENT	TOTAL AREA
1	PLAZA 811	10,000	100	10,000
2	PARKING	15,000	150	15,000
3	LANDSCAPING	5,000	50	5,000
4	WALKWAYS	2,000	20	2,000
5	UTILITIES	1,000	10	1,000
6	ROADS	1,000	10	1,000
7	DRIVEWAYS	1,000	10	1,000
8	STAIRS	1,000	10	1,000
9	ELEVATORS	1,000	10	1,000
10	MECHANICAL	1,000	10	1,000
11	ELECTRICAL	1,000	10	1,000
12	PLUMBING	1,000	10	1,000
13	HEATING	1,000	10	1,000
14	Cooling	1,000	10	1,000
15	Other	1,000	10	1,000
TOTAL		50,000	500	50,000

LANGAN

PLAZA 811 SHOPPING CENTER

PLATS AND PLANS

EXHIBIT D

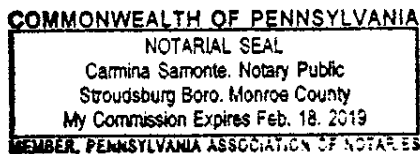
1987

COMMONWEALTH OF PENNSYLVANIA :
: **SS,**
COUNTY OF LACKAWANNA :

On this, the 19th day of September, 2016, before the undersigned officer, personally appeared James DePetris, who acknowledged himself to be the Managing Member of DEPG Bartonsville Route 611, LLC, the sole general partner of DEPG Bartonsville Route 611 Plaza, L.P., and that he as such Managing Member, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.


Notary Public





COUNTY OF MONROE

RECORDER OF DEEDS
610 MONROE STREET
SUITE 125
STROUDSBURG, PA 18360
Area Code (570) 517-3969

Josephine Ferro - Recorder

Instrument Number - 201622954

Recorded On 9/23/2016 At 12:50:32 PM

Book - 2478 Starting Page - 4960

* Total Pages - 45

* Instrument Type - SUBORDINATION OF MORTGAGE

Invoice Number - 716563

* Grantor - DEPG BARTONSVILLE ROUTE 611 PLAZA L P

* Grantee - DEPG BARTONSVILLE ROUTE 611 PLAZA L P

User - DAM

* Customer - POCONO MOUNTAIN LAND ABSTRACT CO INC

*** FEES**

STATE WRIT TAX	\$0.50
RECORDING FEES	\$93.00
COUNTY ARCHIVES FEE	\$2.00
ROD ARCHIVES FEE	\$3.00
TAX CODE CERTIFICATION FEES	\$60.00
TOTAL PAID	\$158.50

RETURN DOCUMENT TO:

POCONO MOUNTAIN LAND ABSTRACT CO INC
ATTN: N W M

MC GIS Registry UPI Certification
On September 23, 2016 By CAB

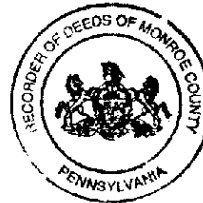
TAX ID #

17/17/1/17

17/17/1/17-1

17/17/1/17-2

Total Tax IDs: 6



I Hereby CERTIFY that this document is recorded in the
Recorder's Office of Monroe County, Pennsylvania

Josephine Ferro

THIS IS A CERTIFICATION PAGE

Do Not Detach

**THIS PAGE IS NOW THE LAST PAGE
OF THIS LEGAL DOCUMENT**

* - Information denoted by an asterisk may change during
the verification process and may not be reflected on this page.

Book: 2478 Page: 5004

