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THIS INSTRUMENT PREPARED BY:
Mudter, Morgan & Patterson, Attys.
2000 Richard Jones Road, Suite 110
Nashville, TN 37215

DECLARATION OF COVENANTS, CONDTIONS AND RESTRICTIONS FOR OUTER TOWNHOMES, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

THIS DECLARATION made and entered into by HB HOLDINGS, LLC, a Tennessee limited liability company, (hereinafter referred to as the "Developer"), this 15th day of May, 2006.

W I T N E S S E T H:

WHEREAS, the Developer is the record owner of the legal title of a tract or parcel of real property located in Davidson County, Tennessee, and more particularly described on Exhibit "A" attached and made a part hereof (hereinafter referred to as the "Parcel"); and,

WHEREAS, the Developer desires to and does hereby submit the Parcel described on Exhibit "A" together with all the rest of the Property (as herein defined), and all rights and privileges belonging or in anyway pertaining thereto, to the provisions of the Horizontal Property Act of the State of Tennessee as the same may be amended from time to time for the express purpose of establishing thereon a horizontal property regime with private elements to be known as Outer Townhomes; and,

WHEREAS, the Developer further desires to establish for its own benefit and for the mutual benefit of all future owners and/or occupants of the Property or any part thereof, certain rights, easements, and privileges in, over and upon the said premises and certain mutually beneficial

restrictions and obligations with respect to the proper use, conduct and maintenance thereof, for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

NOW, THEREFORE, Developer, as the legal title holder of the Property, and for the purposes above set forth, declares as follows:

1. **Definitions.** As used herein, unless the context otherwise requires:

(a) "Act" means the Horizontal Property Act of the State of Tennessee, Tennessee Code Annotated, Sections 66-27-101, et seq., as the same may be amended from time to time.

(b) "Association" means Outer Townhomes Corporation, a Tennessee not-for-profit corporation.

(c) "Attorney's Certificate." The attorney's opinion as required under the terms of the T.C.A. Section 66-27-103 is attached hereto as Exhibit "D" and made a part hereof.

(d) "Board" means the Board of Directors of Outer Townhomes Corporation, a Tennessee not-for-profit corporation.

(e) "Buildings" mean the buildings located on the parcel and forming a part of the property and containing the Units. The buildings are delineated on the Plat attached as Exhibit B.

(f) "By-Laws" mean the By-Laws of the Outer Townhomes Corporation attached hereto as Exhibit "C" and made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in the body of this Declaration dealing with the administration and maintenance of the property shall be deemed to be part of the by-Laws.

(g) "Common Elements", if any, shall mean all of the Property, except the Units and Private Elements.

(h) "Declaration" means this instrument as amended from time to time.

(i) "Developer" shall refer to HB Holdings, LLC, its successors and assigns.

(j) "Limited Common Elements" shall mean those portions of the Common Elements designated herein for the exclusive enjoyment, benefit or use of the Unit to which it is assigned.

(k) "Majority" or "majority of the Unit Owners" means the owners of more than fifty (50%) percent of the Units.

(l) "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

(m) "Parcel" means the parcel or tract of real estate described on Exhibit "A" attached to this Declaration and submitted hereby to the provisions of the Act.

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

(o) "Plat" means the Plat, Plats of survey or site plans of the Parcel submitted to the provisions of the Act showing the number of each Unit and the exterior boundary of its Private Elements and other data necessary for identification, said Plat or Plats being attached hereto as Exhibit "B".

(p) "Private Elements" shall mean and include the portion of the Parcel upon which a Unit is located. Exclusive ownership in fee simple and use of the Private Elements for each Unit is reserved to such Unit. The area of the Private Elements for each Unit is shown on the Plat. Lots, as referenced on the Plat, shall be deemed to refer to the Private Elements.

(q) "Property" means all the land, property and space comprising the Parcel as defined in Item (m) above, and all improvements and structures erected, constructed or contained therein or thereon, including the Buildings and all easements, rights and appurtenances

belonging thereto, and all furniture, furnishings, fixtures, and equipment intended for the mutual use, benefit or enjoyment of Unit Owners, submitted to the provisions of the Act.

(r) "Record" or "Recording" refers to the record or recording in the Register's Office for Davidson County, Tennessee.

(s) "Rules and regulations" refer to the rules and regulations concerning the use of the Units and the Common Elements, as adopted from time to time by the Board in accordance with the Declaration and By-Laws.

(t) "Unit" shall mean a portion of the Property as shown and designated in the Plat for separate ownership and shall include the Private Elements and the Buildings and improvements now and hereafter located thereon. Each Unit is identified by number on the Plat and may be held and conveyed by reference to such number. Conveyance of a Unit shall automatically convey the undivided membership of each Unit Owner in the Association. Each Unit is assigned a street address number as shown on the Plat. Any Unit may be jointly or commonly owned in any estate recognized under applicable law. For purposes herein, the term "Unit" shall equate to the same meaning as the term "apartment" in the Horizontal Property Act.

(u) "Unit Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit, its respective Private Elements, and the undivided interest in the Common Elements appurtenant thereto, and shall be deemed the same as "co-owner" under the Act. Unless specifically provided otherwise herein, Developer shall be deemed a Unit Owner so long as Developer is the legal title holder of any Unit.

2. **Submission of the Property to the Act**. The Developer by recording this Declaration does hereby submit and subject the Parcel and the Property to the provisions of the Act and does hereby establish a Horizontal Property Regime with Private Elements to be known as Outer Townhomes.

3. **Plat.** The Plat sets forth the numbers and location of each Unit and other data as required by the Act.

4. **Units**. The legal description of each Unit shall consist of the identifying number of each Unit as shown on the Plat. Every deed, lease, mortgage, deed of trust, or other instrument shall legally describe a Unit by its identifying number as shown on the Plat and every such description by number shall be deemed good and sufficient for all purposes, as provided in the Act. Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause his Unit to be separated into tracts or parcels different from the whole Unit as shown on the Plat.

5. **Association of Unit Owners and Administration and Operation of the Property.**

(a) There has been formed an Association having the name Outer Townhomes Corporation, a Tennessee not-for-profit corporation, which Association shall be the governing body for all Unit Owners, and shall be operated to provide guidelines for the maintenance, repair, replacement, administration, and operation of the property, as provided in the Act, this Declaration and By-Laws. The Unit Owners shall be members of the Association, with each Unit holding an undivided membership interest appurtenant to a Unit being in an equal share, subject to the provisions concerning voting hereinafter set forth. The By-Laws for the Association shall be the By-Laws attached to this Declaration as Exhibit "C" and made a part hereof. The Board of Directors of the Association shall be elected and serve in accordance with the provisions of the By-Laws. The fiscal

year of the Association shall be deemed to be a calendar year. 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 the Unit Owners, and any funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners, in accordance with the provisions of this Declaration and By-Laws. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall automatically succeed to the former Unit Owner's membership in the Association.

(b) Voting members shall include both Unit Owners, each of whom shall be entitled to one (1) vote for each Unit owned.

(c) Interests of Association in Common Elements. Ownership of the Common Elements shall be vested in the Association.

6. **Board's Determination Binding.** In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of this Declaration or the By-Laws, the determination thereof by the Board shall be final and binding on all Unit Owners. If a dispute arises from or relates to these covenants or to the breach thereof, which dispute cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute either by mediation administered by the American Arbitration Association under its Commercial Mediation Rules or by another mediator mutually agreed upon by the parties, before resorting to arbitration. Any unresolved controversy or claim arising from or relating to these restrictions and covenants, or any other dispute under this Declaration, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Mediation Rules or by another arbitrator mutually agreed upon by the parties, and

judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. If the parties agree, a mediator involved in the parties' mediation may be asked to serve as the arbitrator. All expenses in connection with any such mediation and/or arbitration, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the highest rate allowed by applicable law or such other uniform lawful rate as the Board shall determine, until paid, shall be charged to and assessed against such non-prevailing Unit Owner.

7. **Ownership of Interests in the Association.** Each Unit is hereby allocated a fifty percent (50%) ownership in the Association. The percentages of ownership interests shall remain constant unless hereafter changed by recorded amendment to the Declaration consented to in writing by the Unit Owners, in accordance with the requirements hereafter contained. Said ownership interest shall be an undivided interest, and the undivided membership interests in the Association shall be owned by the Unit Owners as Tenants in Common in accordance with their respective percentages of ownership. The ownership of a Unit shall not be conveyed separately from the undivided ownership in the Association appurtenant to such Unit. The undivided interest in the Association appurtenant to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering such Unit may refer only to the fee title to that Unit.

8. **Use of the Common Elements.** Each Unit Owner shall have the right to use the Common Elements in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend not only to each Unit Owner, but also to his agent, servants, tenants, family members, customers, invitees, and licenses. However,

each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements attributable to the Unit.

9. **Storage Areas, Driveways and Parking Spaces.** No storage units or areas shall be permitted upon the Property outside any Unit. Except as otherwise specified on the Plat, parking areas and/or driveways on the Property shall be Limited Common Elements, and shall be used by each respective Unit Owner subject to the Rules and Regulations of the Association.

10. **Common Expenses and Enforcement; Deed of Trust Protection.**

(a) Each Unit Owner shall be responsible for paying his proportionate share of the expenses of the administration and operation of the Common Elements, exclusive of the expenses related to Limited Common Elements which shall be the responsibility of the Unit Owner who has the enjoyment, benefit and use thereof, and of any other expenses incurred in conformance with this Declaration and By-Laws (which expenses are herein sometimes referred to as "common expenses"), including, but not limited to, the maintenance and repair of the Property, including the swale along the northerly portion of the Parcel, and any and all replacements and additions thereto. Such proportionate share of the common expenses for each Unit Owner shall be in accordance with his interest in the Association. The payment of common expenses shall be in such amounts and shall be payable at such times as determined in the manner provided in the By-Laws. No Unit Owner shall be exempt from payment of his equal share of the common expenses by waiver or nonuse of enjoyment of the Common or Limited Common Elements or by abandonment of his Unit. If any Unit Owner shall fail to make such payment for common expenses when due, the amount thereof, together with interest thereon at the highest rate allowed by law from the date that said common expenses become due and payable, plus reasonable attorney's fees incurred by the Association in the collection thereof or the enforcement of the lien herein provided, shall constitute

a lien on the interest of such Unit Owner in his Unit and the Property as provided in the Act. Except for a foreclosure sale described in subsection (b) below, the sale or conveyance of a Unit shall in all cases be subject to all unpaid assessments against the Unit Owner thereof for his pro rata share in the common expenses, and if the same are not paid by the owner thereof prior to any sale or conveyance, shall be a lien against the Unit. Likewise, all taxes and other levies and assessments by governmental taxing bodies shall be a lien against individual Units.

(b) The lien for assessments payable by a Unit Owner shall be subordinate to the lien of a recorded first Mortgage or Deed of Trust on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses which become due and payable from and after the date on which the Mortgagee or Beneficiary thereunder either takes possession of the Unit encumbered thereby, accepts a conveyance of any interest therein (other than as security) or forecloses its Mortgage or Deed of Trust. This subparagraph shall not be amended, changed, modified, or rescinded without the prior written consent of all Mortgagees and Beneficiaries of records.

11. **Mortgages and Deeds of Trust.** Each Unit Owner shall have the right, subject to the provisions herein, to mortgage his Unit together with his respective ownership interest in the Association. No Unit Owner shall have the right or authority to mortgage or place a lien on the Property or any part thereof, except to the extent of his own Unit and its appurtenant interest in the Association.

12. **Separate Real Estate Taxes.** Real estate taxes shall be separately assessed to each Unit Owner for his Unit and its appurtenant interest in the Association, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Unit Owner, but rather are taxed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in

accordance with his respective Percentage Interest in the Association, and, in said event, such taxes shall be a common expense.

13. **Insurance.** The Board, in its discretion, may obtain insurance for the Common Elements, if applicable, exclusive of the Units, Private Elements and/or Limited Common Elements, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions, for the full insurable replacement cost of the Common Elements, and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement cost shall be deemed the cost of restoring the Common Elements, or any part thereof, to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board, as the Trustee for the Unit Owners in proportion to the Unit Owners' respective percentages of ownership in the Association, as set forth in this Declaration, and for the holders of mortgages on the Units, if any. The policy of insurance should also contain, if possible, a waiver of subrogation rights by the insurer against the Unit Owners. The premiums for such insurance shall be a common expense.

In the event of damage to or destruction of any Common Elements as a result of fire or other casualty covered by insurance proceeds (unless more than two-thirds (2/3) of all buildings require reconstruction), the Board shall, in its sole and absolute discretion, determine and without intervention of any Unit Owner arrange for the prompt repair and restoration of the damaged portions of all Common Elements substantially in accordance with the original plans and specifications therefore. Where the insurance indemnity is insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Unit Owners in proportion to the Unit Owner's respective percentage of ownership in the Association. The Board shall not be responsible

for the repair, replacement or restoration of any Unit, Private Element or Limited Common Element for which the responsibility of maintenance and repair is that of a Unit Owner, or for furniture, furnishings, fixtures, appliances, or equipment installed in the Unit by a Unit Owner or occupant.

The Board shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and workmen's compensation insurance and other liability insurance in such amounts as it deems desirable, insuring each Unit Owner, Mortgagee of Record, and the Association, its officers, directors, and employees, from liability in connection with the Property. The premiums for such insurance shall be a common expense; however, premiums for such insurance shall be billed separately and equally to each Unit Owner.

The Board may also obtain Fidelity Coverage covering officers, directors and employees who handle or are responsible for handling Association funds. Such bonds shall be in such amounts as the Board may determine, but in no event less than one hundred fifty percent (150%) of the monthly operating expenses of the Association, and shall contain waivers of any defense based upon the exclusion of persons serving without compensation.

The Board may also obtain such other insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring the property and each member of the Board and officer of the Association, and each member of any committee appointed pursuant to the By-Laws of the Association, from liability arising from the fact that said person is or was a director or officer of the Association, or a member of such a committee.

Each Unit Owner shall be responsible for obtaining his own insurance on his Unit, contents of his Unit and the Limited Common Elements serving his Unit, as well as his additions and improvements thereto, and those parts of the Unit for which the responsibility of maintenance and repair is that of the Unit Owner, and for decorations, furnishings, and personal property therein,

and personal property stored elsewhere on the Property, if any. In addition, in the event a Unit Owner desires to insure against his personal liability and loss or damage by fire or other hazards above and beyond the extent that his liability, loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for all of the Unit Owners as part of the common expenses, as above provided, said Unit Owner may, at his option and expense, obtain additional insurance. If requested by the Board, each Unit Owner shall be required to list the Association as an additional insured on said Unit's hazard insurance policy.

14. **Maintenance, Repairs, Replacements, and Easements.** Each Unit Owner, at his own expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within and to the exterior of his Unit and the Limited Common Elements attributable thereto. Except to the extent hereinafter set forth, maintenance of, repairs to and replacements within the Common Elements shall be the responsibility of and shall be furnished by the Association, and the cost thereof shall be part of the common expenses, subject to Item No. 10 (a) herein and further subject to the By-Laws, and Rules and Regulations of the Association. The expenses for the maintenance, repair or replacement of a Unit's roof, water heater, furnace, air conditioner, heating, and air conditioning ducts, and plumbing and electrical wiring and other items including, but not limited to the Limited Common Elements, serving only such Unit, shall be borne by the Unit Owner to which such Limited Common Elements are appurtenant.

If, due to the act or neglect of a Unit Owner, or of his agent, servant, tenant, family member, invitee, licensee or household pet, damage shall be caused to the Common Elements or Unit or Units owned by others, or maintenance, repairs or replacements are required which would otherwise be a common expense, then such Unit Owner shall pay for such damage or such maintenance, repairs and replacements, to the extent not covered by the Association's insurance.

An easement hereby exists for any installation, maintenance, repair and replacement of any and all pipes, wires, conduits, or other utility lines running through or around any Unit or Common Elements. An easement exists for ingress and egress and maintenance in favor of any public utility providing utility services to the Property and the Units.

The authorized representatives of the Association or Board shall be entitled to reasonable access to the Units and Limited Common Elements as may be required in connection with the preservation of any individual Unit or Limited Common Elements in the event of an emergency, or, if applicable, in connection with maintenance of, repairs to, or replacements within the Common Elements or Limited Common Elements, or to make any alteration required by any governmental authority.

15. **Alterations, Additions or Improvements.** Except as provided in paragraph No. 16 herein, no alteration of any Common Element, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize alterations, additions and improvements of the Common Elements as provided in the By-Laws. Any Unit Owner may make alterations, additions, or improvements within his Unit without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements. Any alteration and/or maintenance made by a Unit Owner to the exterior of his Unit shall be in strict conformity to the architectural design and scheme of the Unit as of the date of this instrument unless modified by the unanimous agreement of the Unit Owners.

16. **Decorating.** Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his Unit and Limited Common Elements serving his Unit as

may be required from time to time, including painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting, and other furnishings and decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings of his Unit and such Unit Owner shall maintain said interior surfaces in good conditions at his sole expense, as may be required from time to time. Said maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association, but each Unit Owner shall have the right to decorate such interior surfaces from time to time as he may see fit and at his sole expense. All windows and screens of a Unit shall be cleaned and washed, and any damage thereto repaired, at the expense of the Unit Owner of that Unit.

17. **Encroachments.** If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portions of the Common Elements, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachments, so long as the same shall exist.

18. **Use and Occupancy Restrictions**. Subject to the provisions of the By-Laws, no part of the property may be used for purposes other than housing and the related common purposes for which the property was designed and as allowed by zoning laws. Each Unit shall be used as one single family residence or such other use permitted by this Declaration, and for no other purpose, except that professional and quasi-professional people may use their residence (not in violation of municipal zoning laws) as an ancillary or secondary facility to an office established elsewhere. No unit may be offered by its owner to the public at large for temporary transient accommodations; however, nothing in this Section shall prohibit Unit Owners from leasing their Units to others to be used as a residence. The foregoing restrictions as to residence shall not, however, be construed in

such manner as to prohibit a Unit Owner from: (a) maintaining his personal professional library; (b) keeping his personal business or profession records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions.

The Common Elements shall be used only by Unit Owners and their agents, servants, tenants, family members, customers, invitees, and licensees for access, ingress to and egress from the respective Units, and for such other purposes incidental to use of the Units. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner.

19. **Remedies.** If a dispute arises from or relates to these covenants or to the breach thereof, which dispute cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute either by mediation administered by the American Arbitration Association under its Commercial Mediation Rules or by another mediator mutually agreed upon by the parties, before resorting to arbitration. Any unresolved controversy or claim arising from or relating to these restrictions and covenants, or any other dispute under this Declaration, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Mediation Rules, or by another arbitrator mutually agreed upon by the parties, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. If the parties agree, a mediator involved in the parties' mediation may be asked to serve as the arbitrator. All expenses in connection with any such mediation and/or arbitration, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the highest rate allowed by applicable law or such other uniform lawful rate as

the Board shall determine, until paid, shall be charged to and assessed against the non-prevailing Unit Owner.

In the event of any violation of the provisions of the Act, this Declaration, By Laws, or rules and regulations of the Association by any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit), the Association, or its successors or assigns, shall have each and all of the rights and remedies which may be provided for in the Act, this Declaration, By-Laws, or said rules and regulations, or which may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Unit and to sell the same as provided hereinafter in this Paragraph No. 19, or for any combination of remedies, or for any other relief. All expenses in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the highest rate allowed by applicable law or such other uniform lawful rate as the Board shall determine, until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the common expenses, and the Board shall have a lien for all of the same, as well as for nonpayment of common expenses, upon the Unit, and its appurtenant interest in the Association of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the property; provided, however, that such lien shall be subordinate to the lien of a recorded first mortgage or deed of trust on the Unit, to the extent hereinafter set forth in Paragraph No. 10(b) hereof. In the event of any such default by a Unit Owner, the Board shall have

the authority to correct such default, and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board. This Paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of record of mortgage and deed of trust liens against the Units.

The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision herein contained, shall give the Board the right, in addition to any other rights provided for in this Declaration: (a) to enter (either peaceably or forcibly without liability to such Unit Owner for such entry) upon the Unit, or any portion of the property upon which or as to which such violation or breach exists, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board, or its employees or agents, 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 breach; or (c) to take possession (either peaceably or forcibly without liability to such Unit Owner for such entry) of such Unit Owner's interest in the property and to maintain an action for possession of such Unit in the manner provided by law.

If any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate the Act, or any of the covenants or restrictions or provisions of this Declaration, the By-Laws, or the regulations adopted by the Board, and if such default or violation shall continue for ten (10) days after notice to the Unit Owner in writing from the Board, or shall occur repeatedly during any ten (10) day period after such written notice or request to cure such

violation from the Board, then the Board shall have the power to issue to said defaulting Owner a notice in writing terminating the rights of said defaulting Owner to continue as a Unit Owner and to continue to occupy, use, or control his Unit, and thereupon an action in equity may be filed by the Board against said defaulting Owner for a decree of mandatory injunction against such defaulting Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting Owner's right to occupy, use, or control the Unit owned by him on account of said violation, and ordering that all the right, title and interest of said defaulting Owner in the property shall be sold (subject to the lien of any existing deed of trust or mortgage) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the said defaulting Owner from reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees, and all other expenses of the proceeding and sale, and all such items shall be taxes against said defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder, or any liens, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of ownership in the Association, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Unit Ownership sold subject to this Declaration.

20. **Amendments**. The provisions of this Declaration may be amended by agreement of the Unit Owners, by an instrument in writing, setting forth such amendment signed by a majority of the Unit Owners; provided, however, that all lien holders or record have been notified by certified mail

of such amendment, and an affidavit by the Secretary of the Association certifying to such mailing is made a part of such instrument.

However, if the Act, this Declaration, or the By-Laws require the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Declaration, then any instrument amending any provision of this Declaration with respect to such action shall be signed by all Unit Owners and/or all lien holders or both as required by the Act or this Declaration. Any amendment shall be effective upon the recording of such instrument in the Office of the Register of Deeds of Davidson County, Tennessee; provided, however, that no provisions in this Declaration may be amended so as to conflict with the provisions of the Act.

Notwithstanding the above, the Developer shall have the right to make and record any necessary amendment to this instrument for the express purpose of completion of development or correction of clerical errors, or as may be required to obtain FHA/VA, FNMA and/or FHLMC approval for the horizontal property regime.

21. **Perpetuities and Restraints on Alienation.** If any of the options, privileges, covenants, or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of the Governor of Tennessee holding office as of the date of this Declaration.

22. **Rights and Obligations.** Each Unit Owner, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens, and charges, and the jurisdiction, rights, and powers created or reserved by this Declaration. All Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Declaration. 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 Developer, are hereby incorporated into and made a part of this Declaration by reference. All rights, benefits and privileges 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 grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

All present and future Unit Owners and Occupants of a Unit shall be subject to, and shall comply with, the provisions of the By-Laws appended hereto and recorded herewith, pursuant to Tennessee Code Annotated, Section 66-27-111, as they may be amended from time to time. The acceptance of a deed of conveyance, devise, or lease to a Unit, or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the By-Laws, and any Rules and Regulations promulgated thereunder, as they may be amended front time to time, are assumed, accepted and ratified by such Unit Owner 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 Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease thereof.

The terms and conditions of the Declaration, By-Laws, and rules and regulations of the Association may be incorporated by reference in, and become part of, the agreement between any first mortgagee and any present or future Unit Owner who enters into such an agreement with a first mortgagee. When so incorporated, any default in the terms and conditions of this Declaration, By-Laws, and rules and regulations may be considered by the first mortgagee as a default, whereupon said first mortgagee, after exercising its option to declare a default, shall then have all of the rights and privileges arising as a result of a default under its agreement with said Unit Owner.

23. **Condemnation.** In the event of a taking of part of the Common Elements in condemnation or by eminent domain, the award made for such taking shall be payable to the Association. If a majority of the Board, in their sole and absolute discretion, approve the repair and restoration of such Common Elements, the Board shall arrange for the repair and restoration of such Common Elements, and the Board shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event the Board does not approve the repair and commence restoration of such Common Elements within one hundred twenty (120) days after taking by the public or private authority, the Board shall disburse the net proceeds of such award on the basis of such Unit's percentage of ownership in the Common Elements.

24. **Rights Reserved.** Unit Owner's right of enjoyment in the Common Elements shall be subject to:

(a) The right of the Association, as provided in its By-Laws or rules and regulations, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published rules and regulations;

(b) The right of the Association to diminish in any way or to dedicate or transfer all or any part of the Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the members entitled to vote thereon, provided that no such diminution or dedication or transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless both members of the Association have agreed to such dedication, transfer, purpose, or condition;

(c) The right of the Association to grant such easements and rights-of-way to such utility companies or public agencies or authorities it shall deem necessary for the proper servicing and maintenance of the Common Elements and the Units.

25. **Federal Home Loan Mortgage Corporation and Federal National Mortgage Association Regulations.** Notwithstanding anything to the contrary contained in this Declaration or in the By-Laws of the Association, all terms, conditions, regulations, and requirements which are now existing, or which may be amended from time to time by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, pertaining to condominiums or townhomes, are hereby incorporated as terms and conditions of this Declaration and By-Laws and such shall be governing upon the Property, Developer, and the Association, so long as such terms or conditions are not inconsistent with the Act.

Specifically, without limitation upon the foregoing, the following declarations shall be controlling over any terms of this Declaration or By-Laws which are in conflict therewith. Any portions of this Declaration or By-Laws which are in conflict with this paragraph, or any portion of the regulations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, pertaining to condominiums or townhomes, are hereby deleted and the following rights of mortgagees are itemized as follows:

(a) A first mortgagee of a Unit at his request is entitled to written notification from the Association of any default by the mortgagor of such Unit in the performance of such mortgagor's obligations under this Declaration, By-Laws, or any of the condominium or townhome documents, which is not cured within thirty (30) days.

(b) Any first mortgagee of a Unit who comes into possession of the Unit pursuant to the remedies provided in the mortgage, or deed of trust, or by foreclosure of the mortgage or deed of

trust, or by deed in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrue prior to the time such holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata re-allocation of such assessments or charges to all Units including the mortgaged Unit).

(c) Unless all of the first mortgagees (based upon one (1) vote for each mortgage owned) of Units have given their prior written approval, the Association shall not be entitled to:

(i) Change the pro rata interest or obligations of any Unit for (a) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, and for (b) determining the pro rata share of each Unit in the Association;

(ii) Use hazard insurance proceeds for losses to the Common Elements for other than the repair, replacement or reconstruction of such improvements, except as provided by T.C.A, Section 66-27-118, in case of substantial loss to the Common Elements.

(d) As set forth in T.C,A,, Section 66-27-120, all taxes, assessments, and charges which may become liens prior to the first mortgage under the laws of the State of Tennessee shall relate only to the Unit and not to the Property as a whole.

(e) No Unit Owner, or any other party, shall have priority over any rights of the first Mortgagees of Units in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

(f) Any agreement for professional management of the Property, whether it be by the Developer, its successors and assigns, or any other person or entity, may be terminated on ninety (90) days' written notice, and the terms of any such contract shall so provide and shall not be of a duration in excess of three (3) years.

(g) The Association shall give to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, or any lending institution servicing such mortgages as are acquired or insured by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, notice in writing of any loss to or the taking of Common Elements if such loss or taking exceeds Ten Thousand ($10,000.00) Dollars. The Association may rely upon the information contained in the book entitled "Mortgage of Units" as must be established pursuant to the By-Laws, for a list of mortgagees to be notified hereby.

(h) The interest of a first mortgagee in a mortgaged Unit shall be superior to the interests of any person, group, partnership, corporation, or entity of any kind, including any interest the Association, the Developer, or any Unit Owner may have in any portion of the Property, regardless of the nature of the interest or the manner in which it is acquired.

(i) Notwithstanding the above, any first mortgagee shall have all of the rights granted to a first mortgagee herein, and in addition shall have all of the rights granted to an institutional first mortgagee under its deed of trust, and under the laws of the State of Tennessee.

26. **Trustee as Unit Owner.** In the event title to any Unit is conveyed to a land title-holding trust, under the terms of which all powers of management, operation, and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder shall be considered Unit Owners for all purposes and they shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this declaration against such Unit. No claim shall he made against any such title-holding trustee personally for payment of any lien or obligation hereunder created, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such

lien or obligation. The amount of any such lien or obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Unit.

27. **Notices.** Notices provided for in the Act, Declaration or By-Laws shall be in writing and shall be addressed to the Association or any Unit Owner, as the case may be, at the property addresses set forth on Exhibit "B", or at such other address as hereinafter provided. The Association may designate a different address or addresses for notices to it by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgment of the receipt thereof.

Upon written request to the Board, the holder of any recorded mortgage or trust deed encumbering any Unit shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner or Owners whose Unit is subject to such mortgage or trust deed.

28. **Severability.** If any provision of this Declaration or By-Laws, or any section, sentence, clause, phrase, word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the By-Laws and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby, and the remainder of this Declaration of the By-Laws shall be construed as if such invalid part was never included therein.

29. **Captions**. The captions herein are inserted only as a matter of convenience, and in no way define, limit or describe the scope of these provisions or the intent of any provision hereof.

30. **Gender.** The use of the masculine gender in this Declaration and in the 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.

IN WITNESS WHEREOF, the Developer has executed this Declaration on the day and year first above written.

HB HOLDINGS, LLC, a Tennessee limited liability company

By: _____
Christopher F. Harwell,
Chief Manager

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Before me, the undersigned Notary Public, of the state and county aforementioned, personally appeared Christopher F. Harwell, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be the authorized member of HB Holdings, LLC, a Tennessee limited liability company, the within named bargainor, and that such person, as such Chief Manager, executed the foregoing instrument for the purpose therein contained, by signing the name of the bargainor by such Chief Manager.

Witness my hand and seal, this 15th day of May, 2006.

_____
Notary Public

My Commission Expires:

GEORGE E. MUDTER, JR.
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.
My Commission Expires JULY 19, 2008

EXHIBIT "A"

TO THE DECLARATION

FOR

OUTER TOWNHOMES

Land in Davidson County, Tennessee, being Lot No. 122 on the Plan of Rolling Meadows, as of record in Plat Book 1424, pages 98 and 99, Register's Office for Davidson County, Tennessee, to which plan reference is made for a more complete description.

Being the same property conveyed to HB Holdings, LLC, a Tennessee limited liability company by deed from Tabitha C. Williams, an undivided one-half interest and Tabitha C. Williams and Mildred B. Wray, as heirs at law of Neuree C. Love, deceased, an undivided one-half interest, recorded as Instrument No. 20050916-0111691, Register's Office for Davidson County, Tennessee.

MINIMUM BLDG. SETBACKS

FRONT YARD.....40'/60'
SIDE YARD..... 10'
REAR YARD.....20'
■ STAKE ON ℄

GRAPHIC SCALE

50 0 50 100

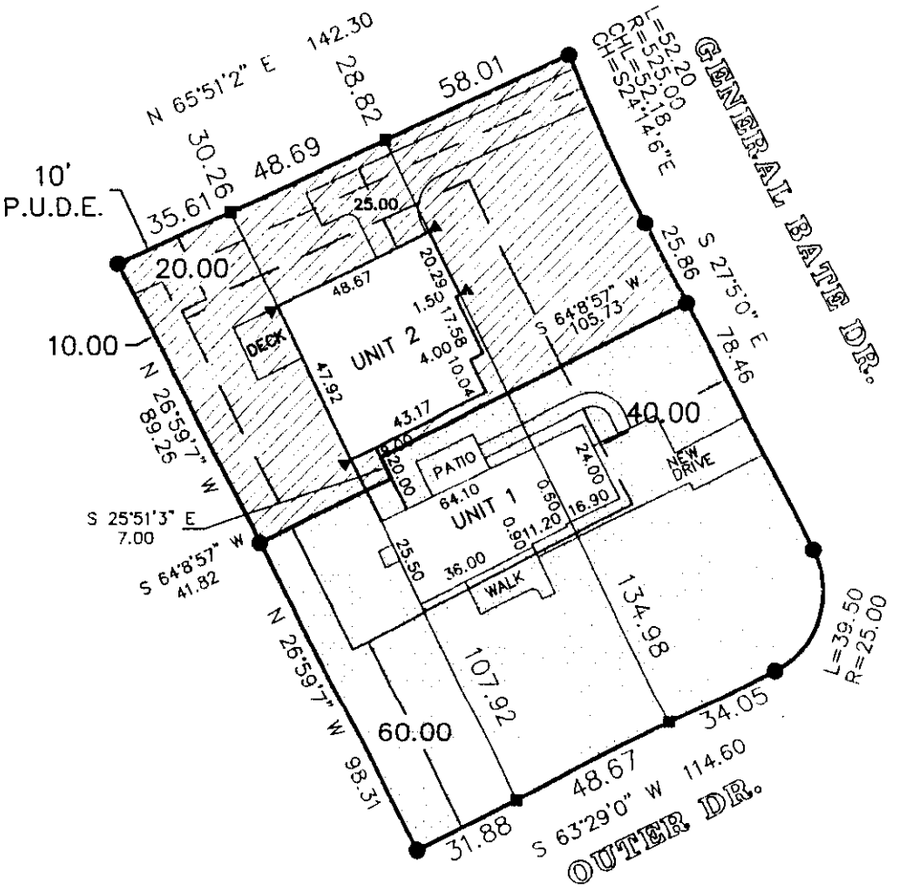
(IN FEET)
1 inch = 50 ft.

N

UNIT 1 LIMITED COMMON ELEMENT Unit 1
4133 Outer Drive

UNIT 2 LIMITED COMMON ELEMENT Unit 2
4117 General Bate Drive

PRIVATE ELEMENT



NOTE
PLOT PLAN BOUNDARY SHOWN HERE ARE TAKEN FROM BK: 2663 PG: 103, AND IS NOT A BOUNDARY SURVEY

PLOT PLAN

For Outer Townhomes, a horizontal property regime with private elements.

Owner: H.B. HOLDINGS LLC.
Property Address: 4133 OUTER DR.
Property Location: GALLERY HOMES # 191
Property: DAVIDSON CO, TN (ROLLING MEADOWS # 122)
Recorded: PLAT BK:1424 PG:99 R.O.D.C.
REV. NEW NOTE
Scale: 1'=50' **Date:** 05/11/06 **Cadfile:** GH191P

E. ROBERTS
Alley & Associates
INCORPORATED
Engineering - Environmental - Health & Safety - Surveying
300 10th Avenue South, Nashville, TN 37203
PHONE: (615) 373-1567 FAX (615) 369-1605

EXHIBIT "B"

EXHIBIT "C"

BY-LAWS

OF

OUTER TOWNHOMES

ARTICLE I

Association of Unit Members

Section 1. Eligibility. The Members of Outer Townhomes Corporation, a Tennessee not-for-profit corporation, shall consist of the Unit Owners of the Property known as Outer Townhomes, a horizontal property regime with private elements, Nashville, Tennessee (the "Property"). If a Unit Owner is a trust under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary, then the member shall be the beneficiary of such trust. If a Unit Owner or such a beneficiary is a corporation or partnership, the member may be an officer, partner or employee of such Unit Owner or beneficiary.

Section 2. Succession. The membership of each Unit Owner shall terminate when such Owner ceases to be a Unit Owner, and upon the sale, transfer or other disposition of his ownership interest in the Property, his membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interest.

Section 3. Annual Meeting. The annual meeting of the Association (except for the First Annual Meeting, as hereinafter defined) shall be held at the time and place specified in the notice of

such meeting, and shall be held between sixty (60) and one hundred twenty (120) days following the close of the Association's fiscal year. The first annual meeting of the Association (the "First Annual Meeting") will be held within thirty (30) days following the occupancy of the second Unit to be occupied. At the annual meeting, the Unit Owners shall elect directors, receive reports on actions and the financial condition of the Corporation, and transact such other business as may property come before the Association.

Section 4. Special Meetings. Special meetings may be held at any time upon the call of the President or upon the written demand by the Unit Owners of at least fifty percent (50%) of all the votes entitled to be cast at such a meeting, said written demand to be delivered to the Secretary. Upon receipt of such demand, the Secretary shall send out notices of the meeting to all members of the Association, describing the purpose for which the special meeting is to be held. Only business within the purpose described in said notice may be conducted at such meeting.

Section 5. Notice of Meetings. A written or printed notice of every meeting of the Association, stating whether it is an annual meeting or special meeting, the authority for the call of the meeting, the place, day and hour thereof and the purpose therefor, shall be given by the Secretary or the person or persons calling the meeting at least twenty (20) days before the date set for such meeting (but no more than sixty (60) days before such meeting). Such notice shall be given to each member by any manner permitted under the Restrictions. If notice is given pursuant to the provisions of this section, the failure or any member to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings at such meeting.

Section 6. Waiver of Notice. The presence of all the members, in person or by proxy, at any meeting shall render the same a valid meeting, unless any member shall, at the opening of such meeting, object to the holding of the same for noncompliance with the provisions of Section 5

of this Article I. Any meeting so held without objection shall, notwithstanding the fact that no notice thereof was given, or that notice given was improper, be valid for all purposes, and at such meeting any general business may be transacted and any action may be taken; provided, however, that where a member has pledged his vote by mortgage, deed of trust or agreement of sale, only the presence of the pledgee will be counted in determining whether notice is waived with regard to business dealing with such matters upon which the member's vote is so pledged.

Section 7. Quorum; Voting. At any meeting of the Association, a Majority of the Unit Owners, present or by proxy, shall constitute a quorum, and, except as otherwise provided herein, in the Declaration or in the Act, the concurring vote of a Majority of the Unit Owners shall be valid and binding upon the Association. In the event a member has pledged his vote by mortgage, of trust or agreement of sale, the member's vote will be recognized in computing a quorum with respect to any business conducted concerning such matters upon which said member's vote is so pledged or mortgaged unless the mortgage, deed of trust or agreement of sale provides otherwise, in which event such instruments shall control. In the event of such mortgage or pledge, the Unit Owner shall provide the Association with a copy of the pledging or mortgaging instrument.

Section 8. Membership; Voting. The voting rights of members are set forth in provision 5(b) of the Declaration to which these By-Laws are appended, and are incorporated herein by reference. Any authority given by a member to another person to represent such member at meetings of the Association shall be in writing, signed by such member (or if a Unit is jointly owned then by co-owners or joint owners, by all such co-owners or joint owners; or if such member is a corporation, by the proper officers thereof), and shall be filed with the Secretary, and unless limited by its terms, such authority shall be deemed good until revoked in a writing filed with the Secretary. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the

Association with respect to any Unit owned or held by him in such capacity, whether or not the same shall have been transferred to his name by a duly recorded conveyance. In case such Unit shall not have so been transferred to his name, he shall satisfy the Secretary that he is the executor, administrator, guardian or trustee holding such Unit in such capacity. Whenever any such Unit is owned by two or more persons jointly according to the Record, the vote thereof may be exercised by any one of the owners present in the absence of protest by the other or others; provided, however, that when the vote of an owner or owners has been pledged by mortgage or deed of trust of Record, only the vote of the pledgee will be recognized upon those matters upon which the owner's or owners' vote is so pledged except as otherwise provided in Section 7. Notwithstanding the foregoing, no Unit Owner who is in default in the payment of assessments or other amounts due to the Association shall be entitled to exercise the right to vote until such Unit Owner has cured such default.

Section 9. Action by Written Consent. Action which is required or permitted to be taken at a meeting of the Unit Owners may be taken without a meeting if all Unit Owners entitled to vote on the action consent to taking such action without a meeting. Such consent shall describe the action taken, be in writing, be signed by each Unit Owner entitled to vote on the action, indicate each signing Unit Owner's vote or abstention on the action, and be delivered to the Secretary of the Association for inclusion in the minutes.

Section 10. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted by a quorum at the meeting originally called.

ARTICLE II

Board of Directors

Section 1. Number and Qualification. The affairs of the Association shall be governed by a board of directors (the "Board of Directors" or the "Board") composed of two (2) persons, and both directors shall be Unit Owners (or owners of an interest in a Unit).

Section 2. Powers and Duties. The Board of Directors shall have all of the powers and duties granted thereto in the Declaration and all other powers and duties necessary for the administration of the affairs of the Association, and may do all such acts and things as are not by law, by the Declaration or by these By-Laws directed to be exercised and done by the Unit Owners.

Section 3. Other Powers and Duties. In addition to duties imposed by the Declaration, these By-Laws or by resolutions of the Association, the Board of Directors shall have the following powers and duties:

(a) to elect and remove the officers of the Association;

(b) to administer the affairs of the Association and the Property;

(c) to formulate policies for the administration, management and operation of the Property and the Common Elements;

(d) to adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;

(e) to provide for the surveillance, maintenance, repair, and replacement of the Common Elements and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent;

(f) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements;

(g) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(h) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(i) to fix the estimated annual budget, and to provide the manner of assessing and collecting from Unit Owners their respective shares of such estimated expenses, as hereinafter provided;

(j) to secure insurance policies as required by the Declaration, and in this regard, annually to review the amounts of coverage afforded by such policies.

(k) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of Unit Owners as expressed in resolutions duly adopted at any annual or special meeting of Unit Owners;

(l) to exercise all other powers and duties of Unit Owners as a group referred to in the Act, or in the Declaration or these By-Laws.

The Association shall not, in any event, be bound either directly or indirectly by any contract or lease entered into by the Developer on behalf of the Association (including but not limited to management contracts) unless such contract or lease has a term of one (1) year or less and contains a right of termination, which is exercisable without cause and without penalty at any time after

passage of control from the Developer to the Association, upon not more than ninety (90) days' notice.

Section 4. Election and Term of Office. Each director of the Association shall be deemed elected when he acquires ownership of a Unit.

Section 5. Compensation. No compensation shall be paid to directors for their services as directors. No remuneration shall be paid to a director for services performed by him for the Association in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services are undertaken. A director may not be an employee of the Association.

Section 6. Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within one week of election at such place as shall be fixed by the directors at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing the whole Board is present.

Section 7. 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, but no less frequently than once a year, and without notice.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President or any director on two days' notice of the date, time and place, given personally or by mail, or by telephone.

Section 9. Action without a Meeting. Action which is required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if all Directors so consent. Such consent shall describe the action taken, be in writing, be signed by each Director entitled to

vote on the action, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary of the Association for inclusion in the minutes.

Section 10. Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 11. Board of Directors; Quorum. A quorum of the Board of Directors consists of all of the Directors then in office before a meeting begins. If a quorum is present, the affirmative vote of a majority of Directors present is the act of the Board of Directors.

ARTICLE III

Officers

Section 1. Designation. The principal officers of the Association shall be a President and a Secretary-Treasurer, both of whom shall be elected by and from the Board of Directors. An officer may serve in more than one capacity; provided, however, that there shall be no fewer than two (2) persons serving as officers; and further provided that no one person shall serve as both President and Secretary simultaneously.

Section 2. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors.

Section 3. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Board of Directors or of the Association, shall give all notices as provided by these By-Laws, shall be responsible for the Association's financial records and full and accurate accounts of all receipts and disbursements in books belonging to the Association, and shall have other powers and

duties as may be incidental to the office of Secretary, given by these By-Laws or assigned from time to time by the directors.

Section 4. Election of Officers. The officers of the Association shall be elected by the Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 5. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the remaining Directors at a special meeting of said Board. Any Officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer succeeded.

Section 6. Compensation. The officers shall receive no compensation for their services as officers.

Section 7. Auditor. The Association may at any meeting appoint some person, firm or corporation engaged in the business of auditing to act as auditor of the Association and to perform such audits and fiscal duties as may be requested of him by the Association.

ARTICLE IV

Assessments

Section 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year, including, but not limited to, salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other common expenses. To the extent that the assessments and other cash income collected from Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall also take into account the estimated net available cash income for the year from the lease, operation or

use of the Common Elements. The annual budget shall provide for a reserve for contingencies for the year and replacements, in reasonable amounts as determined by the Board.

Section 2. Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as his respective monthly assessment for the common expenses, one-twelfth (1/12) of his proportionate share of the common expenses for such year as shown by the annual budget; provided, however, the Board may, in its discretion, provide for the payment of common expenses on a quarterly or annual basis. The proportionate share for each Unit Owner shall be based upon his respective ownership interest in the Association as set forth in the Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of his respective monthly assessment as last determined. Each Unit Owner shall pay his monthly assessment on or before the first day of each month to the Managing Agent or otherwise as directed by the Board. No Unit Owner shall be relieved of his obligation to pay any assessment by abandoning or not using his Unit, the Common Elements, or the Limited Common Elements.

Section 3. Annual Report. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as practicable, the Board shall cause to be furnished to each Unit Owner a statement for such year, showing the receipts and expenditures and such other information as the Board may deem appropriate.

Section 4. Supplemental Budget. In the event that, during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated common expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for his proportionate share of such supplemental budget.

Section 5. Lien. It shall be the duty of every Unit Owner to pay his proportionate share of the common expenses as provided in the Declaration, and as assessed in the manner herein provided.

If any Unit Owner shall fail or refuse to make any such payment of assessments when due, such delinquent payment shall be subject to a late charge in an amount established by the Board, and such delinquent payment shall also bear interest at the highest rate allowed by applicable law. Such delinquent payment, together with penalty and interest, shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Unit Owner in the Property.

The Association, or its successors and assigns, acting through the Board of its agents, shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due the costs of said suit and other fees and expenses, together with legal interest and reasonable attorney's fees. The Association, acting through the Board, shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act, the Declaration, or these By-Laws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

Section 6. Records and Statement of Account. The Board shall cause to be kept detailed and accurate records in chronological order of its receipts and expenditures affecting the Common

Elements, specifying and itemizing the common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine. The Association shall prepare annual financial statements that include a balance sheet as of the end of the fiscal year, an income statement for that year, and such other information necessary to comply with the requirements of the applicable provisions of the Tennessee Nonprofit Corporation Act.

The Board shall, upon receipt of ten (10) days' written notice to the Association and upon payment of a reasonable fee, furnish to any Unit Owner a statement of his account setting forth the amount of any unpaid assessment or other charges due and owing from such Unit Owner.

Section 7. Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit. When fewer than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorney's fees, incurred by reason of such lien.

Section 8. Holding of Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against fewer than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners.

ARTICLE V

Use and Occupancy Restrictions

Section 1. General. No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Property, nor shall anything be done therein or thereon which shall

constitute a nuisance or which shall in the judgment of the Board cause unreasonable noise or disturbance to others.

Section 2. Maintenance and Repair.

(a) Every Unit Owner must perform promptly all maintenance and repair work to his Unit that, if omitted, would affect the Property in its entirety or a part belonging to other Unit Owners, and is responsible for the damages and liabilities that his failure to do so may cause.

(b) All the repairs of internal installations of a Unit such as water, light, power, sewage, telephone and sanitary installations, lamps and all other accessories belonging to the Unit shall be maintained at the Unit Owner's expense.

(c) A Unit Owner shall reimburse the Association for any expenditure incurred in repairing or replacing any Common Elements damaged through the Unit Owner's fault, together with a fee equal to twenty percent (20%) of the cost of any such repair or replacement.

Section 3. Use of Units. All units shall be used in accordance with the provisions of the By-Laws, the Declaration and the Rules and Regulations.

Section 4. Leases. All leases or rental agreements for Units shall be in writing and must be specifically subject to the Declaration and By-laws. A copy of every such lease, as and when executed, shall be furnished to the Board. No Unit may be leased or rented for a period of less than six (6) months. The lessee under every such lease shall be bound by and subject to all of the obligations under the Declaration and By-Laws, of Unit Owner making such lease and the lease shall expressly so provide. Any Unit Owner making such lease shall not be relieved thereby from any of said obligations. The Board shall have all the authority in its sole discretion to require at any time that any Unit Owner who is leasing his Unit, place on deposit with the Board such sums as the Board may require and determine to be used as an indemnity against loss or damage to the Common

Elements which might be caused by such Unit Owner's lessee. The terms of the indemnity shall be such terms as might be satisfactory to the Board. The Board shall furnish Unit Owner a notice in writing which shall constitute that Unit Owner's notice to make such deposit. In the event Unit Owner fails to comply with the terms of the notice within ten (10) days from the date the notice is mailed to him, the Board at its option may elect to terminate the subject lease. The Board shall give Unit Owner and his lessee notice of such election in writing.

Section 5. Rules and Regulations. In order to assure the peaceful and orderly use and enjoyment of the Buildings and Common Elements of the Property, the Association may from time to time adopt, modify and revoke in whole or in part by a vote of not less than a Majority of the members at any meeting duly called for the purpose, such reasonable rules and regulations, to be called Rules and Regulations, governing the conduct of persons in said Property as it may deem necessary. The Rules and Regulations, upon adoption, and every amendment, modification and revocation thereof, shall be delivered promptly to each Unit Owner and shall be binding upon all members and occupants of the Property.

The initial Rules and Regulations shall be these:

1. No exterior of any Unit or the windows or doors thereof or any other portions of the Common Elements shall be painted or decorated by any Unit Owner in any manner without the prior consent of the Board.

2. No furniture, equipment or other personal articles shall be placed in the entrances to the Units other than in enclosed balconies and patios.

3. No Unit Owner shall make or permit any noise or objectionable odor that will disturb or annoy the occupants of any of the Units in the Property or do or permit anything to be done therein that will interfere with the rights, comfort or convenience of other Unit Owners.

4. Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.

5. All garbage, refuse, and ashes from the Units shall be deposited with care in receptacles intended for such purpose only at such times and in such manner as the Board or the Managing Agent shall direct.

6. All patios shall be maintained neatly and cleanly.

7. Caged birds or animals, house cats, and dogs under 80 pounds may be kept in a Unit Owner's Unit unless the same shall become a nuisance or disturbance to other Unit Owners. All Unit Owners shall obey all applicable leash laws, will not allow their pets to run loose at any time, and will not leave them tied up outside their Units.

8. No radio, television aerial or satellite dish shall be attached to or hung from the exterior of the Units without written approval of the Board.

9. All damage to the Common Elements caused by the moving or carrying of any article therein shall be paid by the Unit Owner responsible for the presence of such article.

10. No Unit Owner shall use or permit to be brought into his Unit any inflammable oils or fluids such as gasoline, kerosene, naphtha or benzene, or other explosives or articles deemed extra hazardous to life, limb or property, without in each case obtaining the written consent of the Board.

11. The Unit Owners must keep the interiors of their Units clean and free from obstructions.

12. Unit Owners shall be held responsible for the actions of their employees, invitees, licensees, visitors, clients, patients or guests.

13. No Unit shall be used or occupied in such manner as to obstruct or interfere with the enjoyment of Occupants, or other residents of adjoining Units; nor shall any nuisances or immoral or illegal activity be committed or permitted to occur in or about any Unit or upon any part of the Common Elements.

Section 6. Remedies. In the event of any violation of the provisions of the Act, the Declaration, these By-Laws or the Rules and Regulations by any Unit Owner (either by his own conduct or by the conduct of any occupant of his Unit), the Association, or its successors or assigns, shall have each and all of the rights and remedies that may be provided for in the Act, the Declaration, these By-Laws and/or the Rules and Regulations, or that may be available at law or in equity.

ARTICLE VI

Amendments

These By-Laws may be amended, modified or revoked in the same manner as the Declaration, provided, however, that the contents of these By-Laws shall always contain those particulars that are required to be contained herein by the Act; and provided, further, that no modifications of or amendment to these By-Laws shall be valid unless set forth in an amendment to the Declaration.

ARTICLE VII

Liability of Officers, Directors and Members; Indemnification

Section 1. Exculpation. No director or officer of the Association shall be liable for acts or defaults of any other officer or member or for any loss sustained by the Association or any member thereof, unless the same has resulted from his own willful misconduct, gross negligence or fraud.

Section 2. General. To the extent permitted by law, the Association shall indemnify and hold harmless each of its Directors and officers, each member or any committee appointed pursuant to these By-Laws, against all contractual and other liabilities to others arising out of contracts made by, or other acts of such Directors, officers, or committee members on behalf of Unit Owners, or arising out of their status as Directors, officers, or committee members, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent.

Section 3. Advance Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article VII.

ARTICLE VIII

Deeds of Trust and Mortgages

Any holder, insurer or guarantor of a deed of trust or mortgage with respect to a Unit may file a copy of such instrument with the Board through the Secretary, or otherwise identify to the Board through the Secretary, the name and address of such holder, insurer or guarantor and the number or address of the corresponding Unit, and the Board through the Secretary shall be required to notify such holder or mortgagee of:

(a) Any condemnation loss or any casualty loss that affects a material portion of the Property or the Unit covered by such mortgage or deed of trust;

(b) Any delinquency in the payment of expenses or charges owed relating to the Unit that is covered by such mortgage or deed of trust that remains uncured for sixty (60) days, and that the holder or mortgagee may, at its option, pay such delinquent expenses;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action that would require the consent of a specified percentage of deed of trust or mortgage lien holders.

Any holder of a deed of trust or mortgage with respect to a Unit or any insurer or guarantor of such mortgage or deed of trust may, upon written request to the Board through the Secretary, receive a copy of the Association's financial statement for the immediately preceding fiscal year.

ARTICLE IX

Books and Records

Current copies of the Declaration, these By-Laws, other rules and regulations concerning the Property, and the books, records and financial statements of the Association shall be available for inspection by any Unit Owner or by any holder, guarantor or insurer of any first mortgage or deed of trust covering a Unit at the principal office of the Association. For purposes of this paragraph, "available" shall mean available for inspection, upon request, during normal business hours. Copies may be purchased by such persons at reasonable cost, to be established from time to time by the Board.

ARTICLE X

Definition of Terms

The terms used in these By-Laws, to the extent they are defined therein, shall have the same meaning as set forth in the Declaration for Outer Townhomes Corporation, of record in the Office of the Register of Davidson County, Tennessee.

The term "member" as used in these By-Laws, means "Unit Owner" as defined in the Declaration.

ARTICLE XI

Conflicts

These By-Laws are set forth to comply with the requirements of the Act, as it may be amended from time to time, and to allow the By-Laws to control in specific situations where such law allows. In the event any of the By-Laws conflict with the provisions of the Act or of the Declaration, the provisions of the Act or of the Declaration, as the case may be, shall control.

EXHIBIT "D"

TO THE DECLARATION

FOR

OUTER TOWNHOMES

Attorney's Opinion

Pursuant to the requirements of Tennessee Code Annotated, Section 66-27-103, the undersigned, George E. Mudter, Jr., an attorney licensed to practice law in the State of Tennessee, hereby declares that, upon the recording of the Declaration to which this certificate is attached, and the Charter of the Outer Townhomes Corporation, there will be substantial compliance of all legal requirements for the creation of a planned unit development pursuant to the provisions of Tennessee Code Annotated, Section 66-27-101, et seq. known as Outer Townhomes. The required documents are as follows:

(1) Declaration of Covenants, Conditions and Restrictions for Outer Townhomes Corporation, a horizontal property regime with private elements;
(2) Site Plan for Outer Townhomes Corporation showing private and common elements, appended thereto as Exhibit "B"; and
(3) By-Laws of Outer Townhomes Corporation, appended thereto as Exhibit "C";
(4) Charter of Outer Townhomes Corporation, to be recorded in the office of the Secretary of State and to be recorded in the Register's Office for Davidson County, Tennessee.

This opinion is subject to the terms and conditions of the above referenced documents and to all applicable government ordinances and regulations.

This 15th day of May, 2006.

George E. Mudter, Jr., Attorney at Law

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, a Notary Public in and for said county and state, the within named George E. Mudter, Jr., Attorney at Law, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand in Nashville, Tennessee, this 15th day of May, 2006.

Tracey A Brooks
Notary Public at Large

My commission expires 5/28/06

