Return to Box 8

**THIS INSTRUMENT PREPARED BY**

**WILKINS & IVEY, ATTORNEYS**
2405 Crestmoor Road
P.O. Box 150157
Nashville, Tennessee 37215-0157

BOOK 7876 PAGE 871

**ADDRESS NEW OWNERS AS FOLLOWS:** Wayland Drive Condominium
Homeowners' Associaton
4500 Harpeth Hills Drive
Nashville, Tennessee 37215

**SEND TAX BILLS TO:** Same

**MAP & PARCEL NO.:**

**MASTER DEED**

**ESTABLISHING A HORIZONTAL PROPERTY REGIME OF**

**WAYLAND DRIVE CONDOMINIUM**

THIS MASTER DEED is made this 27th day of June, 1989, by John M. Thetford and wife, Susan W. Thetford, (herein called "Developer"), for themselves, their successors or assigns, wherein the Developer makes the following declarations and submissions.

1. **PURPOSE.** The purpose of this Master Deed is to submit the land described in Exhibit "A" attached hereto and made a part hereof (sometimes referred to herein as the "Property", or Wayland Drive Condominium) and shown on Exhibit "B" attached hereto and made a part hereof, and the improvements thereon to a horizontal property regime under the provisions of the Tennessee Horizontal Property Act, as codified as §66-27-101, et seq., of the Tennessee Code Annotated.

2. **NAME AND ADDRESS.** The name by which this horizontal property regime is to be identified is Wayland Drive Condominium, and it is located at 4500 Harpeth Hills Drive, Nashville, Davidson County, Tennessee, at the intersection of the westerly margin of Harpeth Hills Drive with the southerly margin of Wayland Drive.

3. **SUBMISSION OF THE PROPERTY.** The Developer hereby submits the Property, together with the buildings and improvements thereon, owned by the Developer in fee simple

absolute, to the referenced provisions of the Tennessee Code Annotated, hereby establishing a horizontal property regime which Property is shown on a plan attached hereto as Exhibit "B", and incorporated by reference.



4. **LAND INCLUDED IN PROPERTY.** The land included in the property consists of the land described in Exhibit "A" hereto, which is made a part hereof by reference. Said land will be sometimes referred to as the "Property" or Wayland Drive Condominium. The fee simple absolute title in such land is hereby vested in the horizontal property regime hereby established.

5. **THE BUILDING.** The building, part of which is under construction, will consist of one main structure, the existing portion of which is one story in height and the newly constructed portion of which will be two stories in height, containing two condominium apartments. The designation of apartments by number is as shown on the referenced plan. The structure has/will have a brick exterior.

6. **APARTMENTS.** Exhibit "B" hereto shows the location of both apartments and their designation as Apartments 1 and 2, respectively.

7. **DIMENSIONS OF APARTMENTS.** Each apartment consists of the area measured horizontally from the apartment side of the unfinished dry-wall or paneling of the walls facing the exterior of the building to the apartment side of the dry-wall or paneling of the wall and partition separating such apartment from corridors, stairs, incinerators and other mechanical equipment spaces (if any) and, where walls and partitions separate such apartment from other apartments, to the side of the unfinished dry-wall or paneling of such walls and partitions facing such apartment; where dry-wall or paneling separates one room in an apartment from another such room, from one side of each room wall to the other side of such room's opposite wall. Vertically, each apartment consists of the space between its unfinished floor and its unfinished ceiling.

8. **USE OF APARTMENT.** Each of the apartments shall be used as a single family residence only. This provision shall not preclude use and occupancy by two adults not married to each other.

9. **COMMON ELEMENTS.** The common elements consist of the entire property, including all parts of the buildings other than the apartments and including, without limitation, the following:

(a) The land.

(b) All storage spaces not restricted to use by particular apartments.

(c) All tanks, pumps, motors, fans, compressors, air handling units and control equipment, and any system for central services; but not including heating or air-conditioning units, equipment or components thereof which serve only one apartment.

(d) All sewer pipes (excluding pipes defined as Limited Common Elements).

(e) The party wall between apartments.

(f) The interest of each co-owner in the common elements is an equal one-half undivided interest.

10. **LIMITED COMMON ELEMENTS.** Limited common elements are defined as those common elements which are reserved for the use of a certain apartment or apartments to the exclusion of the other apartments. All terraces, balconies, decks, porches, patios, garden areas, yards (as divided as shown on Exhibit "B"), storage spaces, driveways, sidewalks, privacy walls (side and top), garages, roofs, entrances and exits to and from any building, including stairways serving said entrances and exits and stoops which serve individual apartments, and the exterior structure of each apartment, including foundations, columns, girders, beams and supports, are limited common elements for the exclusive use of the sole co-owner or co-owners whose apartment they serve. All utilities pipes, i.e., plumbing inside walls of a building which serve one unit only, are limited common elements. All heating or air conditioning units, equipment or components thereof which serve only one apartment but are located outside that apartment shall be limited common elements exclusively for that apartment.

11. **INDIVISIBILITY OF INTEREST.** The common elements, both general and limited, shall remain undivided, and shall not be subject to any action for partition or division of co-ownership.

12. **ENCROACHMENTS.** If any portion of the common elements now encroaches upon any apartment, or if any apartment now encroaches, or will encroach upon completion of construction, upon any other apartment or upon any portion of the common elements, as a

result of the construction of a building or any building, or if any such encroachment shall occur hereafter as a result of settling or shifting of a building, or any building, a valid easement for the encroachment and for the maintenance of the same so long as such building stands, shall exist. In the event such building, an apartment, any adjoining apartment, or any adjoining common element, shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any apartment or of any apartment upon any other apartment or upon any portion of the common elements, due to such rebuilding, shall be permitted, and valid easements, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as any such building shall stand.

13. **PIPES, DUCTS, CABLES, WIRES, CONDUITS, PUBLIC UTILITY LINES AND OTHER COMMON ELEMENTS LOCATED INSIDE OF APARTMENTS.** Each apartment owner shall have an easement in common with the owner of the other apartment to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in the other apartment and serving his apartment. Each apartment shall be subject to an easement in favor of the owner of the other apartment to use the pipes, ducts, cables (television, communication or otherwise), wires, conduits, public utility lines and other common elements serving such other apartment and located in such apartment. The Board of Managers, or its designated representative, shall have a right of access to each apartment to inspect the same, to remove violations therefrom and to maintain, repair or replace the common elements contained therein or elsewhere in any building.

14. **APARTMENTS SUBJECT TO MASTER DEED.** All present and future co-owners and tenants of apartments shall be subject to and shall comply with the provisions of this Master Deed and any restrictions or rules in the By-Laws which are more than administrative in nature such as, but not limited to, reservations and future rights of the Developer shall be incorporated and become a part of this Master Deed by reference. The acceptance of a deed of conveyance, devise, inheritance or the entering into a lease of an apartment or entering into occupancy of an apartment, shall constitute an agreement that the provisions of this Master Deed and such By-Law provisions are accepted and ratified by each co-owner and tenant, and all of such provisions 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 such apartment, as though such provisions were recited and stipulated in full in each and every deed or lease thereof.

15. **APARTMENTS SUBJECT TO BY-LAWS.** All present and future co-owners, tenants and occupants of an apartment shall be subject to, and shall comply with, the provisions of

the By-Laws appended hereto and recorded herewith, pursuant to Tennessee Code Annotated, §66-27-101, et seq., as they may be amended from time to time. The acceptance of a deed of conveyance, devise or of a lease to an apartment,or the entering into occupancy of any apartment shall constitute an agreement that the provisions of the said By-Laws, as they may be amended from time to time, are accepted and ratified by such co-owner, tenant or occupant, and all of such provisions 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 such apartment, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease, thereof.

16. **AMENDMENT.** This Master Deed may be amended by a deed of amendment joined in by co-owners representing both of the apartments in the horizontal property regime, which deed shall be recorded in the Register's Office for Davidson County, Tennessee. For these purposes, Developer shall be deemed to be the owner of all apartments which have not been actually deeded to a purchaser, regardless of whether such have actually been begun or constructed.

17. **WAIVER.** No provision contained in this Master Deed shall be deemed to have been abrogated or waived by reason of any failure to enforce it, regardless of the number of violations or breaches which may occur.

18. **CAPTIONS.** The captions herein are inserted only as a matter of convenience and for reference and neither define, limit, or describe the scope of this Master Deed nor the intent of any provision hereof.

19. **GENDER.** The use of the masculine gender in this Master Deed shall be deemed to refer to the feminine gender and the singular shall be deemed to refer to the plural and visa versa, whenever the context so requires.

20. **DEFINITION OF TERMS.** The words and phrases used in this Master Deed shall have such meanings as are ascribed to them in general English language usage as related to the context in which they are used; provided, however, that those words and phrases which are defined in the Tennessee Horizontal Property Act shall have the meanings there given, and provided further that words and phrases not directly defined in the Act, but whose definition would be indirectly indicated, shall have the meanings which would be necessary to maintain this Master Deed in compliance with the said Horizontal Property Act.

**IN WITNESS WHEREOF,** the Developer has executed this Master Deed at Nashville, Davidson County, Tennessee, on this 27th day of June, 1989.

John M. Thetford
JOHN M. THETFORD

Susan H. Thetford
SUSAN H. THETFORD

**STATE OF TENNESSEE**
**COUNTY OF DAVIDSON**

On this 27th day of June, 1989, before me personally appeared John M. Thetford and Susan H. Thetford, to me known (or proved to me on the basis of satisfactory evidence) to be the person(s) described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Notary Public

NOTARY PUBLIC AT LARGE

My Commission Expires: 1-22-89

EXHIBIT "A" BOOK 7876 PAGE 877

LAND in Davidson County, Tennessee, being Lot No. 7, Block "E" on the Plan of Tyne Meade, Section III, as of record in Plat Book 1424, Pages 12, 13 and 14, Register's Office for Davidson County, Tennessee, to which plan reference is hereby made for a more complete description hereof.

BEING the same property conveyed to John M. Thetford and wife, Susan H. Thetford by deed from J. M. Jordan, Trustee, of record in Book 7683, Page 706, Register's Office for Davidson County, Tennessee.

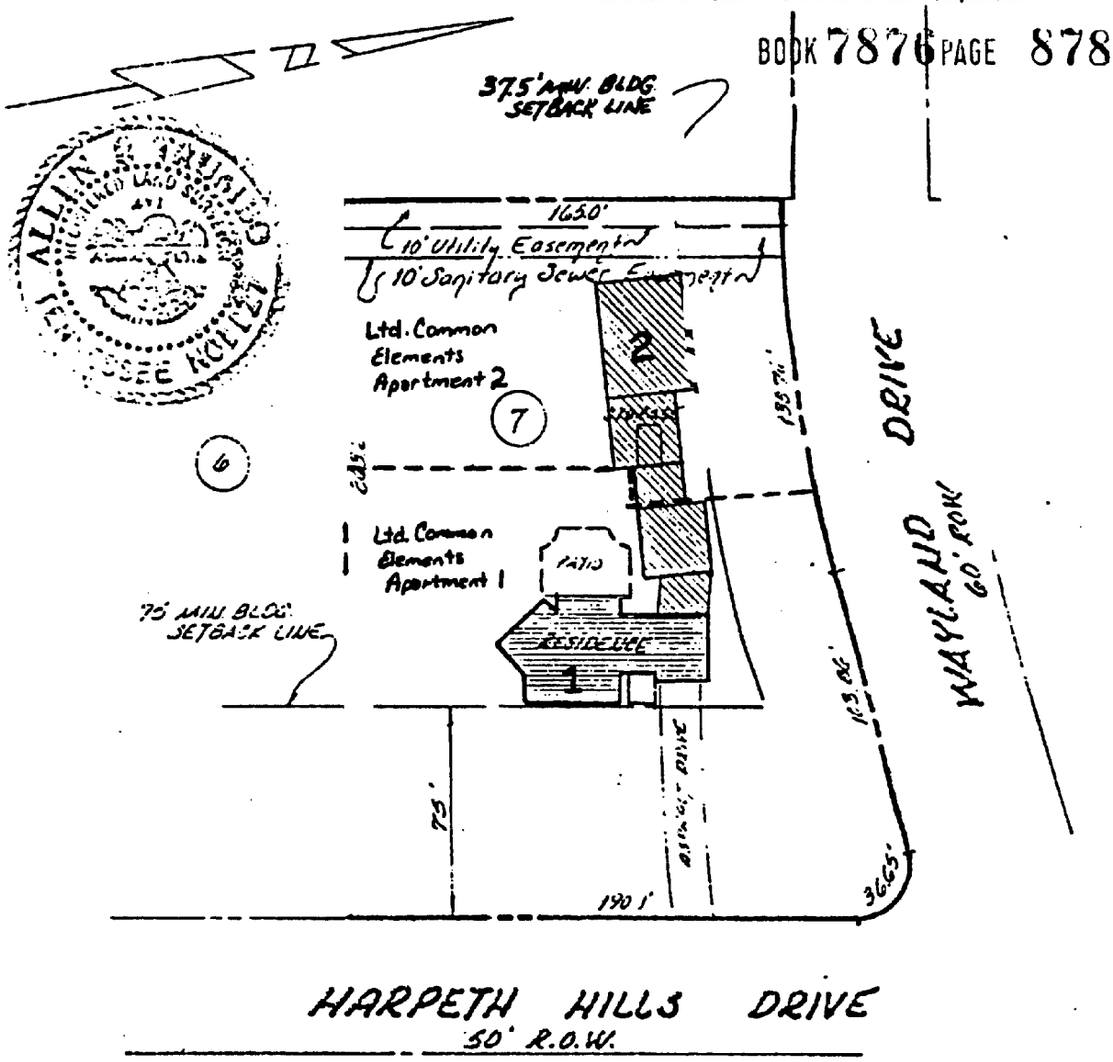
NOTE: This parcel — is not — included in areas designated as "Special Flood Hazard" on the latest Flood Insurance Program Maps received by me as of this date 2/24/89.

Bearings, distances, and easements shown hereon are recorded plat of TYNE MEADE SECTION

I Hereby certify that this survey has been made using the latest information of record; and that there are no encroachments or projections other than those shown to the best of my knowledge.

MORTGAGE LOAN INSPECTION should not be represented to be a lot survey. It was done at the request of and is for the use of the mortgage lender only. It should not be relied on for the construction of fences or for establishing the exact location of property lines. No corners were set or reset at the time of this inspection.

BOOK 7876 PAGE 878




RECORDERS MEMO
LEGIBILITY OF WRITING, TYPING OR PRINTING
THIS DOCUMENT UNSATISFACTORY WHEN RECEIVED

# The Plan for Wayland Drive Condominium

Exhibit B

Property: Lot No. 7 of Block "E" on the plan of Tyne Meade - Section Three
Book 7683 page 706 RODC
4500 Herpeth Hills Drive
Map 130-11 Parcel No 68

**THIS INSTRUMENT PREPARED BY:**

**WILKINS & IVEY, ATTORNEYS**
2405 Crestmoor Road
P.O. Box 150157
Nashville, Tennessee 37215-0157

BOOK 7876 PAGE 879

# BY-LAWS

# OF

# WAYLAND DRIVE CONDOMINIUM

# (A HORIZONTAL PROPERTY REGIME)

# Nashville, Davidson County, Tennessee

## ARTICLE I

## FORM OF APARTMENT ADMINISTRATION

**SECTION 1. Property Subject Hereto.** The property to which these By-Laws shall apply is described as Wayland Drive Condominium, a horizontal property regime, located at 4500 Harpeth Hills Drive, Nashville, Davidson County, Tennessee, at the intersection of the westerly margin of Harpeth Hills Drive with the southerly margin of Wayland Drive; said property having been submitted to the provisions of the Tennessee Horizontal Property Act, codified as §66-27-101 et seq, of the Tennessee Code Annotated, by Master Deed to which these By-Laws are exhibited, and with which these By-Laws are being recorded.

**SECTION 2. Administration and Operation of the Property.** The administration and operation of the property shall be conducted by a homeowners' association under the name of "Wayland Drive Condominium Homeowners' Association." The By-Laws contained in this instrument shall be and become the By-Laws for the said homeowners' association, and "Association" as hereinafter used shall mean and refer to Wayland Drive Condominium Homeowners' Association. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the sole benefit of apartment owners, and all funds

received by the Association shall be held and applied by it for the use and benefit of apartment owners in accordance with the Master Deed and By-Laws. Each apartment owner shall be a member of the Association so long as he is an apartment owner. An apartment owner's membership shall automatically terminate when he ceases to be an apartment owner. Upon the conveyance or transfer of an apartment owner's ownership interest to a new apartment owner, the new apartment owner shall simultaneously succeed to the former apartment owner's membership in the Association. The terms "owner" or "co-owner" when used hereinafter shall be deemed to be the same as a "member" as described in this provision. In the transaction of business of the Association, each member shall have one vote and each apartment shall constitute one unit of membership even if an apartment is owned by multiple owners.

**SECTION 3. Applicability of By-Laws.** The provisions of these By-Laws are applicable to the property of the Condominium and to the use and occupancy thereof. The term "Property" as used herein, shall include the land, the building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, all of which are submitted to the referenced provisions of Tennessee Code Annotated.

**SECTION 4. Application.** These By-Laws and each change made in accordance herewith are, and shall be, covenants running with each apartment and binding on each successive co-owner, lessee or mortgagee of each apartment in the Condominium. All present and future owners, mortgagees, lessees and occupants of apartments and their employees, and any other persons who may use the facilities of the property in any manner are subject to these By-Laws and the Master Deed. The acceptance, whether from Developer or a co-owner, of a deed or conveyance, or mortgage, or the entering into a lease with the Developer or a co-owner, or the act of occupancy of an apartment shall constitute a covenant and an agreement by the grantee, conveyee, mortgagee, lessee or occupant that these By-Laws and the provisions of the Master Deed, as they may be amended from time to time, are accepted, ratified, and will be complied with, and further, that he will make the provisions herein known to any subsequent purchaser, lessee or mortgagee.

**SECTION 5. Office.** The office of the Condominium and of the Board of Directors shall be located at the Property, or at such other location as the Board of Directors may from time to time designate.

## ARTICLE II

## BOARD OF DIRECTORS

**SECTION 1. Number, Qualifications and Term of Office.** The affairs of the Association shall be governed by a Board of Directors. The Initial Board of Directors shall consist of John M. Thetford and Susan H. Thetford. The initial Board shall continue to serve until both of the apartments have been conveyed to purchasers. Thereafter, the Board of Directors shall be composed of one owner or spouse of an owner of each apartment. If there is more than one owner of an individual apartment, the owners of that apartment shall decide among themselves who is to serve as the board member for that apartment. A board member shall serve until the owner or owners decide that another owner, a spouse of an owner, instead of that owner, or another owner's spouse should serve and so replace the current board member.

**SECTION 2. Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the condominium and may do all such acts and things except as by law or by the Master Deed or by these By-Laws may not be delegated to the Board of Directors by the co-owners. Such powers and duties of the Board of Directors shall include, but not be limited to, the following:

(a) Operation, care, upkeep and maintenance of the common elements in accordance with the other provisions of these By-Laws.

(b) Determination of the common expenses required for the affairs of the Condominium including, without limitation, the operation and maintenance of the property.

(c) Collection of the common charges from the co-owners.

(d) Employment and dismissal of the personnel necessary for the maintenance and operation of the common elements.

(e) Adoption and amendments of rules and regulations covering the details of the operation and use of the property.

(f) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(g) Purchasing or leasing or otherwise acquiring in the name of the Board of Directors, or its designee, corporate or otherwise, on behalf of all apartment owners, apartments offered for sale or lease or surrendered by their owners to the Board of Directors.

(h) Purchasing of apartments at foreclosure or other judicial sales in the name of the Board of Directors, or its designee corporate or otherwise, on behalf of all co-owners.

(i) Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of members of the Board of Directors), or otherwise dealing with apartments, acquired by and subleasing apartments leased by the Board of Directors or its designee, corporate or otherwise, on behalf of all co-owners.

(j) Organizing corporations to act as designees of the Board of Directors in acquiring title to or leasing of apartments on behalf of all co-owners.

(k) Obtaining of insurance for the property, including the apartments, pursuant to the provisions of Article V, Section 2, hereof.

(l) Making of repairs, additions and improvements to or alterations of the property and repairs to and restoration of the property, in accordance with the other provisions of these By-Laws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(m) Granting permits, licenses and/or easements over the common areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the project.

**SECTION 3. Managing Agent and Manager.** The Board of Directors may employ for the Condominium a managing agent and/or a manager at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize, including, but not limited to the duties listed in subdivision (a), (c), (d), (k), and (l) of Section 2 of this Article II. The Board of Directors may delegate to the manager or managing agent, all of the powers granted to the Board of Directors by these By-Laws other than the powers set forth in subdivisions (b), (e), (f), (j) and (m) of Section 2 of this Article II; provided, however, that during the term of office of the Initial Board of Directors the Association may not be bound directly or indirectly to a management contract unless there is a right of termination of any such contract, without cause, which is exercisable without penalty at any time after expiration of the Initial Board term, upon not more than ninety (90) days notice to the other party.

**SECTION 4. Organization Meeting.** The first meeting of the members of the Board of Directors following the annual meeting of the co-owners shall be held within ten (10) days thereafter, at such time and place as shall be fixed by the co-owners at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, providing a majority of the whole Board of Directors shall be present at said meeting.

**SECTION 5. Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Directors, but at least one such meeting shall be held each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each member of the Board of Directors, by mail, telegraph or in person, at least three (3) days (excluding Saturdays, Sundays and bank holidays recognized in Nashville, Tennessee) prior to the day named for such meeting.

**SECTION 6. Special Meetings.** Special meetings of the Board of Directors may be called by either of the Directors upon three (3) business days' notice to the other, given in person or by mail or telegraph, which notice shall state the time, place and purpose of the meeting.

**SECTION 7. Waiver of Notice.** Any member of the Board of Directors may, at any time, waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Directors at any meeting of the Board or the execution of the minutes thereof shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**SECTION 8. Quorum of Board of Directors.** At all meetings of the Board of Directors, both board members must be present in order to constitute a quorum for the transaction of business, and a unanimous vote of the members of the Board of Directors shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors a unanimous decision cannot be reached, the board members shall jointly designate a third person to serve as a board member ex-officio for the decision of that particular issue. If the board members cannot agree upon the appointment of the ex-officio member, each board member shall appoint an ex-officio member, the two of whom shall then chose the one ex-officio member who shall cast the deciding vote. In the case where an ex-officio board member is chosen by either of the processes outlined above to vote to break a deadlock between the Permanent Board Members, a two-thirds vote of the members of the Board shall constitute the decision of the Board.

**SECTION 9. Fidelity Bonds.** The Board of Directors shall obtain adequate fidelity bonds for all officers and employees of the Condominium handling or responsible for Condominium funds. The premiums on such bonds shall constitute a common expense.

**SECTION 10. Liability of the Board of Directors.** The members of the Board of Directors shall not be liable to the co-owners for any mistake of judgment, negligence, or otherwise,

except for their own individual willful misconduct or bad faith. The co-owners shall indemnify and hold contractual liability to others arising out of contracts made by the Board of Directors on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Master Deed or of these By-Laws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is also intended that the liability of any co-owner arising out of any contract made by the Board of Directors, or out of the aforesaid indemnity, in favor of the members of the Board of Directors, shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interests of all the co-owners in the common elements. Every agreement made by the Board of Directors shall be limited to such proportion of the total liability thereunder, as his interest in the common elements bears to the interest of all the co-owners in the common elements. Every agreement made by the Board of Directors or by the managing agent or by the manager on behalf of the Condominium shall provide that the members of the Board of Directors or the managing agent, or the manager, shall have no personal liability thereunder (except as co-owners), and that each co-owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interest of all co-owners in the common elements.

**SECTION 11. Declaration of Default.** Should one co-owner/Board Member determine that the other co-owner/Board Member is in default in the performance of any of co-owner's obligations contained in the Master Deed, or these By-Laws, or if such co-owner should be in violation of any of the same or any rules and regulations established by the Board of Directors, then the co-owner/Board Member who is asserting that there is a default or violation shall send written notice of such default to the defaulting co-owner and if such default or violation is not cured within a reasonable time (not in excess of two weeks from the date of sending notice), or if the co-owners/Board Members do not agree that a violation or default exists, the deadlock procedure outlined in Section 8 of this article shall be utilized for the purpose of determining whether a violation or default exists. If the existance of a violation or default is established and the defaulting co-owner does not cure it within two weeks, the other co-owner/Board Member shall have the authority to, unilaterally, enforce the remedies given herein and by law.

**SECTION 12. Developer as Manager.** Subject to the limitations imposed in Article II, Section 3, hereof, the Developer or its designee may be employed as Manager or Managing Agent,

and as such, shall be entitled to any profit which it may earn from its management and operation of the Condominium, as long as said profit is reasonable.



## ARTICLE III

## CO-OWNERS

**SECTION 1. Annual Meetings.** At, or before, the expiration of its term of office, the Initial Board of Directors shall notify all co-owners and a meeting of the co-owners shall be held within thirty (30) days thereafter on a call issued by the President. Thereafter, the annual meetings of the co-owners shall be held on the 15th day of January of each succeeding year, unless such date shall occur on a Saturday or Sunday, in which event the meeting shall be held on the succeeding Monday.

**SECTION 2. Place of Meetings.** Meetings of the co-owners shall be held at the principal office of the Condominium or at such other suitable place convenient to the co-owners as may be designated by the Board of Directors.

**SECTION 3. Special Meetings.** It shall be the duty of the President to call a special meeting of the co-owners if so directed by resolution of the Board of Directors. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**SECTION 4. Notice of Meetings.** It shall be the duty of the Secretary to mail a written notice of such meeting of the co-owners, at least ten (10), but not more than twenty (20), days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each co-owner of record, at the building or at such other address as such co-owner shall have designated by notice in writing to the Secretary. The mailing of such notice of meeting in the manner provided in this Section shall be considered service of notice.

**SECTION 5. Adjournment of Meetings.** If any meeting of co-owners cannot be held because a quorum has not attended, a majority of the co-owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time approved by a majority of those then present.

**SECTION 6. Order of Business.** The order of business at all meetings of the co-owners shall be as follows:

(a) Roll call

(b) Proof of notice of meeting

(c) Reading of minutes of preceding meeting



(d) Reports of officers

(e) Report of Board of Directors

(f) Reports of committees

(g) Election of Inspectors of Elections (when so required)

(h) Election of member of the Board of Directors (when so required)

(i) Unfinished business

(j) New business

**SECTION 7. Title to Apartments.** Title to apartments may be taken in the name of an individual or in the name of two or more persons, as tenants in common or as joint tenants or as tenants by the entirety, or in the name of a corporation or partnership, or in the name of a fiduciary.

**SECTION 8. Voting.** The owner or owners of each apartment, or some person designated by such owner or owners to act as proxy on his or their behalf of who need not be an owner, shall be entitled to cast the vote appurtenant to such apartment at all meetings of co-owners. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary by the co-owner or co-owners so designating. Any or all of such co-owners may be present at any meeting of the co-owners and (those constituting a group acting unanimously), may vote or take any action as a co-owner either in person or proxy. Each co-owner (including the Developer, if the Developer shall then own one or more apartments) shall be entitled to cast one vote at all meetings of the co-owners for each apartment owned. A fiduciary shall be the voting member with respect to any apartment owned in a fudiciary capacity. It is clearly understood that there shall be only one vote for each apartment.

**SECTION 9. Quorum of Co-Owners.** Except as otherwise provided in these By-Laws, the presence in person or by proxy of co-owners representing both of the apartments in the horizontal property regime shall constitute a quorum at all meetings of the co-owners, and a unanimous vote of such co-owners or their proxy shall constitute the decision of the co-owners. If at any meeting of the co-owners a unanimous decision cannot be reached, the voting co-owners

shall jointly designate a third person to cast the deciding vote. If the co-owners cannot agree upon the appointment of such a third person, each voting co-owner shall appoint another person, the two of whom shall choose a third original deadlock between voting co-owners. In the case where a third person is chosen by either of the processes outlined above to vote to break a deadlock between the voting co-owners, a two-thirds vote of said voting parties shall constitute the decision of the co-owners.

**SECTION 10. Restriction on Purchase or Lease of Apartments by Co-Owners and on Capital Improvements.** So long as any apartments are owned by the Developer without having been initially sold by him, no apartment may be purchased or leased by or for the Association and no capital addition, extension, alteration, added improvement, modificaiton or additional embellishment of the property shall be authorized or made by the Association, without the prior written consent of the Developer, unless, by the unanimous vote of the co-owners other than the Developer, the Developer is excused and saved harmless from contributing to the purchase price or rental of such apartment or to the cost of such capital addition, extension, alteration, added improvement, modification or additional embellishment or any related series thereof. Nothing in the preceding sentence shall be construed to exempt any co-owner, including Developer, from contributing pro rata toward the expenses of administration and or maintenance and repair of the general common elements, and, in the proper case, of the limited common elements of the building.

## ARTICLE IV

## OFFICERS

**SECTION 1. Designation.** The principal officers of the Condominium shall be the President and the Secretary-Treasurer, both of whom shall be elected by the Board of Directors.

**SECTION 2. Election of Officers.** The officers of the Condominium shall be elected annually by the Board of Directors at the first meeting of each fiscal year and shall hold office at the pleasure of the Board of Directors.

**SECTION 3. Removal of Officers.** Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his

successor may be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

**SECTION 4. President.** The President shall be the chief executive officer of the Condominium. He shall preside at all meetings of the co-owners and of the Board of Directors. He shall have all of the powers and perform those duties vested in him by the Board of Directors.

**SECTION 5. Secretary-Treasurer.** The Secretary-Treasurer shall keep the minutes of all meetings of the Association and of the Board of Directors and he shall have charge of such books and papers as the Board of Directors may direct. The Secretary-Treasurer shall have the responsibility for Condominium funds and securities and shall be responsible for keeping in chronological order, full and accurate financial records and books of account showing all receipts and disbursements affecting the building and their administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred and for the preparation of all required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Managers, or the managing agent, in such depositories as may from time to time be designated by the Board of Directors, and he shall, in general, perform all the duties incident to the office of Secretary-Treasurer of a stock corporation and perform such other duties as the Board of Directors shall impose upon him, and such other functions as are generally performed by a Secretary-Treasurer of a business organization.

**SECTION 6. Agreements, Contracts, Deeds, Checks, Etc.** All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be exectued by both officers of the Condominium.

## ARTICLE V

## OPERATION OF THE PROPERTY

**SECTION 1. Determination of Common Expenses and Fixing of Common Charges.** The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the common charges payable by the co-owners to meet the ex-

penses of administration and of maintenance and repair of the general common elements and, in the proper case, of the limited common elements of the property and any other expenses lawfully agreed upon; and the Board of Directors shall allocate and assess such common charges among the co-owners at the rate of 50% to each apartment owner. The Board may determine different allocations. The allocations shall be applied uniformly to all owners of like situations. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of Section 2 of this Article V and the fees and disbursements of the Insurance Trustee. The common expenses may also include such amounts as the Board of Directors may deem proper for the operation and maintenance of the property, including without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The common charges also include such amounts as may be required for the purchase or lease by the Board of Directors of its designee, corporate or otherwise, on behalf of all co-owners, of any apartment whose owner has elected to sell or lease such apartment or of any apartment which is to be sold at a foreclosure or other judicial sale, as well as the assessed cost to the Board of Directors with regard to any utilities (including, but not limited to, gas, electricity, water, sewers and the like), or other services serving the property which are not separately charged or metered on the property. The Board of Directors shall advise all co-owners, promptly in writing, of the amount of common charges payable by each of them, respectively, as determined by the Board of Directors, as aforesaid, and shall furnish copies of each budget on which such common charges are based, to all co-owners and their mortgagees.

**SECTION 2.** **Insurance.** Each apartment owner shall be required to obtain and maintain replacement cost fire insurance insuring that owner's apartment and the limited common elements for that apartment, in an amount equal to the full replacement value of the building, without deduction for depreciation; each of such policies shall contain a Tennessee standard mortgagee clause in favor of each mortgagee of an apartment which will provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear. All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including all mortgagees of apartments. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment premiums, shall be delivered to all mortgagees of apartments at least ten (10) days prior to the expiration of the then current policies.

The Board of Directors shall be required to obtain and maintain a policy of public liability insurance covering the liability of the Association for injury or damage to the person or property of others.

At the option of the owners of both apartments and subject to availability, the total insurance requirements hereunder may be combined in one policy, provided that the content of such policy satisfies the combined and consolidated insurance needs as set forth herein.

**SECTION 3. Repair or Reconstruction After Fire or Other Casualty.** In the event of a fire or any other casualty, the insurance indemnity shall, except as provided hereinafter, be applied to reconstruct the building. Reconstruction shall not be compulsory where it comprises the whole or more than two thirds (2/3) of the building. In such case, the indemnity shall be delivered to each owner according to the terms of that owner's policy, and the property shall be sold. Proceeds of the sale will be divided among the co-owners in proportion to the value of each owner's apartment and limited common elements as they existed at the time of sale, such that neither party shall be placed in a windfall position by having all of his/her apartment and limited common elements destroyed by fire or other casualty, collecting full insurance proceeds from his/her insurance indemnity and then (if sale proceeds were to be divided equally among co-owners) receiving sale proceeds generated by the sale of the other owner's apartment and limited common elements which were not destroyed and for which that other owner did not receive insurance proceeds under the terms of his/her insurance indemnity. In the case of a sale as set out above, sale proceeds payable to an apartment owner shall be first applied to any mortgage indebtedness which remains unpaid at the time of the sale.

Should it be proper to proceed with reconstruction, each owner's insurance indemnity shall be applied toward reconstruction in an amount and in proportion to the extent to which reconstruction is necessary as to that owner's apartment and limited common elements.

SECTION 4. Payment of Common Charges. All co-owners shall be personally obligated to pay the common charges assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article V at such time or times as the Board of Directors shall determine. The Developer is exempt from payment of common charges as to any apartment until its construction is complete. No co-owner shall be liable for the payment of any part of the common charges assessed against his apartment subsequent to a sale, transfer or other conveyance by him as such apartment, together with the appurtenant interests, as defined in Section 1 of Article VII hereof. A purchaser of an apartment shall not be personally liable for the payment of

common charges assessed against such apartment prior to the acquisition by him of such apartment unless such liability was assumed as part of the purchase; provided, however, that the lien imposed herein for unpaid charges and assessments shall continue to be valid against the apartment, but shall in no way be superior to the lien of a first mortgage.

**SECTION 5. Collection of Assessments.** The Board of Directors shall assess common charges against the co-owners from time to time and at least annually and shall take prompt action to collect any common charge due from any co-owner which remains unpaid for more than thirty (30) days from the due date.

**SECTION 6. Default in Payment of Common Charges.** In the event of default by any co-owner in paying to the Board of Directors the common charges as determined by the Board of Directors, such co-owner shall be obligated to pay interest at the maximum legal rate on such common charges from the due date thereof, together will all expenses, including attorney's fees, incurred by the Board of Directors in any proceeding brought to collect such unpaid common charges. The Board of Directors shall have the right and duty to attempt to recover such common charges, together with interest thereon, and the expenses of the proceeding, including attorney's fees, in an action to recover the same brought against such co-owner, or by foreclosure of the lien on such apartment granted by §66-27-116 of Tennessee Code Annotated, or both.

**SECTION 7. Foreclosure of Liens for Unpaid Common Charges.** In any action brought by the Board of Directors to foreclose a lien on an apartment because of unpaid common charges, the Board of Directors, acting on behalf of the Association, shall have the power to purchase such apartment unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

**SECTION 8. Statement of Common Charges.** The Board of Directors shall promptly provide any co-owner so requesting the same in writing, with a written statement of all unpaid common charges due from such co-owner.

**SECTION 9. Abatement and Enjoinment of Violations by Co-Owners.** The violation of any rule or regulation adopted by the Board of Directors, or the breach of any By-Laws contained herein, or the breach of any provision of the Master Deed shall give the Board of Directors the right, in addition to any other rights set forth in these By-Laws:

(a) to enter the apartment in which, or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting co-owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach and to recover all costs of such enforcement, including reasonable attorney's fees.

**SECTION 10. Maintenance and Repair.** Except as provided in Section 3 hereof:

(a) All maintenance of and repairs to any apartment, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any common elements contained therein, and not necessitated by the negligence, misuse or neglect of the owner of such apartment), shall be made by the owner of such apartment. Each co-owner shall be responsible for all damages to any and all other apartments and/or to the common elements within or adjacent to his apartment, which require maintenance or repair. The Board of Directors may make any repairs and maintain any co-owner's apartments and charge the cost of the same to the affected co-owner or co-owners.

(b) All maintenance, repairs and replacements to the common elements, whether located inside or outside of the apartment units, (unless necessitated by the negligence, misuse or neglect of a co-owner in which case such expense shall be charged to such co-owner), shall be made by the Board of Directors and be charged to all the co-owners as a common expense.

(c) All maintenance, repairs and replacements to any limited common elements identified on the plat of record or otherwise herein (other than maintenance of and repairs to any common elements contained therein, and not necessitated by the negligence, misuse or neglect of any owner of the abutting apartments, or by any agent, invitee, contractor or guest of any such owner) shall be made by the owner of the apartment to which use of that limited common element is restricted.

**SECTION 11. Restrictions on Use of Apartments.** In order to provide for congenial occupancy of the property and for the protection of the values of the apartments, the use of the property shall be restricted to and shall be in accordance with the following provisions:

(a) Each of the apartments shall be used for single family residences only. This provision shall not preclude use and occupancy by two adults not married to each other.

(b) The common elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of apartments.

(c) No nuisances shall be allowed on the property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of the property by its residents.

(d) No immoral, improper, offensive, or unlawful use shall be made of the property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof, relating to any portion of the property, shall be complied with, by and at the sole expenses of the respective co-owners or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the property.

(e) No portion of an apartment (other than the entire apartment) may be rented, and no transient tenants may be accomodated therein.

(f) No sale of any kind shall be conducted on the premises except to sell the personal effects of a deceased co-owner or tenant or his or her spouse; provided, however, that such permitted sale shall be conducted for no longer than two consecutive days and between the hours of 9 A.M. and 5 P.M.

**SECTION 12. Additions, Alterations or Improvements by Board of Directors.** Whenever in the judgment of the Board of Directors the common elements shall require additions, alterations or improvements, and the making of such additions, alterations or improvements, shall have been approved by the co-owners pursuant to the provisions of Section 10 of Article III hereof having been complied with, the Board of Directors shall proceed with such additions, alterations, or improvements and shall assess all co-owners for the cost thereof as a common charge.

**SECTION 13. Additions, Alterations or Improvements by Co-Owners.** Any structural additions, alterations or improvements in or to his apartment shall not be made by any co-owner without the prior written consent thereto of the Board of Directors. A lien for labor or materials shall attach to such co-owner's interest in the Condominium and not the Condominium as a whole. The Board of Directors shall have the obligation to answer any written request by a co-owner for approval of a proposed structural addition, alteration or improvement in such co-owner's apartment, within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed addition, alteration or improvement. Any application to any department of the Government of Nashville, Davidson County, Tennessee, or to any other governmental authority for a permit to make an addition, alteration or improvement in or to any apartment shall be executed by the Board of Directors only, without however, incurring any liability on the part of the Board of Directors or any of them to any contractor, subcontractor or materialman on account of such addition, alteration, or improvement, or to any person having any claim for injury to person or damage to property arising therefrom. The provisions of this Section 13 shall not apply to apartments owned by the Developer until such apartment shall have been initially sold by the Developer and paid for.

**SECTION 14. Use of Common Elements and Facilities.**

(a) A co-owner shall not place or cause to be placed in the common areas or common facilities, other than a terrace or yard to which such co-owner has sole access, and other than the areas designated by the Board of Directors, any furniture, packages or objects of any kind, except with the written consent of the Board of Directors or its agent.

(b) Any limited common elements, which have been designated as herein and otherwise in the Plat of record, shall be used only by that or those apartments which abut directly thereon, and the use thereof shall be limited only to that to which the same are reasonably suited and which are incident to the use and occupancy of such abutting apartments or as otherwise restricted herein on the Plat of record.

**SECTION 15. Right of Access.** A co-owner shall grant a right of access to his apartment to the manager and/or the managing agent and/or any other person authorized by the Board of Directors, the manager or the managing agent, for the purpose of making inspections or for the purpose of correcting any condition originating or existing in his apartment or threatening another apartment or a common element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other common elements in his apartment unit or elsewhere in the buildings, or to correct any condition which violates the provisions of any mortgage covering another apartment, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the apartment owner. In case of an emergency, such right of entry shall be immediate, whether the co-owner is present at the time or not.

**SECTION 16. Rules of Conduct.** Rules and regulations concerning the use of the apartments and the common elements may be promulgated and amended by the Board of Managers. Copies of such rules and regulations shall be furnished by the Board of Directors to each co-owner prior to the time when the same shall become effective.

**SECTION 17. Electricity, Water and Sewer Charges.** All utilities shall be separately metered such that each unit owner is responsible for payment of utility charges billed as a result of service to his unit.

**SECTION 18. Special Assessments.** In addition to the other common charges authorized herein, if the members of the Board of Directors mutually agree to the construction of additional recreational and other common facilities, or the alteration, remodeling, demolition or removal of existing recreational and other common facilities from time to time, then the cost of such construction, etc., shall be financed by increasing the common charges paid by all co-owners

upon the same basis as other common charges are paid and such increased common charges shall be paid monthly over a term of years if satisfactory financing can be obtained.



## ARTICLE VI

## MORTGAGES

**SECTION 1. Notice to Board of Directors.** A co-owner who mortgages his apartment shall notify the Board of Directors of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board of Directors; the Board of Directors shall maintain such information in a book entitled "Mortgages of Apartments".

**SECTION 2. Further Assurance to Mortgagees.** As further assurance to mortgagees, the following matters are hereby provided:

1. Except as provided by statute in case of condemnation or substantial loss to the units and/or common elements of the condominium project, unless both of the first mortgagees (based upon one vote for each first mortgage owed), or owners (other than the sponsor, developer, or builder) of the individual condominium units have given their prior written approval, the condominium homeowners' association shall not be entitled to:

(a) by act or omission, seek to abandon or terminate the condominium project;

(b) change the pro rata interest or obligation of any individual condominium unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each condominium unit in the common elements;

(c) partition or subdivide any condominium unit;

(d) by act or omission, to seek to abandon, partition, subdivide, encumber, sell or transfer the common elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause);

(e) use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement or reconstruction of such condominium property.

(f) amend any provision in the Master Deed or By-Laws which exists for the express benefit of first mortage holders.

2. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual condominium units and not to the condominium project as a whole.

3. No provision of these By-Laws or the Master Deed is intended to give a condominium unit owner, or any other party, priority over any rights of the first mortgagee of the condominium unit pursuant to its mortgage in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or common elements, or in the case of liens for unpaid assessments.

4. Condominium dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those common elements that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

5. A working capital fund shall be established for the purpose of meeting unforseen expenditures or to acquire additional equipment or services deemed necessary or desirable. Such fund shall be acquired by the collection of an amount equal to two regular monthly assessments at the time of the closing of the initial sale of each apartment. The amounts so paid shall not be treated as prepayments of regular assessments.

6. A first mortgagee, upon request, will be entitled to written notification from the Homeowners' Association of any default in the performance by the individual unit Borrower of any obligation under the condominium constituent documents which is not cured within sixty (60) days.

7. Any first mortgagee who acquires title to a condominium apartment pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such apartment's unpaid dues or charges which accrued prior to the acquisition of title to such apartment by the mortgagee; and provided further that any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of an apartment from liability for, nor the apartment from the lien of, any assessments made thereafter.

**SECTION 3. Examination of Books.** Each co-owner and each mortgagee of an apartment shall be permitted to examine the books of account of the Condominium at reasonable times, on

business days, but not more often than once a month, and to receive on request, at reasonable cost, current copies of the Master Deed, By-Laws and other rules concerning the property.



## ARTICLE VII

## NON-SEVERABILITY OF OWNERSHIP

**SECTION 1. No Severance of Ownership.** The interest, rights and privilege to which a co-owner is entitled by reason of the ownership of an apartment are herein designated Appurtenant Interests and include, but are not limited to: an undivided interest in the common elements of the horizontal property regime, the rights and privileges to use and enjoy the common elements, the interest of a co-owner in an apartment or apartments acquired by the Board of Directors or its designee on behalf of all co-owners or the proceeds of the sale or lease thereof, if any, the right to attend and to vote at the meetings of co-owners and the interest of a co-owner in any other assets of the horizontal property regime. No co-owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his apartment without including therein the Appurtenant Interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interest of any apartment may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of such part of the Appurtenant Interests of all apartments.

**SECTION 2. Waiver of Right of Partition with Respect to such Apartments as are Acquired by the Board of Directors, or its Designee, on behalf of the Association as Tenants in Common.** In the event that an apartment or any common elements or any other property shall be acquired by the Board of Directors, or its designee, on behalf of the Association, all co-owners, shall be deemed to have waived all rights of partition with respect to such apartment or property.

## ARTICLE VIII
## CONDEMNATION

**SECTION 1. Condemnation.** In the event of a taking in condemnation or by eminent domain

of a part of the common elements, the award made for such taking shall be payable to the Board of Directors, for and on behalf of the Association, if such award amounts to $20,000 or less, and to the Insurance Trustee if such award amounts to more than $20,000. If a majority of the Board of Directors in their sole and absolute discretion approve the repair and restoration of such common elements the Board of Directors shall arrange for the repair and restoration of such common elements, and the Board of Directors or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that the Board of Directors does not duly and promptly approve the repair and restoration of such common elements, the Board of Directors or the Insurance Trustee, as the case may be, shall disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of the damage, as provided in Section 3 of Article V of these By-Laws.

## ARTICLE IX

## RECORDS

**SECTION 1. Records and Audits.** The Board of Directors or the managing agent shall keep detailed records of the actions of the Board of Directors and the managing agent, minutes of the meetings of the Board of Directors, minutes of the meetings of the co-owners, and financial records and books of account of the Condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each apartment which, among other things, shall contain the amount of each assessment of common charges against such apartment, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenditures of the Condominium shall be rendered by the Board of Directors to co-owners at least annually. In addition, an annual report of the receipts and expenditures of the Condominium shall be rendered by the Board of Directors to co-owners and to all mortgagees of apartments who have requested the same, promptly after the end of each fiscal year.

## ARTICLE X

## MISCELLANEOUS

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**SECTION 1. Notices.** All United States mail notices hereunder shall be delivered or sent by registered or certified mail to the Board of Directors c/o the managing agent, or, if there be no managing agent, to the office of the Board of Directors, or to such other address as the Board of Directors may hereafter designate from time to time by notice in writing to co-owners and to all mortgagees of apartments. All notices to any co-owner shall be delivered or sent by registered or certified United States mail to the building or to such other address as may have been designated by him from time to time, in writing, to the Board of Directors. All notices to mortgagees of apartments shall be sent by registered or certified United States mail to their respective addresses, as designated by them from time to time, in writing, to the Board of Directors. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

**SECTION 2. Invalidity.** The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

**SECTION 3. Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof.

**SECTION 4. Gender.** The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

**SECTION 5. Waiver.** No restriction, condition, obligations, or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

**SECTION 6. Insurance Trustee.** The Insurance Trustee shall be First American National Bank of Nashville, Tennessee, unless and until it shall be replaced by a bank or trust company in Nashville, Tennessee, approved by the Board of Directors and having a capital, surplus and

any undivided profits of $10,000,000 or more. In the event that the Insurance Trustee shall resign the new Insurance Trustee shall be a bank or trust company in Nashville, Tennessee, designated by the Board of Directors and having a capital, surplus and undivided profits of $10,000,000 or more. The Board of Directors shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a common expense of the Condominium.

**SECTION 7. Proxy.** Any act or approval in writing shall be binding upon the person approving same.

## ARTICLE XI

## AMENDMENT TO BY-LAWS

**SECTION 1. Amendment to By-Laws.** These By-Laws may be modified or amended by the written consent or unanimous vote of all co-owners of the then existing apartments in the Condominium. Such modifications or amendments shall not be effective until filed for record in the Register of Deeds Office for Davidson County.

## ARTICLE XII

## CONFLICTS

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**SECTION 1. Conflicts.** These By-Laws are set forth to comply with the requirements of the Tennessee Horizontal Property Act, now codified as §66-27-101, et seq., of the Tennessee Code Annotated as it may be amended from time to time, to allow the By-Laws to control in specific situations where such law allows. In case any of these By-Laws conflict with the provisions of said statute or of the Master Deed, the said statute or the Master Deed, as the case may be, shall control. Terms which are not defined in the Master Deed and the Plan of record or in these By-Laws shall be deemed to be the same as defined in such Act.