

SUMMIT RIDGE CONDOMINIUM

17639

DECLARATION OF CONDOMINIUM OWNERSHIP

I hereby certify that copies of the within Declaration together with drawings and By-Laws attached as exhibits thereto, have been filed in the Office of the Auditor, Greene County, Ohio.

Date:

12/10/90

Greene
COUNTY AUDITOR

Louanna Delaney
By *WLS*

1990 DEC 12 AM 11:34
4/30
LARRY B. FARRIS
GREENE CO. RECORDER
XENIA, O.

This instrument prepared by: Benjamin F. Allbery
Attorney at Law
18 W. First Street
Dayton, Ohio 45402

September 24, 1990 revision

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DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
SUMMIT RIDGE CONDOMINIUM

WHEREAS, TAMARRON CORPORATION hereafter referred to as "Declarant", is the Owner in fee simple of the real property hereafter described; and

WHEREAS, it is the desire of Declarant to submit the land, together with the improvements thereon, pursuant to the provisions of Chapter 5311 of the Ohio Revised Code, for Condominium Ownership;

NOW, THEREFORE, the Declarant does hereby make the following declarations:

1. LEGAL DESCRIPTION The Declarant does hereby subject the real estate described hereafter to the provisions of Chapter 5311 of the Ohio Revised Code and said real estate and the improvements thereon shall be held under the terms and conditions of this Agreement, which shall be binding on said Declarant, its successors and assigns and all subsequent owners of all or any part of said real property and improvements, and their successors, heirs, administrators, devisees or assigns. Said real estate is described as follows:

Situate in the City of Beavercreek, County of Greene and being the real estate described on Exhibit A, attached hereto and made a part hereof being a _____ acre parcel, and being a part of Lot One (1), Summit Ridge, Section I as recorded in Plat Book 25, Pages 98 and 99 of the Plat Records of Greene County, Ohio.

Said Exhibit A is the legal description for Two (2) buildings which contains Seven (7) units.

2. DEFINITIONS. The following terms used herein are defined as follows:

a. "Association" shall refer to Summit Ridge Condominium Association, a nonprofit corporation, which is an association of all of the owners of Units in this Condominium organized to administer the Condominium Property in all respects, as provided in the Declaration and By-Laws.

b. "Declarant" means Tamarron Corporation, an Ohio corporation, its successors and assigns.

c. "Board of Trustees" or "Board" shall refer to the Board of Trustees of the Association.

d. "Common Expenses" means those expenses designated as such by Chapter 5311 of the Revised Code and as provided in this Declaration and By-Laws to be shared by all of the Unit Owners.

e. "Common Surplus" for any period of time means the amount by which the total income, rents, receipts and revenues from the Common Areas and Facilities exceed the Common Expenses for said period.

f. "Common Loss" for any period of time means the amount by which the Common Expenses exceed the total income, rents, receipts and revenues from the Common Areas and Facilities.

g. "Common Assessments" means assessments charged proportionately against all Units to pay the Common Expense.

3. NAME. The condominium Property shall be known as "Summit Ridge Condominium".

4. PURPOSE AND INTENTION.

(a) Purpose. The purposes of this Condominium are to provide separately designated and legally-described freehold estates consisting of Units as are hereafter described and as shown on the drawings attached hereto, entitling the Unit Owner to the right to the exclusive ownership and possession of his Unit and to ownership of an undivided interest in the Common Areas and Facilities in the percentage as is expressed in this Declaration. There are no commercial facilities situated in this Condominium and the use of said Units shall be for single family residence purposes only.

(b) Condominium Development. It is the intention of the Declarant to establish by this Declaration a Condominium Development consisting initially of Two (2) buildings and to expand the Condominium Development through the first phase of Ten (10) buildings and the second phase of Eleven (11) buildings.

(c) First Phase. The Declarant will add to this Condominium the Units that are constructed on the 5.0561 acres platted as Lot One (1), Summit Ridge, Section I as

recorded in Plat Book 25, Pages 98 and 99 of the Plat Records of Greene County, Ohio. The Declarant plans to construct Ten (10) buildings on the land described on said Lot One (1) (including the existing units described on Exhibit A) and will add these buildings to the Condominium Plan as the same are constructed and by filing amendments to this Declaration for that purpose. There are a total of Thirty-Four (34) Units to be developed in the phase. There is a model building of Four (4) Units and being a part of Lot (1), Summit Ridge, Section I is not submitted by this Declaration and will be added by an amendment to the Declaration.

(d) Second Phase. The Declarant controls the 6.041 acres described in Exhibit B and plans to continue its Condominium Development upon the completion of development of the land platted as Lot One (1), Summit Ridge, Section I to the Exhibit B land; there are Eleven (11) buildings contemplated for said land for an additional Thirty-Six (36) Units.

5. GENERAL DESCRIPTION OF BUILDING There are generally Three (3) types of Buildings that will be constructed depending upon the cluster of Unit types in the Building. Building type One (1) is a Four (4) Unit Building with Unit Types ABCD, ABCE or CEEB; Building Two (2) is a Three (3) Unit Building with Unit Types ACD, BCD or ACE and Building Type Three (3) is a Two (2) Unit Building with Unit Type CD. The Unit Type A has the living area principally located on one floor with a basement area and Unit Types B, C, D & E have the living area on two floors with a basement area. The Units are attached side by side and the building materials are poured concrete basement walls, footers and basement floor. The exterior walls are frame construction with a mixture of brick veneer and vinyl siding, a wood truss roof covered with fiberglass shingles. The windows are aluminum, with wood trim and fascia and rake boards. There is a garage attached to each Unit built on unexcavated material with crawl space where it attaches to the Unit. Access to the Units are by entrances to the front and rear with access internally from the garage and to the various floors by an internal stairway.

6. LOCATION OF BUILDING The initial buildings on the Condominium Property are located on a private street off Willow Run Drive, a public street. Private streets will be developed as part of Summit Ridge Condominium first phase with each Unit to have access to Willow Run Drive over and across the Common Area and Facilities including the private streets for both vehicular and pedestrian traffic. The private streets will be part of the Common Area and Facilities of the Condominium Property.

In the second phase, private streets will be continued to provide access over the Common Area and Facilities to provide both vehicular and pedestrian traffic to Willow Run Drive.

7. DESCRIPTION OF UNITS Each of the Units shall consist of all of the space bounded by the horizontal and vertical planes formed by the undecorated surfaces of the perimeter walls, floors and ceiling of said Unit projected, if necessary, by reason of structural divisions such as interior walls, doors and windows to constitute a complete enclosure of space consisting of all of the living area described in each type of Unit. The space between the separate floors of a Unit shall be a part of the Unit. The attic space or storage space above a unit, if any, to which the unit has direct access.

a. Included in Unit. Included, without limitation, are the following:

i. The decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and other finishing material applied to the floors, ceilings and interior and perimeter walls, carpet, and also the floors themselves;

ii. All windows, screens, and doors, including the frame, sashes and jambs and the space occupied thereby, and the hardware therefor;

iii. All fixtures and appliances located within the bounds of the Units, installed in and for the exclusive use of said 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 and 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, and air-conditioning units and heat pumps, and components thereof, if any, serving only that unit;

iv. All controls, knobs, switches, thermostats, and base plugs, floor plugs and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein, together with the space occupied thereby;

v. All plumbing, electric, heating, cooling, and other utility or service lines, pipes, wires, ducts or conduits which serve either the Unit or the fixtures located therein and which are located within the bounds of the Unit.

b. Type of Unit. There are five (5) types of Units to be constructed in the Condominium, Type A, Type B, Type C, Type D and Type E which are identified on the drawings that are an exhibit hereto and that will be an exhibit to any amendment of the Declaration in order to bring more Units under this plan of Condominium Ownership.

Type A. This Unit has its living area principally on the first floor with an optional bedroom and bathroom in the basement area or open space if not so finished, a mechanical room to hold the furnace and water heater and for storage with a stairway to the principal floor that contains a living room with a fireplace and dining area, kitchen, nook, two bedrooms and two baths. There is a two car garage that is a part of the Unit. There is a porch adjacent to the front entrance and a deck off the living room as Limited Common Area. This Unit is 26'4" width and 75'8" depth and contains 2,677 square feet of space including the garage and basement.

Type B. This Unit has its living area on two floors with a basement that contains the furnace and hot water heater. There is an internal stairway to all three floors with the living room with fireplace, dining room, kitchen, lavatory and laundry on the first floor and two bedrooms and bath on the second floor. There is a one car garage that is part of the Unit. This Unit has a width of 24 feet with a depth of 50'9" and contains 2,350 square feet of space including the garage and basement. There is an option prior to construction of the Building for a two car garage.

Type C. This Unit has its living area on two floors with a basement that contains a mechanical room and optional bedroom. There is an internal stairway to all three floors with the living room with fireplace, dining room, kitchen, den, lavatory on the first floor and two bedrooms and two baths on the second floor. There is a two car garage that is part of the Unit. There is a porch adjacent to the front entrance and a deck off the living room that is Limited Common Area. This Unit has a width of 32'6" with a depth of 59'6" and contains 2,867 square feet of space including the garage and basement.

Type D. This Unit has its living area on two floors with a basement that contains the mechanical room with an optional bath and bedroom. There is an internal stairway to all three floors with the living room with fireplace, dining room, nook, kitchen, lavatory, master bedroom and bath on the first floor and bedroom, bath and loft on the second floor. There is a two car garage that is part of the Unit. There is a porch and a deck

off the living room that is Limited Common Area. This Unit has a width of 28'8" and a depth of 64'4" and contains 3,290 square feet of space including the garage and basement.

Type E. This Unit has its living area on two floors with a basement that contains the furnace and hot water heater. There is an internal stairway to all three floors with the living room, with fireplace, dining room, kitchen, lavatory and laundry on the first floor. There is a two car garage that is part of the Unit. This Unit has a width of 28'8" with a depth of 50'9" and contains 2,682 square feet of space including the garage and basement.

c. Exclusive Use. The Owners of a Unit shall have the right of exclusive possession, use and enjoyment of the surfaces of all of its perimeter walls, fixtures and other parts of the building within the boundary of their respective Unit, including the right to paint, tile, wax, paper or otherwise finish and re-finish or decorate the Unit.

8. COMMON AREA AND FACILITIES. The entire land and improvements thereon not included within a Unit shall be Common Areas and Facilities, including, but not limited to, the private streets, driveways, sidewalks, yards, parking areas, all plumbing, electrical, heating, and other utility service lines, pipes, wires, ducts and conduits which serve more than one Unit or for a common purpose of the building, covering material of the building, gutters, downspouts, exterior lighting fixtures, hose bibs and other facilities to service the Common Areas and Facilities that are attached to the building, foundation, perimeter walls, roofs and all other parts of the building, necessary or convenient to its existence, maintenance, safety or normally in common use by more than one of the Owners. The division wall separating one Unit from another Unit are Common Areas and Facilities. The swimming pool and any detention areas that are constructed are Common Areas and Facilities.

9. LIMITED COMMON AREAS AND FACILITIES.

a. Specific Uses. The following are included in the Common Areas and Facilities and appurtenant or adjacent to a building and are deemed Limited Common Areas and Facilities designated or appurtenant Unit where possible these areas are labeled or designated "LCA" or "Limited Common Areas" on the drawings.

i. the patio area to the rear of the Unit and any privacy fences that are erected.

- ii. the garage area that is a part of the Unit.
- iii. the fireplace, flue and chimney if shown on the exhibits for any Unit.
- iv. the driveways are limited common area to the Unit it services.
- v. the porch area at the front entrance of some Units.
- vi. the deck area that is attached to some Units.
- vii. the awnings that may be attached to some Units.

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

10. ASSUMPTION OF CONTROL BY UNIT OWNERS The Unit Owners will assume control of the Common Areas and Facilities and of the Unit Owners Association, subject to the provisions of the Declaration and By-Laws and any amendments thereto.

11. EXPANDABLE CONDOMINIUM. The Declarant reserves the right to expand the Condominium Property by adding all or any part of the property referenced in Paragraph 4(c) and 4(d) to the terms and provisions of this Declaration:

(a) The land described in 4(c) Lot One (1), Summit Ridge is for a total of Ten (10) buildings or Thirty-Four (34) Units.

(b) The land describe in 4(d) (Exhibit B) will be for eleven (11) Buildings or Thirty-Six (36) Units.

(c) The buildings to be added will be compatible with the existing building with the same quality of construction, the same principal materials will be used, and the architectural style will be similar and compatible. The Units that are added shall be substantially identical to the existing Units.

(d) There are no limitations of the option of the Declarant to add all or part of the additional property to the Condominium and they may be added at separate times.

(e) A time limit of seven (7) years from the time the Declaration is recorded is established for the Declarant to add all of the additional property.

(f) The maximum Units that may be built as part of the Condominium are Seventy (70) Units.

(g) All or any portion of the additional property shall be added to the Condominium Property by the execution and filing for record by the Declarant of an amendment to the Declaration that contains the information and drawings with the respect to the additional property and improvements thereon added as required by the Condominium Act.

12. PERCENTAGE OF INTEREST OF UNITS.

(a) The interest of each Unit in the Common and Limited Common Areas and Facilities of the Condominium and the respective share of the Unit Owners in the Common Expenses and Common Surplus and Losses of the Condominium is stated as a par value which is computed in the proportion that the fair market value of the Unit bears to the aggregate fair market value of all Units at the time of filing the Declaration and which will continue as additional Units are added. The Type A Unit has a par value of 19.30, the Type B Units has a par value of 16.95, the Type C Units have a par value of 20.68 the Type D Units have a par value of 23.73 and the Type E Units have a par value of 19.34. If the two car option for a Type B Unit is purchased, the par value will be 19.34.

(b) As additional Units are added the percentage of interest in the Common Areas and Facilities and in the profits, losses and Common Expense will be re-computed to include all of the Units then under the Condominium plan. Since the Units added, will be comparable to the existing Units the par value interests will remain constant for each unit type with each Owner having a fractional interest as each Unit compares to the total after any amendment and as computed by the amendment.

13. UNIT OWNERS ASSOCIATION. Summit Ridge Condominium Association, a nonprofit corporation, is the Unit Owners Association, organized to administer the Condominium Property. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of his Unit ownership, at which time the new Owner of said Unit automatically shall become a member of the Association.

a. Board of Trustees. The Board of Trustees and Officers of the Unit Owners Association elected as provided by the By-Laws of the Unit Owners Association, attached as an exhibit to this Declaration, shall exercise the powers and discharge the duties and be vested with the rights conferred by operation of law, by the By-Laws and by the Declaration upon the Association.

b. Voting Rights in Association. There shall be one (1) vote for each Unit comprising this Condominium. The percentage of interest of each Unit Owner in the common Area and Facilities and in the Limited Common Areas and Facilities are not applicable to the voting rights of the Unit Owners or to determine a quorum for meetings of the Association. As additional Units are added the total votes will increase by each Unit added to a maximum of Seventy (70) votes, being the total Units that can be added to this Condominium plan. Except as provided in the By-Laws, the Declarant shall have the right to appoint and remove members of the Board of Trustees and remove members of the Board and other officers of the Association and to exercise the powers and responsibilities otherwise assigned in the By-Laws or the Declaration to the Association, the Trustees or officers from the date of the establishment of the Association until the earlier of five (5) years or thirty (30) days after the sale of the Units that represent 75% of the undivided interests in the Common Areas and Facilities to purchasers in good faith for value.

c. Management Contracts. The Declarant or the Association by its Trustees, may delegate all or any portion of its authority to discharge its maintenance responsibilities to a Managing Agent. Such delegation shall be evidenced by a Management Contract for a term not to exceed two (2) years in duration, which contract shall provide for a termination without causes and without payment of a termination fee on ninety (90) days notice by either party.

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

15. RESTRICTIONS AS TO USE AND OCCUPANCY OF CONDOMINIUM PROPERTY.

a. Restrictions. The covenants and restrictions hereinafter set forth as to the use and occupancy of the Condominium Property shall run with the land and shall be binding upon each Unit Owner and occupant.

b. Use of Property. The Condominium Property shall be used for residential purposes only and no portion of such property shall be used for business or commercial purposes. No structures shall be constructed upon the Condominium Property other than the residential Units and garage or other structures intended for residential use and appurtenances thereto. Each Unit shall be occupied only by a single family and its guests as a residence and for no other purpose whatsoever.

c. Lawful Use. No immoral, improper or offensive or unlawful use shall be made of the Condominium Property or any part thereof and all valid laws, zoning ordinances and regulations of all governmental authorities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental authorities which shall require maintenance, modification or repair of the Condominium Property shall be the same as the responsibility for maintenance and repair of the property concerned.

d. Hazard Use and Waste. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance on the Common Areas and Facilities or on any other Unit on the Condominium Property or contents thereof without the prior written consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities which will result in the cancellation of insurance on the Common Areas and Facilities or other Units on the Condominium Property or contents thereof, or which would be in violation of any law. No waste shall be committed in the Common Areas and Facilities.

e. Obstruction of Common Areas and Facilities. There shall be no obstruction of nor shall anything be stored in the Common Areas and Facilities excluding those areas designated for parking of vehicles or for the location of central waste disposal containers or other uses authorized by the Association. The parking lot will not be used for the storage of boats, trailers, or recreational facilities, and the use will be subject to rules and regulations adopted by the Association.

f. Exterior Appearance. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed from any Unit or in any Limited or Common Areas (except as hereinafter provided) and such Common Areas and/or Limited Common Areas shall be kept free and clear of rubbish, debris or other unsightly material. Nothing shall be hung or displayed on the outside wall of any building and no awning, canopy, shade, window guard, ventilator, fan, air conditioning device, radio or television antenna may be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Association. If the Association may so designate, it shall designate areas which may be utilized by the occupants for hanging clothes, sheets, blankets or any other articles outside to dry, but in no event shall such articles be left outdoors overnight or on Saturdays and/or Sundays. The above shall not prohibit the normal use of any balcony so long as the use and display of materials thereon are not unsightly or dangerous.

g. Animals and Pets. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised or bred or kept in any Unit or in the Common Areas and Facilities, except that dogs, cats and other household pets may be kept in the Units subject to the rules and provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding anything herein, or in the rules to the contrary, any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Property upon THREE (3) days written notice from the Board of Trustees.

h. Nuisances. No nuisances shall be allowed upon the Condominium Property or any use or practice which is the source of nuisances to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition and no fire hazard allowed to exist. There shall be no playing, lounging or parking of baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Areas and Facilities not within the bounds of the Unit or within the bounds of the Limited Common Areas of each Unit except in accordance with the rules that may be adopted by the Association.

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

or structurally change any of the buildings. Further, nothing shall be altered, constructed or removed from or added to the Common Areas and Facilities or Limited Common Areas and Facilities except as provided in this Declaration without the prior written consent of the Association or shall anything be done which would or might jeopardize or impair the safety or soundness of the Common or Limited Common Areas and Facilities.

j. Prohibited Activities. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational, or otherwise shall be conducted, maintained or permitted on any part of the Condominium Property.

k. Signs. No "For Sale" or "For Rent" signs or other displays or advertising shall be maintained or permitted on any part of the Common or Limited Common Areas and Facilities or Units. The right is reserved to Declarant to place "For Sale" or "For Rent" signs in connection with any unsold or unoccupied Units it may from time to time own. The same right is reserved to any institutional first mortgagee or owner or holder of a mortgage originally given to an institutional first mortgagee which may become the owner of a Unit and to the Association as to any Unit which it may own. In any other cases, permission must be first obtained from the Association before any such sign may be displayed.

l. Rental of Units. No Unit shall be rented by the Unit Owner for transient or hotel purposes. For the purpose of this provision, a "transient or hotel purpose" shall be defined as a rental for a period less than THIRTY (30) days or rental to an occupant wherein customary hotel service such as furnishing of laundry and linens and room service is maintained. Other than the foregoing, Unit Owners shall have the right to lease their respective Units provided that said lease is made subject to the covenants and restrictions in this Declaration and the By-Laws and rules and any occupant shall be subject to all of said regulations and rules as though the occupant were the Unit Owner. Nothing herein contained shall permit a Unit Owner to be relieved from any duties or responsibilities or obligations hereunder because his Unit is occupied by a third party.

m. Arbitration. In the event of any dispute between Unit Owners as to the application of this Declaration, any restrictions or any rule or regulation to any particular circumstances, the party aggrieved shall submit a complaint in writing to the Board of Trustees 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 not less than Three (3) 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 matters to each party within Thirty (30) days thereafter. No action at law may be instituted by either party to such a dispute unless arbitration pursuant hereto has just been had.

n. Awnings. The Declarant on the Architectural Contract Committee of the Association shall determine the color and design of awnings that may be installed on the units and only the approved types of awnings will be installed. The awnings will be put up and taken down at the same time each year.

16. STATUTORY AGENT. Benjamin F. Allbery, 18 West First Street, Dayton, Ohio 45402 is the person to receive service of process for the Unit Owners Association. After the organization of the Association, the President thereof shall be substituted as such agent.

17. AMENDMENT OF DECLARATION AND BY-LAWS.

a. Method of Amendment. Except in order to expand the Condominium Development, this Declaration and the By-Laws may be amended only upon the filing for record with the Recorder of Greene County, Ohio of an instrument in writing setting forth specifically the item or items to be amended and any new matter to be added, which instrument shall have been duly executed by the Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Such amendment must be executed with the same formalities as this instrument and must contain an affidavit by the President of the Association that a copy of the amendment has been mailed by certified mail to all mortgagees that are recorded with the Association shall be notified of any meeting of the Unit Owners to consider any amendments and shall be advised of the item or items to be amended and any new matters to be added by the amendment.

b. Lender. If the proposed amendment is of a material nature, lenders holding first mortgages on the Units and who have requested that the Association notify them of any proposed action, shall have a right to join the decision making concerning the amendment to the proposed amendment.

c. Effect of Amendment. No amendment shall have any effect, however, upon a bona fide first mortgagee until the written consent of such amendment of such mortgagee has been secured. Such consents shall be retained by the Secretary of the Association and his certification on the instrument of amendment, as to the names of the consenting and non-

consenting mortgagees of the various Units, shall be sufficient for reliance by the general public. If less than all mortgagees consent to an amendment of this Declaration and/or the By-Laws, said amendment or modification shall nevertheless be valid among the Unit Owners, inter se, provided that the rights of a non-consenting mortgagee shall not be derogated thereby.

d. Expansion. The amendments for the purpose of expanding the Condominium in accordance with the rights reserved herein will be sufficient when executed by the Declarant and shall not require the consent of the Unit Owners, mortgagees or approval of the Association.

18. MANAGEMENT, MAINTENANCE, REPAIRS AND REPLACEMENT

a. Responsibility of the Association. Except as otherwise provided herein, or in the By-Laws, the management, maintenance, repair and replacement of the Common Areas and Facilities shall be the responsibility of the Association, including such Common Areas and Facilities located within the bounds of a Unit, excluding however, the interior surfaces of any interior walls, floors, doors, ceilings and other surfaces of the Unit, the maintenance, repair or replacement of which is the responsibility of a Unit Owner. Nothing herein shall be deemed to create a contractual liability of the Association to a Unit Owner for the maintenance, repair or replacement of any part of the Common Areas and Facilities at any time except as the Association deems necessary for the benefit of the Condominium Property and to preserve the value thereof.

b. Limited Common Areas and Facilities. The respective responsibilities for the maintenance, decoration, repair and replacement of the Limited Common Areas and Facilities which are appurtenant to each Unit shall be as follows:

i. The cost of maintenance and repair of the garage shall be the responsibility of the Unit Owner using such area;

ii. The cost of maintenance and repair of any outside lighting facilities will be the responsibility of the Unit Owner using such facility.

iii. The cost of maintenance and repair of the patio and privacy fences shall be the responsibility of the Unit Owner using such area. If any privacy fence is shared with another Unit, this cost of maintenance and repair shall likewise be shared by each Unit Owner;

iv. The cost of maintenance and repair of the fireplace, flue and chimney for the fireplace, including periodic cleaning shall be the responsibility of the Unit Owner having use of such fireplace.

v. The cost of maintenance, repair and replacement of the Limited Common Areas and Facilities not specifically delegated to a Unit Owner shall be the responsibility of the Association;

vi. The work above outlined to be paid for by the Unit Owner shall be performed by the Unit Owner with the approval and under the supervision of the Association. Upon the request of the Unit Owner, the Association, after arrangements for the payment of the cost are arranged, may perform such work for the Owner. Should the Unit Owner fail to perform the work, after an appropriate notice, the Association may perform the work and assess the cost against the Unit as hereafter provided and as provided by the By-Laws.

vii. The cost of maintenance and repair of the taking down of the awnings will be the responsibility of the owner.

c. Responsibility of Unit Owners. The Owner of each Unit shall maintain, repair and replace, at his expense, all portions of his Unit and all internal installations of such Units such as appliances, plumbing, electrical fixtures and other installations located within the bounds of the Unit and not constituting a part of the Common Areas and Facilities. The obligation to maintain and repair windows and doors of the Unit includes the replacement of glass therein and weather stripping and caulking. An Owner shall not make structural modifications or alterations in his Unit without notifying the Association in writing and if any such modifications or alterations could effect the structural integrity of the building, shall supply the Association with the plans and specifications therefore.

d. Utilities. It may be necessary or convenient for the Association to use the hose bibs on the exterior of a unit for the watering of the landscaped area of the Common Area and Facilities. It may be necessary or convenient to have lighting for the Common Area and Facility metered to an adjacent unit. In the event that such utility services are not separately metered, the Association will reimburse the owner of the Unit for such utility charge of the Unit Owner that benefits the Common Area and Facilities.

19. WARRANTIES. The roof and its structural components for the building(s) are warranted for a period of two (2) years, to cover the full cost of labor and materials for any

repair or replacement. Mechanical, electrical, plumbing, and common service elements serving the Condominium Property as a whole, are warranted for a two (2) year period, to cover the cost of labor and materials for any repair or replacement occasioned or necessitated by a defect in material or workmanship. Structural, mechanical, and other elements pertaining to each Unit are warranted for one (1) year to cover the full cost of labor and materials for any repair or replacement occasioned or necessitated by a defect in material or workmanship. The period of the above warranties shall commence on the date the deed is filed for record following the sale of the first Unit to a good faith purchaser.

Any appliance installed and furnished as part of a Unit which is expressly or impliedly warranted by the manufacturer is warranted only to the extent of the manufacturer's warranty, which shall be assigned to the Unit Owner by the Declarant.

20. EASEMENTS.

a. Encroachments. In the event that, by reason of construction, settlement or shifting of the building or by reason of the partial or total destruction and rebuilding of the building, any part of the Common Areas and Facilities presently encroaches or shall hereafter encroach upon any part of a Unit, or any part of a Unit presently encroaches or shall hereafter encroach upon any part of the Common Areas and Facilities or if by reason of the design or construction of any Unit it shall be necessary or advantageous to use or occupy any portion of the Common Areas and Facilities consisting of unoccupied space within the building and adjoining his Unit, or if by reason of the design or construction of utility systems, any main pipes, ducts, or conduits serving any other Unit either presently encroaches or shall hereafter encroach upon any part of any Unit, valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of each Unit and the Common Areas and Facilities, as the case may be, so long as all or any part of the building containing such Unit shall remain standing. Provided, however, that in no event shall a valid easement for any encroachment be created in favor of the Owner of any Unit or in favor of the Common Areas and Facilities if such encroachment occurred due to the willful conduct of such Owner.

b. Maintenance Easements. The Owner of each Unit shall be subject to easements for access arising from necessity of maintenance or operation of the entire building. The Owner of each Unit shall have the permanent right and easement through the Common Areas and Facilities for the use

of water, sewer, power, television antenna and other utilities now or hereafter existing and shall have the right to hang pictures, mirrors and the like upon the walls of his Unit.

c. Easements Through Walls and Floors of Units. Easements are hereby declared and granted to the Association to install, lay, maintain, repair and replace any pipes, wires, ducts, conduits of the Unit, whether or not such walls or floors lie in whole or in part within the Unit boundaries; provided, always, that the Association shall restore such Unit to a condition as good or better than existed prior to the use of said easement.

d. Easements to Run With Land. All easements and rights herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit and be binding on the Declarant, its successors and assigns, any Owner, purchaser, mortgagee and other person having an interest in said land, Unit or any part of portion thereof.

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

21. ASSESSMENTS AND LIENS OF ASSOCIATION.

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

b. Units Not Yet Sold. Declarant shall assume the rights and obligations of a Unit Owner in their capacity as Owners of Condominium Ownership interest not yet sold, including the obligation to pay Common Assessments attaching to such interests, from the date the Declaration is filed for record or as to the units described in any amendment, from the date such amendment is recorded.

c. Lien of Association. The Association shall have a lien upon the estate or interest in any Unit and its percentage of interest in the Common Areas and Facilities for the payment of the portion of the Common Assessments for the Condominium which remain unpaid for ten (10) days after the same have become due and payable from the time a certificate

therefor, subscribed by the President of the Association is filed with the Recorder of Greene County, Ohio, pursuant to authorization given by the Board of Trustees of the Association. Such certificate shall contain a description of the Unit, the name or names of the record owner or Owners thereof and the amount of such unpaid portion of the Common Assessments. Such lien shall remain valid for a period of five (5) years from the time of filing thereof, unless sooner released or satisfied in the manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or Order of the Court in an action brought to discharge such lien as hereinafter provided. In addition, the Owner of the Unit and any occupant thereof shall be personally liable for such expenses chargeable for the period of his ownership or occupancy.

d. Priority of Association's Lien. The lien provided for above shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and lien of a bona fide first mortgage which have been theretofore filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association. In any such foreclosure action, the Owner or Owners of the Unit affected shall be required to pay a reasonable rental for such Unit during the pendency of such action, and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

e. Non-Liability of Purchaser at Foreclosure Sale. When the mortgagee of a first mortgage of record or other purchaser of a Unit acquires title to the Unit as a result of foreclosure of the first mortgage, or as a result of a deed in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of the Common Assessments or other Common Expenses by the Association chargeable to such Unit which become due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of Common Expenses or Common Assessments shall be deemed to be Common Expenses collectible from all of the Units, including that of such acquirer, his successors and assigns.

f. Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Unit (other than deed in lieu of foreclosure), the grantee of the Unit if said sales agreement provides for the grantee to assume the assessments shall be jointly and severally liable with the grantor for all unpaid assessments due the Association for his share of Common Assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to

recover from the grantor the amounts paid by the grantee therefor. Any interested party shall be entitled to a statement from the Board of Trustees of the Association setting forth the amount of all unpaid assessments and the amount of the current assessment charge against a Unit and the parties interested in the transaction may rely thereon and not be liable for unpaid assessments in excess of the amount set forth in such statement for the period reflected in such statement. This provision will not apply where the grantor is the Declarant and it is the initial sale of the Unit.

22. INSURANCE. The Association shall carry fire and extended coverage, vandalism and malicious mischief, liability insurance and worker's compensation insurance, if applicable, pertinent to the ownership, use and maintenance of the building, structure or other improvements now or at any time hereafter constituting a part of the Condominium Property and the cost thereof shall be a Common Expense and a part of the Common Assessments.

a. Fire and Extended Coverage. The Condominium Property shall be insured against fire and other perils covered by a standard extended coverage endorsement in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Trustees of the Association, but in no event in the amount less than 100% of the replacement value of all of the buildings and structures of the Condominium Property and not to exceed 80% co-insurance provisions in the policy of insurance, with an agreed amount endorsement. Such coverage shall also include interior walls within any Unit and the pipes, wires, conduits and ducts contained therein and further include all fixtures, equipment and trim within a Unit which were furnished as part of the Unit and the replacement thereof as are from time to time made.

i. Such policy of insurance shall be so written as to provide for the issuance of certificates of insurance to mortgagees of individual units and to provide such mortgagees at least ten (10) days notice prior to any cancellation of insurance.

ii. Any mortgagee may, to remedy any lack of insurance, but shall not be required to advance premiums to keep the insurance in effect or to obtain new insurance policies in place thereof, and the amount so advanced shall be a Common Expense due immediately from the Association and a special assessment against all Unit Owners until paid without any necessity of any vote of the Unit Owners of the approval of the Association to establish the special assessment.

iii. The insurance policy shall provide for the release by the insurer thereof of any and all rights of subrogation, assignment or other rights or recovery against any Unit Owner, and, if possible, his family, tenants and all other persons lawfully in possession, for recovery against any one of them for any loss occurring to the Condominium Property from any of the perils insured against by such insurance coverage.

iv. Proceeds of all insurance policies owned by the Association shall be paid to an Insurance Trustee selected by the Association (such Insurance Trustee shall be a local bank) and shall be held in a separate account and in trust for the purposes of repair or reconstruction as provided herein and for the benefit of the Unit Owners and their mortgagees as their interests may appear.

v. No mortgagees shall have any right to apply the proceeds of insurance to the reduction of any mortgage debts. No Owner may purchase an individual policy of fire and extended coverage insurance for his Unit and his interest in Common Areas and Facilities as real property. If irrespective of this prohibition, a Unit Owner purchases an individual policy insuring real property, said Owner shall be responsible to the Association for loss or expenses that policy may cause in adjusting the Association's insurance, and such amount of loss shall be a special lien on his Unit as provided by the By-Laws.

b. Liability Insurance. The Association, as a Common Expense, shall insure itself, the Board of Trustees, all Unit Owners and members of their respective families and other persons residing with them in the Condominium Property, their tenants and all other persons lawfully in possession or control of any part of the Condominium Property, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from the Common Areas and Facilities, such insurance to afford protection to a limit of not less than \$500,000.00 in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than \$1,000,000.00 in respect to any one occurrence and to the limit of not less than \$100,000.00 in respect to damage to or destruction of property arising out of any one accident.

i. Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units or Limited Common Areas and Facilities appertaining thereto.

ii. It shall be each Unit Owner's responsibility to obtain insurance covering at his own expense upon his Unit for his personal liability for occurrences within his Unit or upon the Limited Common Areas appertaining thereto and also for alternative living expenses in event of fire or other damage or destruction.

c. Association to Act for Unit Owner. Each Unit Owner, by ownership of a Unit in the Condominium, shall be deemed to appoint the Association his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of fire and extended coverage, vandalism and malicious mischief, liability insurance and worker's compensation insurance, if applicable, pertinent to the Condominium Property, his Unit and his interest in the Common Areas and Facilities with such insurer as may, from time to time, provide such insurance for the Condominium Property. Without limitation on the generality of the foregoing, the Association as said attorney-in-fact shall have full power and authority to purchase and maintain such insurance, to collect and remit premiums therefor, to collect proceeds and to distribute the same to the Association, the Unit Owners and prospective mortgagees as their interests may appear (subject always to this Declaration) to execute releases of liability and to execute all documents and to do all things on behalf of such Unit Owners and the Condominium as shall be necessary or convenient in dealing with any insurance purchased by the Association.

23. RECONSTRUCTION OR REPAIR.

a. Sufficient Insurance. In the event of any damage or destruction to the Condominium Property from any cause or peril insured against and the proceeds of any policy or policies shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or construction shall be undertaken by the Association and the insurance proceeds shall be applied in payment therefor, unless the Unit Owners as hereafter provided elect not to restore the Condominium Property.

b. Insufficient Insurance. In the event the improvements forming a part of the Condominium Property, or any part thereof, shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against, the insurance proceeds shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless the Unit Owners elect not to restore the Condominium Property, such repair, restoration or reconstruction shall be undertaken by the Association.

i. The cost of repair, restoration or reconstruction in excess of the insurance proceeds shall be borne by the Unit Owners in proportion to their respective percentage of interest in the Common Areas and Facilities. All insured damage to the Condominium Property shall be deemed under-insured in the same proportion.

ii. Should any Unit Owner refuse or fail to pay, after reasonable notice, his share of such cost in excess of the insurance proceeds, the amount thereof may be advanced by the Association and the amount so advanced by the Association shall be assessed to such Owner and such assessment, if not paid, may be enforced in the same manner as hereinabove provided for the nonpayment of assessments.

iii. Provided, however, in the event of damage or destruction, the Unit Owners, by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power may elect not to repair or restore the same. Upon such election, all of the Condominium Property is subject to an action for sale upon partition a the suit of any Unit Owner.

iv. In the event of any such sale by partition or other sale of the Condominium Property by agreement of all of the Unit Owners, after such election not to repair or restore the Property, the net proceeds of the sale, together with the net proceeds of insurance and any other indemnity arising because of such damage or destruction shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective percentages of interest in the Common Areas and Facilities. No Unit Owner is entitled to receive any proration of his share of such proceeds until all liens and encumbrances of his Unit have been paid, released or discharged.

24. REAL ESTATE TAXES. Each Unit and its percentage of interest in the Common areas and Facilities shall be deemed to be a separate parcel for all purposes of taxation and assessments of real property and no other Unit or other part of the Condominium Property shall be charged with the payment of such taxes and assessments. Such Unit Owner will be solely responsible for his individual Unit tax bills.

25. REHABILITATION. The Association may, by the affirmative vote of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power determine that the Condominium Property is obsolete in whole or in part and elect to have same renewed and rehabilitated. In such event, lenders shall be notified and mortgagees for Sixty-

Seven Percent (67%) of such mortgage must agree. A mortgage holder who fails to submit a response to any written proposal within 30 days after it receives proper notice of the proposal sent by registered or certified mail, return receipt request, shall be deemed to have consented.

26. REMOVAL OF PROPERTY FROM PROVISIONS OF CHAPTER 5311. The Unit Owners, by their unanimous vote, may elect to remove the Condominium Property from the provisions of Chapter 5311. In such event, lenders shall be notified and mortgagees for Sixty-Seven Percent (67%) of such mortgage must agree. A mortgage holder who fails to submit a response to any written proposal within 30 days after it receives proper notice of the proposal sent by registered or certified mail, return receipt request, shall be deemed to have consented.

27. REMEDIES FOR BREACH OF COVENANTS AND RULES.

In addition to any other remedies provided in this Declaration, the 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 Bylaws or now or hereafter imposed by or through the Association's rules and regulations. Failure by the 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 single independent arbitrator selected by the Board.

28. MISCELLANEOUS PROVISIONS.

a. Action Without Meeting. Any action which may be authorized or taken at a meeting of the Board of Trustees may be authorized or taken without a meeting with the affirmative vote or approval of, and in a writing or writings signed by all of the members of the Board respectively, which writing or writings shall be filed with or entered upon the records of the Association. Any certificate with respect to the authorization or taking of any such action which is required to be filed with the Recorder of Greene County, Ohio shall recite that the authorization of taking such action was in writing or writings approved and signed as specified in this Article.

b. Retained Interests. Declarant will not retain a property interest in any of the Common Areas and Facilities after control of the Condominium development is assumed by the Association. The Owners of Condominium ownership interest that have been sold by the Declarant will assume control of the Common Areas and Facilities and of the Association, as provided in the Declaration and the By-Laws.

c. Deposits and Down Payments. Any deposit or down payment made by a purchaser of a Unit will be held in escrow until delivered at settlement or returned to or otherwise credited to the purchaser, or forfeited to Declarant. Such deposit or down payment shall not be subject to attachment by creditors of Declarant or purchaser. If a deposit or down payment of Two Thousand Dollars (\$2,000.00) or more is held for more than ninety (90) days, interest at the rate of at least four percent (4%) per annum for any period exceeding ninety (90) days shall be credited to the purchaser, or added to any forfeiture to Declarant.

d. Copies of Notices to Mortgage Lenders. Upon written request to the Board, the holder of any duly recorded mortgage on an ownership interest or interests therein shall be given a copy of any and all notices permitted or required by this Declaration or By-Laws to be given to the Unit Owner or Owners whose ownership interest or interests therein is subject to such mortgage.

e. Covenants Running with the Land. Each Unit Owner by the acceptance of a deed of conveyance from Declarant accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such

person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

f. Termination. Upon the removal of the Condominium Property from the provisions of Chapter 5311 of the Ohio Revised Code, all easements, covenants and other rights, benefits, provisions and impositions and obligations declared herein to run with the land or any ownership interest or interest therein shall terminate and be of no further force or effect.

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

h. Severability. The invalidity of any covenant, restrictions, condition, limitation of any other provisions of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity and enforceability or effect of the rest of this Declaration.

i. Liability. Neither the Declarant nor any employee, agent, successor or assign of the Declarant shall be liable for any claim or damage whatsoever arising out of or by reason of any actions performed pursuant to or in accordance with any authority granted or delegated to them or any of them or pursuant to this Declaration or in the capacity of the Declarant, Unit Owner, managing agent or seller of the Condominium Property or any part thereof, whether or not such claim shall be asserted by any Unit Owner, occupant, the Board, the Association, or by the person or entity claiming by or through any of them. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for or arising by reason of the Condominium Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Unit Owner, occupant, the Board, the Association, the managing agent or the respective agents, employees, guests, tenants, invitees and servants or by reason of failure to function or disrepair of any utility services, including without limitation, heat, electricity, gas, water, sewerage and light.

j. Insufficiency of Insurance. In the event the insurance effected by the Association or managing agent on behalf of the Unit Owners and occupants against liability for personal injury or property damage arising from or relating to the Common Areas and Facilities shall, for any reason, not fully cover any such liability, the amount of any deficit shall be a Common Expense to the Unit Owners, and any Unit

Owner who shall have paid all or any portion of such deficiency in any amount exceeding his proportionate share thereof based on his percentage of interest in the Common Areas and Facilities shall have a right of contribution from the other Unit Owners according to their respective percentages of interest in the Common Areas and Facilities. The right to contribution shall not apply to the parts of the Common Areas and Facilities that are designated as Limited Common Areas.

k. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Condominium development.

IN WITNESS WHEREOF, Tamarron Corporation has executed this instrument this 7th day of December 1990.

In the presence of:

TAMARRON CORPORATION

Marlene M. Weiler

BY [Signature]
Thomas H. Peebles
President

Byron F. Ault

BY [Signature]
James W. Hickey
Vice President

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

The foregoing was acknowledged before me, a Notary Public, in and for said county and state, by Thomas H. Peebles, President and James W. Hickey, Vice President of TAMARRON CORPORATION on behalf of said corporation and the same is the free act of said corporation on this 7th day of December, 1990.



Marlene M. Weiler
Notary Public

MARLENE M. WEILER, Notary Public
in and for the State of Ohio
My Commission Expires July 31, 1995

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