Davidson County REST
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THIS INSTRUMENT PREPARED BY:

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Attorneys at Law
104 Woodmont Boulevard
Woodmont Centre Suite 100
Nashville, Tennessee 37205

DECLARATION OF COVENTANTS CONDITIONS AND RESTRICTIONS

ESTABLISHING A PLANNED UNIT DEVELOPMENT WITH PRIVATE ELEMENTS

PROVINCE ON 5TH

THIS DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS is made this 13th day of November, 2006, by JOHN SWIFT, TARRICK LOVE AND TANISHA HART-LOVE, (herein called "Developer"), for themselves, their successors or assigns, wherein the Developer makes the follow declarations and submissions.

1. **PURPOSE.** The purpose of this Declaration of Covenants Conditions and Restrictions is to submit the land described in **Exhibit "A"** attached hereto and made a part hereof (sometimes referred to herein as the "Property", or PROVINCE ON 5TH), and the improvements thereon to a Horizontal Property Regime, as a planned unit development with private elements, 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 PROVINCE ON 5TH, and it is located in Nashville, Davidson County, Tennessee, at 1709 5th Avenue North.

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 planned unit development with private elements, which Property is shown on a **Plat attached hereto as Exhibit "B".**

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 PROVINCE ON 5TH. The fee simple absolute title in such land is hereby vested in the horizontal property regime hereby established.

5. **THE BUILDINGS.** PROVINCE ON 5TH consists of **one (1) building** comprised of **two (2) units.**

6. **UNITS.** The legal description of each unit consists of the identifying **letter (A and B)** of such unit as shown on the Plat. "Unit" shall have the same meaning as that described as an "Apartment" in Tennessee Code Annotated 66-27-102 (a) (1). Every deed, lease, mortgage, deed of trust or other instrument shall legally describe a unit by its identifying number or symbol as shown on the Plat and every such description 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 any tracts or parcels different from the whole unit as shown on the Plat.

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

8. **USE OF UNIT.** Each of the units shall be used as a single family residence only, except that Developer may use any unit owned by Developer as a model for the purposes of marketing unsold units.

9. **COMMON ELEMENTS.** The common elements consist of the entire property, as shown on the plan which is an exhibit to the Declaration of Covenants Conditions and Restrictions, including all parts of the building other than the units and including, without limitation, the following:

(a) The land, except that part of the land which is a Private Element as described herein and as set forth in Tennessee Code Annotated 66-27-102 (a)(1)(B)(12).

(b) All foundations, columns, girders, beams and supports.

(c) All roofs; all exterior walls of the building not including the portions thereof on the unit side of the dry-wall or paneling of such walls; and the portions between the unit side of walls and partitions between units; all floors and ceilings. No co-owner shall be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors, ceilings, windows and doors bounding his unit, nor shall such co-owner be deemed to own the utilities (without limitation) running through his unit which are utilized for, or serve more than one unit, except as a right in common to share the same with the other co-owners. A co-owner, however, shall be deemed to own and shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, floors, ceilings, windows, and doors bounding his units.

(d) All storage spaces not restricted to use by particular units.

(e) 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 unit.

(f) All sewer pipes (excluding pipes defined as Limited common elements).

(g) The interest of each co-owner in the common elements and as used in defining that owner's interest in the townhouse corporation is one-half (1/2).

(h) Developer, Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall have the right, until all units are sold by Developer or until Developer ceases to manage the condominium, whichever shall last occur, to access, ingress to and egress from the Building and Property as may be required for construction and maintenance and for the purpose of sale of units, and to show one or more of such unsold or unoccupied units as a model and may use one or more of such unsold or unoccupied units as a sales office and may maintain customary signs in connection therewith.

11. **PRIVATE ELEMENTS / SHARE OF TOTAL MEMBERSHIP IN TOWNHOUSE CORPORATION.** A private element shall mean and include the lot area upon which a unit, or apartment (as that term is used in the Horizontal Property Act), is located and the improvements located thereon, as described in this declaration, and for which fee simple ownership and exclusive use is reserved to the owner of that unit only. The owner(s) of each private element shall own a one-half (1/2) share of the total membership in the townhouse corporation.

12. **LIMITED COMMON ELEMENTS.** Limited common elements are defined as those common elements which are reserved for the use of a certain unit or units to the exclusion of the other units:

(a) All patios, porches, decks, storage spaces, stoops and driveways which serve individual units are limited common elements for the exclusive use of the owner(s) whose unit they serve.

(b) All yard areas, walks and drives designated for use by a particular unit as shown on the Plat which is Exhibit "B" hereto are limited common elements for the exclusive use of the owner(s) whose unit they serve.

(c) All utility pipes, i.e., plumbing inside walls of a building which serve one unit only, are limited common elements.

(d) Party walls (if any) between units shall be limited common elements.

(e) All heating or air-conditioning units, equipment or components thereof which serve only one unit but are located outside that unit, shall be limited common elements exclusively for that unit.

13. **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.

14. **ENCROACHMENTS.** If any portion of the common elements now encroaches upon any unit, or if any unit now encroaches upon any other unit 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 exit. In the event such building, a unit, any adjoining unit, 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 rebuild, encroachments of parts of the common elements upon any unit or of any unit upon any other unit or upon any potion 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.

15. **PIPES, DUCTS, CABLES, WIRES, CONDUITS, PUBLIC UTILITY LINES AND OTHER COMMON ELEMENTS LOCATED INSIDE OF UNITS.** Each unit owner shall have an easement in common with the owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables (television, communication or otherwise), wires, conduits, public utility lines and other common elements serving such other units and located in such unit. Each owner, shall have a right of access to the other unit to inspect the same, to maintain, repair or replace a portion of the common elements contained elsewhere in any building but serving that owner's unit.

16. **UNITS SUBJECT TO DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS.** All present and future co-owners and tenants of units shall be subject to and shall comply with the provisions of this Declaration of Covenants Conditions and Restrictions 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 Declaration of Covenants Conditions and Restrictions by reference. The acceptance of a deed of conveyance, devise, inheritance or the entering into a lease of a unit or entering into occupancy of a unit, shall constitute an agreement that the provisions of this Declaration of Covenants Conditions and Restrictions and such By-Laws 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 unit, as though such provisions were recited and stipulated in full in each and every deed or lease thereof.

17. **UNITS SUBJECT TO BY-LAWS.** All present and future co-owners, tenants and occupants of a unit shall be subject to, and shall comply with, the provisions of the By-Laws of record as **Exhibit "C"** hereto, pursuant to Tennessee Code Annotated,§66-27-101, et seq., as they may be amended form time to time. The acceptance of a deed of conveyance, devise or of a lease to a unit, or the entering into occupancy of any unit 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 unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease, thereof.

18. **AMENDMENT.** This Declaration of Covenants Conditions and Restrictions may be amended by a deed of amendment joined in by co-owners representing one hundred (100%) percent of the total units 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 units which have not been actually deeded to a purchaser, regardless of whether such have actually been begun or constructed.

19. **TIE BREAKER PROVISION.** In the event of an impasse between the two Directors or between the owners of the two units at the time of a vote contemplated by this instrument or the By-laws, the following procedure will be used: Each Director or Unit Owner, as applicable, shall appoint a third party who is not the spouse or other relative of said Director or Owner. Each of the third parties appointed shall then agree upon a neutral third party who shall cast the deciding vote on the issue or action.

20. **WAIVER.** No provision contained in this Declaration of Covenants Conditions and Restrictions 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.

21. **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 Declaration of Covenants Conditions and Restrictions nor the intent of any provision hereof.

22. **GENDER.** The use of the masculine gender in this Declaration of Covenants Conditions and Restrictions 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.

23. **DEFINITION OF TERMS.** The words and phrases used in this Declaration of Covenants Conditions and Restrictions 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 Declaration of Covenants Conditions and Restrictions in compliance with the said Horizontal Property Act.

IN WITNESS WHEREOF, the Developer has executed this Declaration of Covenants Conditions and Restrictions at Nashville, Davidson County, Tennessee, on this 13th day of November 2006.

JOHN SWIFT, Developer

TARRICK LOVE, Developer

TANISHA HART-LOVE, Developer

State of Tennessee
County of Davidson

On ~~September~~ Nov. 13, 2006, before me the undersigned authority, personally appeared JOHN SWIFT 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 the execution as a free act and deed.

Notary Public

My Commission Expires: 8/1/2010

STEPHANIE R FLOYD STATE OF TENNESSEE NOTARY PUBLIC SUMNER COUNTY

My Commission Expires August 1, 2010

State of Tennessee
County of Davidson

On ~~September~~ Nov. 13, 2006, before me the undersigned authority, personally appeared TARRICK LOVE AND TANISHA HART-LOVE 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 the execution as a free act and deed.

Notary Public

My Commission Expires: 8/1/2010

STEPHANIE R FLOYD STATE OF TENNESSEE NOTARY PUBLIC SUMNER COUNTY

My Commission Expires August 1, 2010

CAPITAL BANK & TRUST COMPANY currently holds a first mortgage loan secured by the land described in Exhibit "A" of record as Instrument Number 20060830-0107288, further secured by a UCC Financing Statement of record as Instrument 20060830-0107289. The undersigned duly authorized representative of CAPITAL BANK & TRUST COMPANY joins in execution of this Declaration of Covenants Conditions and Restrictions as evidence of CAPITAL BANK & TRUST COMPANY's consent to this transaction and agreement to subordinate its rights under the said deed of trust to the terms of this Declaration of Covenants Conditions and Restrictions Establishing a Planned Unit Development with Private Elements.. Further the undersigned agrees that, upon payment of one half (1/2) of the debt secured by said Deed of Trust, he will, and has the authority to, execute a partial release of said Deed of Trust as individual units are sold to third parties.

Executed this 13 day of November 2006:

CAPITAL BANK & TRUST COMPANY
By:
Milton J. Wickles, Vice-President

State of Tennessee
County of Davidson

Before me the undersigned authority, personally appeared **Milton J. Wickles**, to me known (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged and was identified as **Vice-President of CAPITAL BANK & TRUST COMPANY,** the within named bargainor, and acknowledged the execution of the foregoing instrument as such Vice President for the purposes therein contained.

Witness my hand and official seal on November 13, 2006.

Notary Public

My Commission Expires: 8/1/2010

STEPHANIE R FLOYD STATE OF TENNESSEE NOTARY PUBLIC SUMNER COUNTY

My Commission Expires August 1, 2010

(Seal Required)
(If Authorized)

EXHIBIT "A"

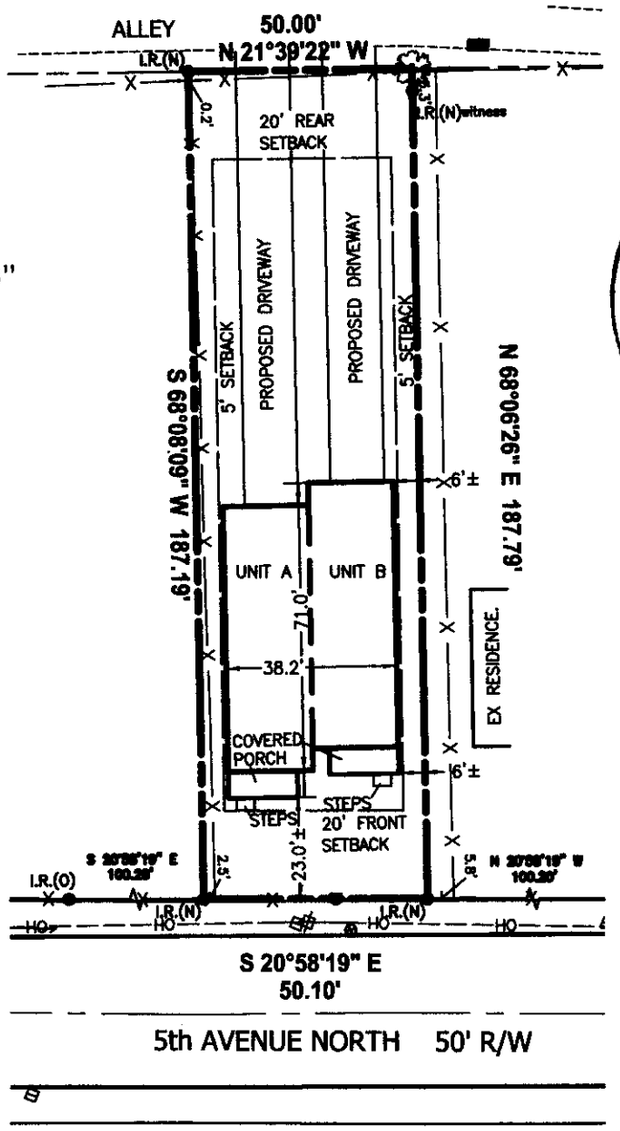
Land in Davidson County, Tennessee, being Lot No. 170 on the Plan of North Nashville Real Estate County Plat, of record in Plat Book 21, page 105, Register's Office for said County, to which Plan reference is hereby made for a more complete description.

Being the same property conveyed to John Swift, Tarrick Love and Tanisha Hart-Love, erroneously referred to as "Tarisha Hart-Love", by deed from Darrell E. Hill and wife, Remegilda C. Hill of record as Instrument Number 20060830-0107287, Register's Office for Davidson County, Tennessee.

NOTE: WEATHERFORD AND ASSOCIATES IS NOT RESPONSIBLE FOR ANY INFORMATION PROVIDED (OR OMITTED) ON PLATS BY OTHERS NOR PROPERTY CORNERS SET BY OTHERS.

PROP. MAP 81-08
PARCEL 456

EXHIBIT "B"



NOTE:
BUILDER IS SOLEY RESPONSIBLE FOR CONFORMING TO ALL CURRENT ZONING REGULATIONS AND BUILDING REQUIREMENTS INCLUDING FRONT, REAR, AND SIDE BUILDING SETBACKS, EASEMENTS, AND OTHER BUILDING RESTRICTIONS AND CONDITIONS AS NOTED ON THE SUBDIVISION PLAT OR REQUIRED BY OTHER LOCAL, STATE, OR FEDERAL REGULATIONS, POLICIES, AND ORDINANCES AS APPLICABLE.

PLOT PLAN

"THIS IS AN EXHIBIT - NOT TO BE USED AS A LAND SURVEY DOCUMENT"

OWNER:

PROPERTY:

RECORDED: PLAT BOOK 21, PAGE 105, R.O.D.C., TN

LOCATED: 1709 5TH AVENUE NORTH

WEATHERFORD AND ASSOCIATES, LLC
1301 Central Court
Hermitage, TN 37076
Ph. 615-391-3044
Fax 615-391-3044

DATE: 08/03/06 | **SCALE:** 1" = 30'

THIS INSTRUMENT PREPARED BY:

WILKINS & IVEY
Attorneys at Law
104 Woodmont Boulevard
Woodmont Centre Suite 100
Nashville, Tennessee 37205

EXHIBIT "C"

BY-LAWS

OF

PROVINCE ON 5TH

(A PLANNED UNIT DEVEOPMENT)

Nashville, Davidson County, Tennessee

ARTICLE I
FORM OF UNIT ADMINISTRATION

SECTION 1. Property Subject Hereto. The property to which these By-Laws shall apply is described as PROVINCE ON 5TH, a planned unit development with private elements, located in Nashville, Davidson County, Tennessee, at 1709 5th Avenue North, 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 Declaration of Covenants, Conditions and Restrictions 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 Tennessee not-for-profit corporation under the name of "PROVINCE ON 5TH Homeowners' Association", pursuant to a corporate charter which has been, or will be secured under the provisions of the Tennessee General Corporation Act. The By-Laws contained in this instrument shall be and become the By-Laws for the said corporation, and "Association" as hereinafter used shall mean and refer to PROVINCE ON 5TH 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 unit owners and all funds received by the Association shall be held and applied by it for the use and benefit of unit owners in accordance with the Declaration of Covenants, Conditions and Restrictions and By-Laws. Each unit owner shall be a member of the Association so long as he is a unit owner. 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 simultaneously succeed to the former unit 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 unit shall constitute one unit of membership even if a unit is owned by multiple owners. However, as long as Developer owns any unit(s), Developer shall have two (2) votes for each unit owned by Developer.

SECTION 3 Applicability of By-Laws. The provisions of these By-Laws are applicable to the property of the planned unit development 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 the Tennessee Code Annotated.

SECTION 4. Application. These By-Laws and each change made in accordance herewith are, and shall be, covenants running with each unit and binding on each successive co-owner, lessee or mortgagee of each unit in the planned unit development. All present and future owners, mortgagees, lessees and occupants of units 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 Declaration of Covenants, Conditions and Restrictions and any rules and regulations promulgated by the Board of Directors. The acceptance, whether from Developer or 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 a unit shall constitute a covenant and an agreement by the grantee, conveyee, mortgagee, lessee or occupant that these By-Laws, any rules and regulations and the provisions of the Declaration of Covenants, Conditions and Restrictions, 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.

ARTICLE II
BOARD OF DIRECTORS

SECTION I. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors. The initial Board of Directors shall consist of Developer and two other directors designated by Developer, one of which must be a unit owner. The initial Board shall continue to serve until both of the units have been conveyed to purchasers or three years after conveyance of the first unit, whichever shall first occur; and thereafter until their successors have been elected by the co-owners. Thereafter, the Board of Directors shall be composed of two directors, each of whom shall be an owner or spouse of an owner, or a partner in the case of ownership by a partnership, or an officer or shareholder in the case of ownership by a corporation of one of the two apartments, but may not both be an owner, spouse of owner, partner etc. of the same unit. The intent and purpose of this provision is to be certain that the interests of the owner(s) of each of the two units is represented on the Board of Directors.

SECTION 2 Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the planned unit development and may do all such acts and things except as by law or by the Declaration of Covenants, Conditions and Restrictions 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 planned unit development 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 planned unit development and designating the signatories required therefore.

(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 unit owners, units offered for sale or lease or surrendered by their owners to the Board of Directors.

(h) Purchasing of units 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 units, acquired by and subleasing units leased by the Board of Directors or its designee, corporate or otherwise, on behalf of all co-owners.

SECTION 3. Election and Term of Office. The first Board of Directors after the initial Board ceases management shall be elected at the first meeting of co-owners or, at the option of the initial Board, may be elected by ballots mailed to each co-owner at least twenty-five (25) days prior to the first meeting

SECTION 4. Vacancies. Vacancies in the Board of Directors shall be filled by a vote of a majority of the remaining Directors at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy, even though the Directors present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board of Directors for the remainder of the term of the member so removed and until a successor shall be elected at the next annual meeting of the co-owners.

SECTION 5. 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 thereat.

SECTION 6. 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.

SECTION 7. Quorum of Board of Directors. Both members of the Board of Directors must be present in order for the Board to transact business. If the two members of the Board of Directors can not agree on an action, each may appoint a third party who is not a spouse or other family member of said Director to agree between them on a fifth person who will cast the deciding vote to break the deadlock.

SECTION 8. 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.

SECTION 9. Declaration of Default. Should a one member of the Board of Directors determine that the other co-owner is in default in the performance of that co-owner's obligations as contained in the Declaration of Covenants, Conditions and Restrictions, or these By-Laws, then the two members of the Board of Directors may appoint a third party who is not a spouse or other family member of either of said Directors to agree between them on a fifth person who will determine whether a default has occurred. If it is determined by this fifth person that a default has occurred, if such default is not cured to the satisfaction of the complaining member of the Board of Directors within a reasonable time (not in excess of two weeks from the date of sending notice), then the complaining member of the Board of Directors shall proceed to enforce the remedies given herein and by law.

ARTICLE III
CO-OWNERS

SECTION 1. Annual Meetings. The annual meetings of the Board of Directors shall serve as the annual meeting of owners as there are only two units with one owner of each unit serving as one of two Directors.

SECTION 2. Title to Units. Title to units may be taken in the name of an individual or in the name of two or more persons, as tenants in common or as join tenants or as tenants by the entirety, or in the name of a corporation or partnership, or in the name of a fiduciary.

ARTICLE IV
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 Planned unit development, determine the amount of the common charges payable by the co-owners to meet the expenses of administration and of maintenance and repair of any portion of the common elements which can not be separated into that which belongs to one unit or the other. An example of such a common element is the roof. As much as is reasonably possible, each unit owner shall maintain and bear the cost of maintaining all limited and common elements which exist on that part of the property which is the one-half of the property most closely situated to each owner's unit.

SECTION 2. Insurance. Each unit owner shall maintain insurance for that owner's unit and the common wall between the units. Each owner covenants that he/she will secure adequate liability insurance to cover the cost of repairing damage to the neighboring unit which might be caused by a fire or other loss the insuring owner's unit. Each unit owner is responsible for providing the other owner proof of adequate insurance coverage. Should a joint policy be required in order to adequately insure any part of the property, each owner shall be responsible for paying half the cost of said insurance.

SECTION 3. 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, if applicable. A purchaser of a unit shall not be personally liable for the payment of common charges assessed against such unit prior to the acquisition by him of such unit 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 unit.

SECTION 4. 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 5. 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 unit granted by §66-27-116 of Tennessee Code Annotated, or both.

SECTION 6. Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Board of Directors to foreclose a lien on a unit because of unpaid common charges, the Board of Directors, acting on behalf of the Association, shall have the power to purchase such unit 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 7. 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 Declaration of Covenants, Conditions and Restrictions shall give the Board of Directors the right, in addition to any other rights set forth in these By-Laws:

(a) to enter the unit 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 8. Maintenance and Repair. Except as provided in Section 3 hereof:

(a) All maintenance of and repairs to any unit, 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 unit), shall be made by the owner of such units. Each co-owner shall be responsible for all damages to any and all other units and/or to the common elements within or adjacent to his unit, which require maintenance or repair. The Board of Directors may make any repairs and maintain any co-owner's units 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 unit 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 unit owner whose unit is situated on that half of the property.

(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 units, or by any agent, invitee, contractor or guest of any such owner) shall be made by the co-owner who has exclusive use of that limited common element. Specifically, the exterior of each unit shall be maintained by the owner of that unit.

SECTION 9. Restrictions on Use of Units. In order to provide for congenial occupancy of the property and for the protection of the values of the units, the use of the property shall be restricted to and shall be in accordance with the following provisions:

(a) Each of the units shall be used for single family residences only, except that Developer may use any unit owned by Developer as a model for the purpose of marketing unsold units.

(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 units.

(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 a unit (other than the entire unit) may be rented, and no transient tenants may be accommodated therein. This restriction is not meant to prohibit as many adults as there are bedrooms in the particular unit from living in a unit together and each paying his/her pro rata share of rent due to the unit owner.

(f) Units shall not be leased for a term of less than one (1) year in duration, except that Developer may enter into a lease of shorter term in the case of a unit which remains unsold by Developer. Unit owners shall submit a copy of the written lease agreement, including lease extensions and modifications, if any, to the Homeowners' Association.

(g) 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.

(h) Pets are allowed on the property.

SECTION 10. Additions, Alterations or Improvements by Co-Owners. No structural additions, alterations or improvements to the exterior of a unit shall be made by any co-owner without the prior written consent of the other owner. Such addition, alteration or improvement shall be made in compliance with Metropolitan Nashville Codes and Regulations.

SECTION 11. Electricity, Water and Sewer Charges. All utilities shall be separately metered to each unit and shall not constitute a common expense.

SECTION 12. Separate Real Estate Taxes. Real estate taxes shall be separately taxed to each unit owner for his unit and his corresponding percentage of ownership in the Common Elements, 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, such taxes shall be a common expense and each unit owner shall pay his share in proportion to his respective percentage of ownership in the Common Elements.

ARTICLE V
MORTGAGES

SECTION 1. Notice to Board of Directors. A co-owner who mortgages his unit 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 Units".

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 planned unit development project, unless all 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 planned unit development units have given their prior written approval, the planned unit development homeowners' association shall not be entitled to:

(a) by act or omission, seek to abandon or terminate the planned unit development project;

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

(c) partition or subdivide any planned unit development 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 planned unit development project shall not be deemed a transfer within the meaning of this clause);

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

(f) amend any provision in the Declaration of Covenants, Conditions and Restrictions or By-Laws which exists for the express benefit of first mortgage 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 planned unit development units and not to the planned unit development project as a whole.

3. No provision of these By-Laws or the Declaration of Covenants, Conditions and Restrictions is intended to give a planned unit development unit owner, or any other party, including the Homeowners' Association , priority over any rights of the first mortgagee of the planned unit development 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 planned unit development units and/or common elements, or in the case of liens for unpaid assessments.

4. Planned unit development dues or charges, if any, 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 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 planned unit development constituent documents which is not cured within sixty (60) days.

6. Any first mortgagee who acquires title to a planned unit development unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such unit's unpaid dues or charges which accrued prior to the acquisition of title to such unit by the mortgagee; provided, however, that any such delinquent assessments which were extinguished pursuant to this provision may be reallocated and assessed to all of the units as a common expense; and provided further that any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a unit from liability for, nor the unit from the lien of, any assessments made thereafter.

7. Until control of the association is transferred from Developer to a Board elected by the co-owners as set forth in Section 1 of Article II hereof, the following actions will require the prior approval of the Federal Housing Administration and the Veterans Administration: Annexation of additional properties, dedication of Common Area and the amendment of the Declaration of Covenants, Conditions and Restrictions of By-Laws.

8. The terms of this Article VI Section 2 shall be deemed to be automatically amended to meet any and all changes in the Federal National Mortgage Corporation or Federal Home Loan Mortgage Corporation guidelines for planned unit developments or any requirements for the operation of a planned unit development as imposed by those agencies.

SECTION 3. Examination of Books. Each co-owner and each mortgagee of a unit shall be permitted to examine the books of account of the planned unit development 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 Declaration of Covenants, Conditions and Restrictions, By-Laws and other rules concerning the property.

ARTICLE VI
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 a unit 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 a unit or units 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 unit 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 unit 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 units.

SECTION 2. Waiver of Right of Partition with Respect to such Units as are Acquired by the Board of Directors, or its Designee, on behalf of the Association as Tenants in Common. In the event that a unit 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 unit or property.

ARTICLE VII
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 VIII
RECORDS

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

ARTICLE IX
MISCELLANEOUS

SECTION 1. 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 2. 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 3. 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 4. 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.

ARTICLE X
AMENDMENT TO BY-LAWS

SECTION 1. Amendment to By-Laws. These By-Laws may be modified or amended by the written consent or vote of one hundred (100%) percent of all co-owners of the then existing units in the Planned unit development. Such modifications or amendments shall not be effective until filed for record in the Register of Deeds Office for Davidson County.

ARTICLE XI
CONFLICTS

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 Declaration of Covenants, Conditions and Restrictions, the said statute or the Declaration of Covenants, Conditions and Restrictions, as the case may be, shall control. Terms which are not defined in the Declaration of Covenants, Conditions and Restrictions and the Plan of record or in these By-Laws shall be deemed to be the same as defined in such Act.

EXHIBIT "D"

ATTORNEY'S OPINION

As an attorney licensed to practice law in the State of Tennessee, I hereby state that, in my opinion, all legal documents required under the terms of the Horizontal Property Act for creation of a planned unit development are being recorded as of the date of recording of this opinion. And, that having recorded said documents, a planned unit development is deemed to have been properly organized and constituted under Tennessee law.

Witness my hand this the 17th day of ~~September~~ November, 2006.

Christy W. Ivey, Attorney