PREPARED BY:
DODSON PARKER BEHM & CAPPARELLA
1310 SIXTH AVENUE NORTH
NASHVILLE TN 37208

DECLARATION OF THE MAXWELL, A CONDOMINIUM

THIS DECLARATION, made and executed on behalf of **Accord Properties, LLC**, a Tennessee limited liability company, hereinafter called "Developer" or "Declarant," this 9th day of December 2009, pursuant to the provisions of the Horizontal Property Act of the State of Tennessee, T.C.A. §§ 66-27-201 through 507, known as the Tennessee Condominium Act of 2008. (the "Act").

WITNESSETH:

WHEREAS, Developer is the owner of a certain tract of land, hereinafter referred to as the "Land," located in Davidson County, Tennessee, more particularly described in ***Exhibit A***, attached hereto and incorporated herein by reference.

WHEREAS, Developer is the owner in fee simple of the Land and has constructed certain improvements consisting of a multi-story building and appurtenances and amenities thereto, and it is the desire and intention of the Developer to divide the Project into Units and to sell and convey the same to various purchasers, subject to the covenants, conditions and restrictions herein reserved to be kept and observed;

WHEREAS, it is the desire, intent and purpose of the Developer by this Declaration and attached exhibits to submit said land together with said Units and all structural improvements and other permanent fixtures now or hereafter erected thereon, and all rights and privileges belonging or in any wise appertaining thereto, to the provisions of the Act, and to establish a "Project" in which each individual Unit may be and shall be owned, possessed, leased, sold, conveyed and encumbered as if it were solely and entirely independent of the other Units in the building and in which an owner has an exclusive ownership of his or her Unit and has a common right to share with other Owners in the Common Elements of the Land and Buildings not constituting an individual unit.

DECLARATION

NOW, THEREFORE, for and in consideration of the premises, in consideration of the reliance hereon by the purchasers of individual units, and as authorized by the Act, Developer, for itself and its successors and assigns, does hereby covenant, establish and confirm unto its grantees and unto its heirs, successors and assigns, as well as to any and all other persons hereafter having or acquiring any interest of any nature whatsoever in or to any part of said Land and Buildings, as follows:

I.
ESTABLISHING OF HORIZONTAL PROPERTY REGIME

1.01. *Regime under the Act.* The said Land and Building and all other improvements located on the Land shall be and are herewith constituted and established as a Project and a horizontal property regime as defined in and as authorized by the Act, and shall continue as such forever unless terminated in the manner hereinafter provided.

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1.02. *Ownership of Units.* Each Unit, as hereinafter defined, may be and shall be individually transferred, conveyed, devised and encumbered and shall be the subject of ownership, possession, mortgage, deed of trust or sale and of all types of legal actions as if it were solely and entirely independent of the other Units in the Building, and the corresponding individual title and interest with respect to each Unit shall be recordable. In any deed, mortgage, lease or other instrument of conveyance or encumbrance of, or by which a lien is created upon, any interest or estate in a Unit or Units within the Building, it is sufficient to describe any such Unit or Units by setting forth the name of the property, "**The Maxwell**," the number of the Unit as it appears on the Plat and the number of this instrument in the records of the Office of the Register of Davidson County, Tennessee.

1.03. *Owners' Rights in Common Elements.* An Owner shall have an exclusive ownership to his or her Unit and shall have the common right to share with the other Owners in the Common Elements, as hereinafter defined, and limited use of certain Limited Common Elements, as set forth herein. Each Owner may use the Common Elements in accordance with the purpose for which they are intended, consistent with the rules and regulations as may be adopted from time to time as provided herein. Any transfer, conveyance or encumbrance of an individual unit, whether by deed, mortgage, deed of trust, last will and testament, inheritance, gift or otherwise, shall be deemed also to transfer, convey or encumber the undivided interest of the owner in the Common Elements belonging to and appertaining to said Unit, without specifically or particularly referring to the same. No Owner, whether by deed, mortgage, deed of trust, last will and testament, inheritance, gift or otherwise, shall have any right to transfer, convey or mortgage his or her Unit without also transferring, conveying or mortgaging as an incident thereto his or her undivided interest in the Common Elements. Conversely, no Owner shall have any right to transfer, convey or mortgage any part of his or her undivided interest in such Common Elements without also transferring, conveying or mortgaging the Unit to which his or her undivided interest in such Common Elements is incident.

1.04. *Joint Ownership.* Any Unit may be held and owned by more than one person, as tenants in common, as joint tenants, as tenants by the entireties, or in any other real estate tenancy relationship now or hereafter recognized under the laws of the State of Tennessee.

1.05. *No Partition Permitted.* The Common Elements, as hereinafter defined, shall remain undivided and shall not be the object of an action for partition or for division by judicial proceedings or otherwise. Likewise, neither unit nor the undivided interest in the Common Elements incidental thereto shall be partitioned in kind nor subdivided into smaller units by judicial proceedings or otherwise, except with the prior written consent of the Board of Directors.

1.06. *Owners to Comply With Declaration and Bylaws.* Each Owner, his or her personal representatives, heirs and assigns shall, at all times, be bound by and comply with the provisions and requirements of this Declaration, with the Bylaws hereinafter set forth and all amendments thereof, and shall promptly pay, when due, all assessments and the pro rata share of the expenses of administration and of maintenance and repair of the Common Elements, as hereinafter provided. The failure to comply with any such provision or requirements, or the failure to make

any such payment, shall be grounds for an action to recover the sum due for damages and for injunctive or other relief as hereinafter provided.

1.07. *Act as a Part of This Declaration.* Each and all of the rights, privileges and benefits, and all of the duties, burdens, requirements and restrictions, contained in the Act resulting from the establishment of a horizontal property regime in accordance therewith, shall be applicable to the said Land and Building and to each Owner, both with respect to the Owner's Unit and the Owner's undivided interest in the Common Elements, except to the extent that an express contrary provision is validly made in this Declaration or in the Bylaws forming a part hereof, and, to that end, the said Horizontal Property Act, as amended or as it may subsequently be amended, is incorporated herein by reference as fully as though set out herein in full.

1.08. *Severability.* In the event the Act or any provision thereof is, at any time, declared or found to be unconstitutional or invalid, the provisions of this Declaration and the plan for an Owner to own a Unit in fee simple, separately and independently, and to own an undivided interest in the Common Elements and in all other incidents thereto as set out in this Declaration, shall nonetheless continue in full force and effect as authorized by the laws of the State of Tennessee.

II.
DEFINITIONS

2.01. Unless the context clearly indicates a different meaning thereof, certain terms as used in this Declaration (whether capitalized or not) shall be defined as follows:

(a). "Association" is a non-profit Tennessee corporation known as **The Maxwell Homeowners Association, Inc.**, which includes as members all of the Owners.

(b). "**The Maxwell**" is the name of the Project.

(c). "Board of Directors" means the administering body of the Association.

(d). "Building" means the building containing and including individual Units.

(e). "Common Elements" means all of the Land and all of the Buildings and other property, except as are located in the Units (provided that any Common Elements within a Unit shall still be included in Common Elements). Common Elements shall include all structural and bearing elements of the Building, and, without limiting the foregoing, shall specifically include the lobby at the entrance of the building, common hallways, the elevator, the stairwells, the sidewalks, the fourth floor lobby and terrace, the grounds and any portions of the garage or storage areas not designated as for use by specific Units.

(f). "Developer" or "Declarant" means Accord **Properties, LLC**; a Tennessee limited liability company, or its designee, which has made and executed this Declaration.

(g). "General Common Elements" means and includes both Common Elements and Limited Common Elements.

(h). "Limited Common Elements" means those portions of the Common Elements that are reserved or reasonably meant for the use of a certain Unit or Units to the exclusion of other individual Units and, without limiting the foregoing, shall specifically include the balconies connected to any Unit as specified in **6.06** and any portions of the garage or storage areas designated as for use by specific Units.

(I). "Majority of Owners" means owners entitled to cast at least **fifty-one (51%) percent** of the votes as provided in **4.04** of this Declaration. "Super Majority of Owners" means owners entitled to cast at least **two-thirds (2/3)** of the votes as provided in **4.04** of this Declaration.

(j). "Manager" means the person or firm designated by the Board of Directors to manage the affairs of the Project.

(k). "Member" means a member of the Association who is the Owner of a Unit. All Owners of an individual Unit shall be members. The cessation of the ownership of a Unit shall terminate membership.

(l). "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns a Unit or Units within the Project. When two or more persons own a Unit as tenants in common, joint tenants, tenants by the entireties, or otherwise, such persons shall constitute the "Owner" with respect to that unit.

(m). "Plat" means the plat of the Project attached hereto as ***Exhibit B***.

(n). "Project" means the entire parcel including all structures thereon.

(o). "Unit" means that part of the Project intended for individual ownership and use. Each individual Unit shall consist of all the improvements and space therein within the boundary lines for that unit, as set out on the Plat and the Unit Plans, attached hereto as ***Exhibit C***. Nothing contained herein shall be construed to include any of the Land as part of an individual Unit, however, because all of the Land is part of the Common Elements, as defined hereafter.

The lower boundary of the Unit shall be the unfinished interior surface of the floors of the Unit. The upper boundary of the Unit shall be the unfinished interior surface of the sheetrock or other building material on the ceiling of the Unit.

The lateral or parametrical boundaries of the Unit shall be an irregular line which shall follow the unfinished interior surfaces of the sheetrock or other building material on the walls of the Unit (to include the sheetrock or other building material), and shall extend upward and downward to the limits of the improvements.

Notwithstanding the above, each Unit includes, without limitation, such appliances and fixtures as may be located therein, the heating and cooling unit or units, whether contained

within or without the unit, the panes of glass in the windows, fireboxes, all wall and floor finishes and all interior improvements, all other fixtures initially included thereon or added thereto and the exterior and interior of all exit doors of the Unit. Any components or installations of central utilities, or any part of the Building rationally of common use or necessary to the existence, upkeep and safety of the Building shall constitute a Common Element, though within the perimeter walls of a Unit.

III.
DESCRIPTION OF LAND AND BUILDINGS

3.01. *Land and Buildings.* The Land, located in Nashville, Davidson County, Tennessee, as particularly described in the preamble of this Declaration, is owned by the Developer in fee, and embraces the marked area shown on the plat which is attached hereto and made a part hereof as ***Exhibit A***. The Building situated on the said Land embraces the area and includes the Units and the Common Elements as shown on the Plat.

IV.
DESCRIPTION AND NUMBER OF UNITS

4.01. *Number.* Within the Building are situated or will be constructed **TWELVE (12)** individual Units. Each Unit has the number, location and dimensions shown on the Plat and Unit Plans, attached as ***Exhibits B and C*** hereto and made a part hereof, to which reference is hereby made.

4.02. *Boundary.* The boundary lines of each Unit are those shown on the Plat and plans. In the event of any variation between the distances as shown on the Plat and plans and the actual distances, the actual distances shall prevail. Each Unit includes each and all of the things and matters mentioned in the definition of Unit.

4.03. *Changes.* In the event that, by reason of the construction, settlement, reconstruction or shifting of the Building, any part of a Unit forming a boundary shifts or changes, then the boundary of such Unit shall likewise shift or change, it being always the intention of this instrument that the boundaries as defined in **2.01(o)** hereof shall constitute its actual boundaries.

4.04. *Individual Votes.* Each individual Unit is entitled to One (1) vote under this Declaration and in the Association. Should there be multiple Owners of an individual Unit, then their unanimous agreement shall be necessary to cast such vote; provided, however, that the Association, and any other interested parties, shall be entitled to rely upon the written statement of any one of the Owners of record of a Unit that all such Owners of the Unit have agreed, unless unequivocal prior written notice to the contrary has been delivered to the President of the Association.

4.05. *Entity Votes.* In the event a partnership, trustee, corporation, limited liability company or other entity owns a Unit or Units, then the representative of such entity, as certified in writing to the President of the Association, shall be entitled to cast the vote for such Unit; provided, however, that the Association, and any other interested parties, shall be entitled to rely upon the

written certification of any person claiming authority to so certify, unless unequivocal prior written notice to the contrary has been delivered to the President of the Association.

4.06. *Shares.* The number of the individual Units (the area and location of each being shown on the Plat and plans exhibited hereto), the agreed pro rata share of expenses and assessments of each Unit and the percentage interest of each Unit in the General Common Elements are as expressed in ***Exhibit D*** attached hereto and made a part hereof by reference and shall have permanent character and shall not be altered without the consent of all Owners expressed in an amended declaration duly recorded, except as otherwise provided herein. The agreed pro rata share of expenses and assessments and the percentage interest in the General Common Elements is a fraction, the numerator of which is the square footage of a unit and the denominator of which is the square footage of all of the Units as a whole. The percentage of undivided interest in the General Common Elements shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

V.
DESCRIPTION OF COMMON ELEMENTS

5.01. *Definition.* The "Common Elements" are defined in **2.01(e)** above.

5.02. *Generally.* All Common Elements are subject to the joint use and enjoyment by each and all of the Owners, consistent with the rules and regulations as may be adopted from time to time as provided herein.

5.03. *Additional Provisions.* Without in anyways limiting the generality of the above definition of Common Elements, the said Common Elements shall include, without limitation:

(i). Such portion of the Land as shall have been made subject to the covenants and restrictions of this Declaration, together with all parking and driveway area, roofs, dormers, storage and refuse areas, and landscaping.

(ii). Exterior walls (exclusive of the panes of glass in the windows of each Unit and the exterior and interior of exit doors of each Unit, but including windows in dormers on roof), foundations and roofs.

(iii). All utility installations up to the point of connection in a Unit (with the exception of fixtures within a Unit for the purpose of serving that particular Unit) including but not limited to electric wiring, plumbing, and sanitary lines and all pipes, ducts or other equipment used to provide power, light, telephone, gas, water, heat or other utility services to the individual Units. Any heating and/or air conditioning equipment located outside the Unit but intended for use specifically by that Unit shall be a part of that Unit and shall not be a Common Element.

5.04. *Shares and Interests.* The undivided right, title and interest of each Owner, as an incident and appurtenance to ownership of such Unit, in the Land and in the other Common Elements and in all of the improvements and facilities thereon (excepting always the Units, as

above described and as shown on the Plat and plans for any additional Units added pursuant to the provisions hereof) and the Owner's pro rata share in the income, if any, and of expenses and assessments and the Owner's percentage interest in the General Common Elements and facilities and improvements thereon, and in the funds and property held by the Board of Directors, shall be that Unit's pro rata share and percentage interest as set forth in ***Exhibit D*** under the column so styled.

VI.
DESCRIPTION OF LIMITED COMMON ELEMENTS

6.01. *Description.* The Limited Common Elements, as defined in **2.01(h)**, shall be those areas, if any, designated as such herein, or on the plat and plans attached hereto as ***Exhibits B and C***, or designated as such by the Board of Directors from time to time. The Limited Common Elements shall be assigned to the exclusive use and enjoyment of the Owner of the individual Unit or Units that it adjoins (or to whom it is otherwise assigned), subject to the Bylaws and regulations and final decision as to area included by the Board of Directors.

6.02. Limited Common Elements are assigned by the Declarant and **The Maxwell Homeowners Association, Inc.,** to Buyers for the exclusive use of the individual Unit owners, but such areas are subject to regulation by the Declarant and **The Maxwell Homeowners Association, Inc.** The Unit owner is prohibited from taking any action, including destroying, harming, painting, or modifying any Limited Common Element, in any way that is not approved in writing by the Declarant and **The Maxwell Homeowners Association, Inc.**, or that in any way affects the appearance or value of that area or the building as a whole. Any damage, alterations, modification, or destruction of the Limited Common Elements that are caused by a Unit owner, any guest of a Unit owner, or any party associated with a Unit owner, may result in the Unit owner being ordered to immediately repair such damages or changes to the satisfaction of the Declarant and **The Maxwell Homeowners Association, Inc.**, and any such costs of repair (including without limitation costs incurred by the Declarant and **The Maxwell Homeowners Association, Inc.**, for such matters as engineers, contractors or consultants) may be immediately assessed to that Unit owner. Such repairs will be deemed the sole responsibility of the Unit owner and not the Declarant and **The Maxwell Homeowners Association, Inc.** In addition, any damage done to any of the Common Elements or Limited Common Elements, whether through negligence or otherwise, by a Unit owner, any guest of a Unit owner, or anyone associated with a Unit owner, will be the sole responsibility of the Unit owner. Any necessary repairs may be assessed to the Unit owner regardless of whether such repairs are covered by the Unit owner's insurance. Alternatively, the Declarant and **The Maxwell Homeowners Association, Inc**. shall have the right, but not the obligation, to have the damage or changes repaired to their satisfaction and to assess all costs and expenses to the Unit owner.

6.03. All Limited Common Elements are for the exclusive use of Owners of the Units as provided in the Declaration and Bylaws, and any rights thereto cannot be leased, sold, transferred or in any way conveyed separately or apart from the Units themselves.

6.04. Nothing herein prohibits individual Owners from agreeing between themselves to swap, lease, or otherwise allow other Owners to use their assigned parking or storage areas.

However, any such arrangements must be done by a written agreement between the parties, and cannot be made between, or for the benefit of, anyone other than Owners of Units in **The Maxwell**. Also, should one of the Units be sold, leased, or transferred, such arrangements need to be approved in writing by any new Owner of a Unit involved. Otherwise, all such arrangements for such areas must revert back to the assignments set forth herein, or as agreed to by **The Maxwell Homeowners Association, Inc.**

6.05. General long-term maintenance, caused by the normal use, wear, and tear of such Limited Common Elements, shall be the responsibility of **The Maxwell Homeowners Association, Inc.**

6.06. Balconies, porches, or decks immediately attached to and part of individual Units are considered a part of the Limited Common Elements. Individual Owners have the right to the exclusive use of the balconies, porches, and decks that are attached to and part of their Units, but such areas are otherwise subject to the terms and conditions as provided in the Declaration and Bylaws, and by **The Maxwell Homeowners Association, Inc.** as provided therein.

6.07. Because balcony spaces vary in size, but are used exclusively by the individual Unit Owners, the general maintenance of the Balcony spaces is subject to a pro-rata assessment, and, thus, the balcony square footage associated with each Unit is added to the total square footage of that Unit for the purpose of Assessments and Dues.

6.08. All Parking spaces are considered Limited Common Elements, but all other areas of the garage floor space, including walkways, drive areas, mechanical rooms, and unassigned storage areas are considered General Common Elements.

6.09. Parking spaces in the basement garage are initially assigned to each Unit as set forth in ***Exhibit F*** attached hereto for the exclusive use of the owner of the particular Unit. Such spaces will follow the ownership of the Unit upon sale, lease, or transfer of the Unit. These assignments can be modified by the Declarant as it deems fit at any time prior to the **The Maxwell Homeowners Association, Inc.,** taking control. Thereafter, these assignments can be modified under the procedures set forth in the Declaration, Bylaws and the governing documents of **The Maxwell Homeowners Association, Inc.**

6.10. Parking spaces on the property of **The Maxwell**, but not inside the garage, are considered Limited Common Elements. Available spaces will be assigned to individual Units for their exclusive use. Again, the Declarant can modify these assignments while in control, or, once it takes control, **The Maxwell Homeowners Association, Inc** may do so as provided in the Declaration, Bylaws and the governing documents of **The Maxwell Homeowners Association, Inc.**

6.11. Storage Areas in the garage are considered Limited Common Elements, subject to the provisions set forth above, and are initially assigned to each Unit as set forth in ***Exhibit F*** attached hereto for the exclusive use of the owner of the particular Unit. As with the parking spaces, the Declarant can modify these assignments while in control, or, once it takes control,

The Maxwell Homeowners Association, Inc may do so as provided in the Master Deed, Bylaws and the governing documents of **The Maxwell Homeowners Association, Inc.**

6.12. All window treatments, as visible from the outside of the **The Maxwell**, shall be Hunter Douglas 2-inch Chalet Woods wood blinds, color 450 distinctively white. The prior approval of **The Maxwell Homeowners Association, Inc.**, is required for the installation of any window treatments not in compliance with this section.

VII.
THE ASSOCIATION

7.01. *Authority.* The business affairs of the Condominium shall be managed by the Association. The Association shall be governed in accordance with its Charter and Bylaws, as amended from time to time.

7.02. *Bylaws.* The Bylaws for the administration of the Association are attached hereto, and made a part hereof as ***Exhibit E*** to this Declaration.

7.03. *Powers.* The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of **The Maxwell**.

7.04. *Declarant Control.* The Declarant shall have all the powers reserved in Section 67-3-403(c) of the Act to appoint and remove officers and members of the Board of Directors.

VIII.
BOOKS OF BOARD OF DIRECTORS

8.01. *Required Accounting.* The Board of Directors shall keep a book with a detailed account, in chronological order, of the receipts and expenditures affecting the Project and its administration and specifying the maintenance and repair expenses of the Common Elements and any other expenses incurred. Both said book and the vouchers accrediting the entries made thereupon shall be available for examination by all the owners at convenient hours on working days that shall be set and of which the Unit Owners are notified.

IX.
EXPENSES & LIENS

9.01. *Contribution.* The Owners of the Units are bound to contribute toward the expenses of administration and maintenance and repair of those portions of the Project required hereby, as assessed from time to time by the Board of Directors, and toward any other expenses lawfully agreed upon, in proportion to their ownership interests, as shown on ***Exhibit D***. Any owner failing to so contribute shall be subject to the Lien as provided for in **Article XV** below.

9.02. *No Exemption.* No Owner may exempt himself or herself from contributing toward such expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit belonging to that Owner or by any other means.

9.03. *Upon Sale.* The sale or conveyance of a Unit shall in all cases be subject to all unpaid assessments against the Owner thereof for his or her pro rata share in the expenses to which this section refers and, if the same are not paid by the Owner thereof prior to sale or conveyance, there shall be a lien against the Unit and the same shall be paid by the new Owner thereof. Likewise shall taxes and other levies and assessments of governmental taxing bodies be a lien against Units.

X.
INSURANCE

10.01. *Required Insurance.* Developer, the assignee of Developer and each Owner agree that the Building, including all Units and interior portions thereof, Common Elements and Limited Common Elements shall be insured against risks set forth in the Bylaws, including property coverage at full replacement cost. Public liability insurance shall also be maintained. The premiums for such insurance coverage shall be a common expense unless otherwise provided. This provision shall have the same force and effect of a resolution adopted by a majority of Owners under T.C.A. § 66-27-117. In case of fire or any other disaster, the insurance indemnity shall be applied to reconstruct the Project in the manner and with the exceptions set forth in the Bylaws.

XI.
UNITS TO BE SEPARATELY TAXED AS ENTITIES

11.01. *Separate Taxation.* Each Unit shall be taxed as an entity with such Unit's percentage interest in the General Common Elements to be assessed proportionately and paid by the Owner of such Unit as provided in T.C.A. § 66-27-120.

11.02. *When Effective.* The above provision shall become effective with all taxes, assessments and other charges of any taxing unit with the calendar year within which this Master Deed is recorded. The Developer (for the year when this Master Deed is recorded) shall pay all such taxes, assessments and other charges when due and shall be entitled to an apportionment and proration of such taxes with respect to the sale of any Unit in the manner agreed upon in the contract of sale, or as otherwise determined by Developer.

11.03. *Agreement.* Each Owner covenants and agrees to the above basis of taxation, and all Owners, both present and future, irrevocably instruct and empower the Board of Directors to take all steps necessary to insure that the above method and basis of taxation is applied by and respected by any and all taxing units of this state and of any political subdivisions or any other taxing or assessing authority thereof.

XII.
APPURTENANCES TO UNITS

12.01. *General Rights.* Each Unit shall include, without limitation by reason of enumeration, and the same shall pass with each Unit as an inseparable appurtenance thereto,

whether or not separately described, conveyed or encumbered, the following rights, privileges and interests:

(a). An undivided share of the General Common Elements, such undivided share to be that percentage interest set forth in ***Exhibit D*** hereto;

(b). The right to use such of the Limited Common Elements as is specifically provided for herein, subject always to the rules and regulations made by the Board of Directors;

(c). Easements for the benefit of the Unit;

(d). The same percentage interest as provided in **12.01(a)** above in funds, reserves and assets held by the Board of Directors for the benefit of the Owners;

(e). All such appurtenances, however, shall be and continue to be subject to the easements for the benefit of other Units.

(f). The following easements from each Owner to each other Owner:

(i). *Ingress and Egress.* Easements through the General Common Elements for ingress and egress for all persons making use of such General Common Elements in accordance with the terms of the Master Deed.

(ii). *Maintenance, Repair and Replacement.* Easements through the Units and General Common Elements for maintenance, repair and replacement of the Units and General Common Elements. Use of these easements for access to the Units shall be limited to reasonable hours, except that access may be had at any time in case of emergency.

(iii). *Structural Support.* Every portion of a Unit which contributes to the structural support of another Unit shall be burdened with an easement of structural support for the benefit of that Unit.

(iv). *Utilities.* Easements through the Units and General Common Elements for all facilities for the furnishing of utility services within the Units and to the General Common Elements, which facilities shall include but not be limited to conduits, ducts, plumbing and wiring; provided, however, that a Unit shall be substantially in accordance with the plans and specifications of the Units.

(v). *Common Use.* The right to use and enjoy, in common with the other Owners and subject to the rules and regulations contained herein or made by the Board of Directors, the Land, parking areas, the driveways and all other General Common Elements.

12.02. *Storage Areas.* Any storage areas on the Property, except those inside the Units and those which are Limited Common Elements, shall be part of the Common Elements and may be allocated with exclusive use thereof assigned by the Developer, and thereafter by the Board as

appropriate, to the respective Unit Owners, and shall be used by such Unit Owners in such manner and subject to such rules and regulations as the Board may prescribe.

12.03. *Parking Spaces.* Parking spaces within the Parcel shall be part of the Common Elements as provided herein, and may be allocated with exclusive use thereof assigned by the Developer, or the Board, to the respective Unit Owners, and shall be used by such Unit Owners in such manner and subject to such rules and regulations as the Board may prescribe; provided, however, that there shall be at least **one (1) parking space** assigned to each Unit.

XIII.
RESTRICTIVE COVENANTS

13.01. *Developer's Use.* Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Developer to maintain during the period of construction, sale or leasing of said Building and Units, upon such portion of the premises as Developer may choose, such facilities as in the sole opinion of Developer may be reasonably required, convenient or incidental to the construction, sale or leasing of Units, including, but without limitation, a business office, storage area, signs, model units, sales office and construction facilities.

13.02. *Occupancy.* A Unit shall only be occupied by the **Unit Owner and the Unit Owner's family, and no more than two (2) persons not related to the Unit Owner**. The Association shall have the right to adopt reasonable rules and regulations as to the number, behavior and hours of guests beyond the persons described in the prior sentence.

13.03. *Use of Property.* Subject to the provisions of the Bylaws, 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 applicable zoning laws. Each Unit or any two or more adjoining Units used together shall be used as a residence or for 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 applicable zoning laws) as an ancillary or secondary facility to an office established elsewhere. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from:

(a). maintaining a personal professional library,
(b). keeping personal business or professional records or accounts, or
(c). handling personal business or professional telephone calls or correspondence.

Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions. Provided, however, that no part of the Property shall be used for meeting with customers, clients, patients or other business meetings or for sales, displays of wares, goods or products, except as expressly approved by the Board of Directors.

13.04. *Restrictions on the Use of Common Elements.* The Common Elements shall be used only by the 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; provided, however, that any areas designed for a specific use shall be used for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and shall be subject to any lease, concession or easement, presently in existence or entered into by the Board at some future time, affecting any part or all of said Common Elements. The Association shall have the right to adopt reasonable rules and regulations as to the number of persons present, uses, behavior and hours for the Common Elements.

13.05. *Use of Space.* The Owners are hereby prohibited and restricted from using any land or air space outside the Unit and Limited Common Elements, except in accordance with rules established by the Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners and is necessary for the protection of said Owners.

13.06. *Maintenance of Common Elements.* Any action necessary or appropriate to the proper maintenance and upkeep of the Common Elements shall be taken by the Board of Directors.

13.07. *Additional Common Facilities.* The Board of Directors shall have the right and power to provide for the construction of additional and other common facilities, from time to time, as in its discretion appears to be in the best interest of the Project. Any such construction, improvement or addition shall be authorized by a Majority of Owners at a duly called meeting at which a quorum is present.

13.08. *Control of General Common Elements.* Notwithstanding any of the provisions herein, the Association shall maintain full control of all of the General Common Elements including the use, prohibition of use and manner in which the same shall be maintained, landscaped or otherwise employed.

13.09. *Limited Common Element Maintenance.* If a Limited Common Element serves only one Unit, the repair and maintenance thereof shall be the responsibility of the applicable Owner, provided that the long-term maintenance of the Building which could include Limited Common Elements like balconies, terraces, and parking areas, shall be the responsibility of **The Maxwell Homeowner's Association, Inc**.

13.10. *Additional Restrictions.* The Board of Directors shall be entitled to invoke additional rules and regulations from time to time for the operation, use and maintenance of the Property located within its jurisdiction, including the Units and the Common Elements, provided such rules and regulations are not inconsistent with this Declaration, and provided that such rules and regulations are approved by the votes of a Majority of Owners (and approved by the Developer, should any Units remain unsold).

13.11. *Animals.* No animals, livestock or poultry of any kind shall be raised, bred or kept in or around a unit: provided, however, that normal household pets, such as dogs, cats and caged birds, may be kept subject to such rules, regulations and restrictions as may be adopted by the Association from time to time.

13.12. *Signs.* No advertising signs (except those approved in writing by the Board of Directors), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on a Unit, the Project, Land or Buildings and then only attached to the Unit in locations, size and color approved in writing by the Board of Directors.

13.13. *Trash.* All equipment and garbage cans serving a Unit shall be kept entirely within the Unit. All rubbish, trash or garbage shall be regularly removed from the Unit, shall not be allowed to accumulate therein, and shall be placed in containers provided by the Association. Nothing shall be stored in places outside of a Unit without prior written approval of the Board of Directors.

13.14. *Laundry.* Without the express permission of the Board, no Owner, guest, or tenant shall hang laundry from any area within or outside a Unit if such laundry is within the public view, or hang laundry in full public view to dry, such as on balcony or terrace railings.

13.15. *Planting.* No planting or gardening shall be done, and no fences, hedges, ornamental screens, awnings, screen doors, sunshades or walls shall be erected or maintained upon the Project, except such as are installed in accordance with the initial construction of the Building or as approved by the Board of Directors. However, this provision shall not prohibit a reasonable number of appropriate plants in pots on balconies or terraces. Any question as to whether plants are reasonable and appropriate and therefore permitted under this section shall be determined by **The Maxwell Homeowners Association, Inc.**

13.16. *Infections, Diseases or Insects.* No Owner shall permit any thing or condition to exist upon any portion of such Owner's Unit that shall induce, breed, or harbor infections, plant diseases, vermin or noxious insects. Each Owner shall be responsible for providing adequate pest control within their Unit, and the Association may, upon reasonable notice to such Owner, take such steps to enforce or provide such pest control, at the expense of such Owner.

13.17. *Exteriors.* No exterior additions or alterations to any Unit or Building, nor construction of, changes in or work on, any part of the exterior of any Unit or Building, exterior, roofs and other structures shall be commenced, erected or maintained. Any alteration in the exterior color of any improvement shall likewise be subject to the prior approval of the Board.

13.18. *Exterior Radio and Television Equipment.* Subject to applicable law, no television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any Unit without the prior written consent of the Board; nor shall radio, television signals, nor any other form of electromagnetic radiation be permitted to originate from any Unit that may unreasonably interfere with the reception of television or radio signals upon any other Unit. Notwithstanding the foregoing, the provisions of this section shall not prohibit the Declarant or the Association from installing equipment necessary for a master antenna system, security system, cable television, mobile radio system or other similar systems nor prohibit the Board from approving the installation of a satellite dish no more the eighteen (18) inches in diameter at an approved location on a Unit. In no event shall any antenna or dish

satellite receiver be installed in any of the Common Elements, including the roof and any areas outside a Unit, without the prior written permission of the Association.

13.19. *Access to Roof; Installations.* No Owner may access the roof, install any improvement, or place any item on the roof without the express written approval of the Association in the sole discretion of the Board. Each Owner acknowledges that maintenance and care of the roof is directly affected by such activities and that all such restrictions or prohibitions are reasonable.

13.20. *Exterior Doors.* No exterior door of a Unit, or the type or style of hardware, lock or glass thereon may be changed, removed or altered without the approval of the Board of Directors, nor may the color or type of paint on any exterior door, or the exterior appearance thereof, be changed or altered without the approval of the Board of Directors.

13.21. *Unit Maintenance.* An Owner shall maintain and keep in repair at the Owner's expense the interior of his or her own Unit, including without limitation the fixtures thereof, the heating and air conditioning equipment and all improvements made to the Unit by the Owner, whether contained inside or outside said Unit. All fixtures and equipment installed within a Unit, commencing at a point where the sewer and utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the Unit, shall be maintained and kept in repair by the Owner thereof.

13.22. *Compliance with Law.* The Property is subject to that certain Stormwater Detention Agreement and Easement as between the Declarant and the Metropolitan Government dated April, 2007, attached as ***Exhibit G*** hereto, as now in effect and as it may be subsequently revised and amended. The Property is also subject to that certain Grant of Easement as between the Declarant and Comcast of Nashville, LLC dated February 20, 2008, attached as ***Exhibit H*** hereto, as now in effect and as it may be subsequently revised and amended. The Association and each Owner shall comply promptly with such Agreements and with all laws, statutes, ordinances, rules and regulations of federal, state or municipal governments or authorities applicable to use, occupancy, construction and maintenance of any improvements upon the Units. It is understood that the Property may be subject to other restrictions and matters of record, not listed herein.

13.23. *Non-disturbance.* No Unit shall be used in any way or for any purposes that may endanger the health or unreasonably disturb the Owners of any other Unit or any occupant thereof. No noxious or offensive activity shall be conducted in any Unit, nor shall anything be done thereon that may be or become an annoyance or nuisance to other Owners.

13.24. *Firearms.* Discharge of firearms is prohibited; provided, the Board shall have no obligation to take action to prevent or stop such discharge.

13.25. *Traffic and Parking Control.* The Board may make rules and regulations concerning driving and parking within the Project, subject to applicable governmental requirements and restrictions. The Association may construct traffic calming devices and post speed limits or other traffic signs and take other measures deemed necessary to discourage excessive speed and to

promote a safe environment. The Association may enforce such rules and regulations with penalties, fines or towing, and shall have all remedies set forth in this Master Deed. No house trailer, camper, pleasure or fishing boat, motor home, trailer, junk or inoperable vehicle shall be parked or stored on or about any Unit or any General Common Elements, unless authorized by the Board of Directors.

13.26. *Other Maintenance.* The Board of Directors or its duly designated representatives shall maintain, manage and landscape all parking areas (including, if deemed desirable by the Board of Directors, reserving parking places for individual Units), undedicated streets, and all grounds, roofs, dormers, Common Elements and exteriors of all Buildings (excluding the panes of glass in the windows and the exterior and interior of all exit doors belonging to a Unit as set forth above and excluding washing windows of individual Units unless the Board of Directors shall undertake to so do) and shall be responsible for the rubbish and garbage removal from all Common Elements within the Project. It is expressly agreed and understood that each individual Owner shall bear the expense of maintaining and repairing the sewer line from the Owner's Unit to the point where the sewer line enters the Project collector system.

13.27. *Owner's Responsibility.* In the event any Common Element, Unit or improvement of the Project is damaged or destroyed through the negligent or culpable act of an Owner or any of the Owner's agents, employees, or tenants such Owner does hereby irrevocably authorize the Board of Directors to repair said damage, and the Board of Directors shall so repair said damage. The Owner shall then repay the Board of Directors in the amount actually expended for said repairs less any insurance proceeds received. Each Owner further agrees that these charges for repairs, if not paid within ten (10) days after completion of the work, shall become a lien upon said Owner's Unit and shall continue to be such lien until fully paid, which lien shall be enforceable as provided in **Article XV** hereof.

13.28. *No Impairment.* An Owner shall do neither act nor any work that will impair the structural soundness or integrity of the Buildings or impair any easement or impediment.

13.29. *No Subdividing.* No Unit may be subdivided into additional units unless such subdivision is approved by the Board of Directors in writing. Two or more adjoining Units may be combined to form a single Unit and the percentage of ownership of the Common Elements attributable to the resulting Unit will be the total of the percentage of the combined Units.

13.30. *Leases.* No Unit shall be leased or rented for less than **ninety (90) days**, and all leases of Units shall be in writing and subject to the requirements of this Declaration, the Bylaws and the rules and regulations of the Association. The Association shall have the right to adopt reasonable rules and regulations which must be satisfied as a condition of a Unit being rented or leased, including, without limitation, requirements that: (i) an executed copy of the lease be delivered to the Association some number of days prior to taking effect; (ii) the Association be furnished identification as to any intended lessee or renter; (iv) the Association may perform such background check as to any intended lessee or renter as it deems appropriate; (v) any intended lessee or renter meet with the designated representatives of the Association and, (vi) any intended lessee or renter execute an agreement to abide by this Declaration, the Bylaws and

the rules and regulations of the Association, and to be personally liable, in addition to the Unit Owner as to such matters.

13.31. *Requirements and Rules.* Each Owner shall comply with the provisions and requirements of this Declaration, including the administrative Bylaws attached hereto, the decisions and resolutions of the Board of Directors and with reasonable rules and regulations adopted from time to time by the Board of Directors for the common comfort, safety, convenience and protection of the Owners in their use and enjoyment of their Units and of the General Common Elements as adopted for the orderly administration of the Project and of the Building, and with all amendments thereof. Without in any manner intending to limit the generality of the foregoing, the Board of Directors shall have the right, but not the obligation to promulgate rules and regulations regarding the use of the General Common Elements by Owners and their guests, invitees, servants and lessees' employees and customers.

13.32. *Severability.* Invalidation of any one or more of the covenants and restrictions or other provisions herein or hereafter contained, by judgment or Court order, shall in no way affect any of the other covenants and restrictions herein or hereafter contained which shall remain in full force and effect.

XIV.
ASSESSMENTS AND MAINTENANCE FUND

14.01. *Determining Amount.* Each year, on or about **September 1**, commencing September 1, 2009, the Board of Directors shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies, repairs, replacements and administration, that will be required during the ensuing calendar year for the rendering of all services, the payment of all general common expenses, which includes the utilities serving the Common Elements, and the making of any and all necessary repairs, replacements, alterations and for the proper administration of the Project (collectively the "Operating Assessment") and inform the Owners in writing as to the Operating Assessment for the ensuing calendar year. Likewise, each year, on or about **September 1**, commencing September 1, 2009, the Board of Directors shall estimate a reasonable amount considered by the Board of Directors to be necessary for a reserve for contingencies and replacements (collectively the "Maintenance Fund Assessment") and inform the Owners in writing as to the Maintenance Fund Assessment for the ensuing calendar year. The Operating Assessment and the Maintenance Fund Assessment shall be collectively referred to as the "Annual Assessment." The Annual Assessment shall be assessed to the Owners according to each Unit's pro rata share of expenses and assessments as set forth in ***Exhibit D*** hereto.

14.02. *Member's Review of Assessment.* The estimate of the Assessments as determined by the Board of Directors under **14.01** and under **14.04** shall be the actual such Assessment, unless a different such Assessment is adopted by a vote of **Fifty-One (51%) Percent** or more of the Units as provided as the Bylaws.

14.03. *Monthly Installments.* On or before the first of each and every month of each year, each Owner shall be obligated to pay the Board of Directors, or as it may direct, 1/12 of the Annual Assessment (herein referred to as the "Monthly Installment"). If, for any reason, the

Board of Directors fails, within the times aforesaid, to make the estimate of the Operating Assessment or the Maintenance Fund Assessment or to give notice thereof to each Owner, then Monthly Installments of such Assessments for the ensuing year shall continue to be in the same monthly amount as the preceding year, until the Board of Directors actually makes the new estimate of such Assessments and gives notice thereof to the Owners.

14.04. *Other Expenses.* The Board of Directors shall establish and maintain a reasonable reserve for contingencies and replacements (the "Reserve"). Extraordinary expenditures not originally included in the Operating Assessment, or the Maintenance Fund Assessment, which may become necessary during the year, shall be charged first against such Reserve. If the said Assessments prove inadequate for any reason, including nonpayment of any Owner's assessment, the Board of Directors may, at any time, levy a further assessment, (the "Extraordinary Assessment") which shall be assessed to the Owners according to each Unit's pro rata share of expenses and assessments as set forth in ***Exhibit D*** hereto. The Board of Directors shall serve notice of such Extraordinary Assessment on all Owners by a statement in writing giving the amount and reasons therefore and the amount of the adjusted Monthly Installments, and such Extraordinary Assessment shall become effective with the Monthly Installment which is due more than ten (10) days after the delivery or mailing of such notice of the Extraordinary Assessment. All Owners shall be obligated to pay the adjusted amount of the Monthly Payment.

14.05. *Due Date.* Each Unit's Monthly Installment as above provided, shall be due and payable on the first of the month for which assessed, and shall become delinquent if not paid by the tenth (10th) of the month in which payable. If not paid by the tenth of the month, the Monthly Installment shall earn interest from the date of delinquency at the maximum legal interest rate. The Board of Directors may also, from time to time, set some amount of penalty due for a delinquency, which shall likewise be considered an Assessment hereunder.

14.06. *Prior Year Accounting.* On or before the date of the annual meeting of each calendar year, the Board of Directors shall supply all Owners an itemized accounting of the expenses for the preceding calendar year actually incurred and paid, together with an itemization of the amounts collected pursuant to the estimates provided and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be, in the discretion of the Board of Directors, either added to the Reserve, credited per the shares in ***Exhibit D*** against future Monthly Installments, or returned to the Owners per the shares in ***Exhibit D***.

14.07. *Initial Assessments.* The initial Annual Assessment for the calendar year 2009 year shall be set in writing as soon as the Board of Directors has sufficient information to determine the appropriate amounts. Payment of such initial Annual Assessment (to be paid pro rata on a monthly basis for the balance of the year) shall commence as to each Unit on the date of conveyance or occupancy, whichever occurs first. Prorations shall be collected at closing for partial months.

14.08. *No Waiver.* The failure or delay of the Board of Directors to prepare or serve the annual or adjusted estimate on any Owner shall not constitute a waiver or release in any amount of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein

provided, whenever the same shall be determined and, in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly maintenance fund assessment, as above provided, at the then existing monthly rate established for the previous period until the monthly maintenance payment that is next due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

14.09. *Developer's Maintenance Funds.* The Developer shall not owe any Maintenance Fund Assessments on any Unit that it is constructing, rehabilitating or restoring until a certificate of occupancy is available on that Unit.

XV.
LIEN OF UNPAID ASSESSMENTS

15.01. *Lien.* Any delinquent installment of any Assessment of any kind hereunder shall immediately and without further demand or notice, become a lien upon the Unit to which it applies, and all incidents and appurtenances thereto. Such lien shall have priority over any subsequently recorded mortgage or deed of trust as provided in **Article XVI.** Any mortgagee shall be entitled, however, to the provisions for the protection of mortgagees as set out in **Article XVI** below, and such delinquent installment shall not take precedence over an earlier recorded mortgage or deed of trust.

15.02. *Priority.* In any and all events, the lien of any delinquent and unpaid assessment against a Unit shall take precedence over the lien of any judgment or attachment and shall take precedence over the title of any trustee in bankruptcy. The lien of any delinquent and unpaid assessment that remains unpaid for a period of ten (10) years from the date of assessment shall be declared extinguished and paid in full.

15.03. *Filing.* Although such lien arises immediately upon delinquency, the Board of Directors shall have the right to file for recording a notice of such lien.

XVI.
PROVISIONS FOR PROTECTION OF MORTGAGES

16.01. *Mortgagee Not Liable.* No mortgagee and no beneficiary or trustee under a deed of trust shall become personally liable for, or obligated for, any unpaid maintenance fund assessment; the Board of Directors, however, may enforce the lien of the unpaid assessment against the encumbered Unit, to the extent of its priority, notwithstanding that the mortgagee is not personally liable therefore.

16.02. *Notice of Delinquency.* In the event any Assessment of an Owner becomes delinquent for as much as sixty (60) days, the Board of Directors shall give written notice of such delinquency to the holder of any recorded mortgage or deed of trust on said Unit.

16.03. *Notice of Default.* All mortgagees, beneficiaries and trustees under any recorded mortgage or deed of trust on a part or all of the Project shall be entitled to written notification from the Board of Directors in the event of any default in the performance of obligations

imposed by this Master Deed on the Owner of a Unit or Units covered by said mortgage or deed of trust, provided said default is not cured within sixty (60) days.

16.04. *Unpaid Assessments.* Any holder of a mortgage or deed of trust that comes into possession of a Unit or Units pursuant to the remedies provided in the mortgage or deed of trust, by foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit that accrued prior to the time such holder comes into possession of the Unit or Units.

16.05. *Lender's Approvals.* Unless all holders of first mortgage liens on individual Units have given their prior written approval, or unless otherwise provided herein, the Board of Directors shall not be entitled to: (i) change the pro rata interest or obligations of a Unit for purposes of levying assignments and charges and determining shares of the Common Elements and proceeds of the Project without the consent of the holder of the first mortgage lien on that Unit; (ii) partition or subdivide any Unit without the consent of the holder of the first mortgage lien on that Unit; nor (iii) by act or omission seek to abandon the status of the Project except as provided by statute in case of substantial loss of the Units and General Common Elements of the Project.

16.06. *Lien on Unit.* All taxes, assessments and charges that may become liens prior to the recording of any mortgage or deed of trust shall relate only to the individual Unit, and not the Project as a whole.

16.07. *Failure of Notice.* The failure to give any notice provided herein shall not prejudice any right of the Board of Directors.

XVII.
REMEDIES FOR DEFAULT AND FOR BREACH OF COVENANTS, RESTRICTIONS AND REGULATIONS

17.01. *All Bound.* Each Owner, tenant, occupant or invitee shall be governed by and shall comply with the provisions of this Declaration, the Bylaws, and the decisions, resolutions and regulations from time to time adopted by the Board of Directors; and failure to comply with the same or any default shall entitle the Board of Directors or other Owners to the following relief.

17.02. *Basic Relief.* Any such default shall be grounds for an action by the Board of Directors on behalf of the other Owners or by the Owners to recover any sums or amounts due, to recover damages or to secure injunctive relief, foreclosures of any lien, or any combination thereof.

17.03. *Owner's Liability.* Any Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by the Owner's act, neglect or carelessness or by that of the Owner's invitees, employees, agents or tenants, but only to the extent that such expenses are not met by the proceeds of insurance carried by the Board of Directors, or by insurance carried by any injured or damaged Owner.

17.04. *Further Rights upon Violation.* 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, and its employees or agents under its direction, the right, in addition to any other rights provided for in this Declaration:

(i). 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

(ii). to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or

(iii). 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.

17.05. *Termination of Unit Owner's Rights.* If any Unit Owner (either by such Owner's 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 or the regulations adopted by the Board, and if such default or violation shall continue for **five (5) days** after notice to the Unit Owner in writing from the Board, or shall occur repeatedly during any **thirty (30) 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 such Owner's 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) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain said defaulting Owner from reacquiring such Owner's interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against said defaulting 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 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 Common Elements, and to immediate possession of the Unit sold and may apply to the court for a writ of possession or 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 Master Deed.

17.06. *Unit Owner's Right to Act.* Any aggrieved Unit Owner shall also have all rights of action available in law or equity should another unit Owner, or the Association, fail to comply with the requirements of the Declaration, Bylaws, or rules and regulations of the Association.

17.07. *Costs and Attorney's Fees.* In any proceeding arising because of an alleged default by an Owner, the Board of Directors or Co-owners bringing such suit shall be entitled to recover from the Owner the costs of the proceeding and reasonable attorney's fees.

17.08. *No Waiver of Rights.* The failure of the Board of Directors or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Master Deed and Bylaws shall not constitute a waiver of the right of the Board of Directors or Owner to enforce such right, provisions, covenant or condition in the future.

17.09. *Power of Sale.* By the acceptance and recordation of a deed to a Unit or Units, for the purpose of enforcing the lien of any unpaid and delinquent assessment, or any other amount due, by an Owner to the Association or Board of Directors hereunder, each Owner grants unto the Board of Directors irrevocably the power to sell his or her Unit at public outcry to the highest and best bidder for cash as provided herein. The Board of Directors is also authorized to elect to enforce any lien by action in Court. Any such sale shall be made after first advertising the sale of said property by not less than three (3) weekly publications in some newspaper published in Davidson County, Tennessee, giving notice of the time and place of such sale, and by written notice of the time and place of such sale delivered to the Owner's Unit. Any sale of a Unit to enforce a lien for delinquent and unpaid assessments shall be free from equity of redemption, homestead and all other exemptions including without limitation any statutory right of redemption, all of which are expressly waived by the Owners; and any such sale and the lien enforced thereby shall take precedence over and have priority over any and all other liens of every nature against the Unit, except real estate and ad valorem taxes assessed against the Unit and any superior recorded deed of trust. The proceeds of any such sale, whether under the power of sale or by foreclosure suit, shall be applied first to the payment of the expenses of protecting the property and the expenses of litigation, attorney's fees and sales commission; and second, to the payment of real estate and ad valorem taxes assessed against the Unit and any superior recorded deeds of trust (unless such sale is made subordinate to such deeds of trust); and third, to the payment of all amounts due the Board of Directors and the other Owners under the terms of the Declaration and the Bylaws, and the balance, if any, to the Owner whose Unit is sold and the Owner's assigns. Upon any default in the payment of any assessment, the Board of Directors shall have the right to all rents, issues and profits from the Unit in default and shall have the right to secure the payment through notice to those in possession of the Unit or by entry into possession in the same manner as a mortgagee entering into possession following default, or to have a Court appointed receiver take possession of the Unit.

17.10. *Rights Cumulative.* All rights, remedies and privileges granted to the Board of Directors or an Owner, pursuant to any terms, provisions, covenants or conditions of the Declaration and Bylaws shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus

exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Declaration and Bylaws or at law or in equity.

XVIII.
TERMINATION OF HORIZONTAL PROPERTY REGIME

18.01. *Merger of Filial Estates With Principal Property.* All of the Owners of Units subject to this regime may by deed waive this regime and regroup or merge the filial estates with the principal property, provided that the filial estates are unencumbered or, if encumbered, that the creditors in whose behalf the encumbrances are recorded accept as security the undivided portions of the property owned by the debtors.

18.02. *Horizontal Property Regime Following Merger.* The merger provided for in the preceding section shall in no way bar the subsequent constitution of the property into another horizontal property regime whenever so desired and upon observance of the provisions of the Act.

18.03. *Alternate Termination.* Alternatively, the horizontal property regime herein created may be terminated at any time and in such manner and upon such terms as are mutually agreeable by the unanimous agreement, consent and act, expressed in writing and duly acknowledged and recorded, of all Owners, and of all mortgagees who have liens upon Units.

XIX.
COVENANTS RUNNING WITH THE LAND

19.01. *Running with the Land.* All provisions, conditions, restrictions, options, benefits and burdens contained in this Declaration and the Bylaws attached hereto and forming a part hereof shall be construed as covenants running with the land and with every part thereof and every interest therein, including, but not limited to, every Unit and the incidents and appurtenances of every Unit; and every Owner and every claimant of any interest of any nature at any time in the land, or any Unit, either present or future, and every Owner's heirs, executors, administrators, successors and assigns shall be bound by and entitled to the benefits of the same.

XX.
DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

20.01. *Development Rights.* The Declarant reserves the following Development Rights:

(a) The Developer reserves the right to amend this Master Deed and the Bylaws attached hereto as ***Exhibit E*** until the first to occur of: (i) the expiration of **three (3) years from the date of the conveyance** of the first Unit from Developer to an Owner; (ii) one hundred twenty (120) days after the conveyance of seventy-five (75%) percent of the Units by the Developer to Owners; or, (iii) the Developer waiving the rights to so amend in a writing signed by the Developer and delivered to the Board of Directors. However, no such amendment may change the percentage of ownership interest of a Unit without the consent of the affected Owner and mortgagees. Any amendment by the Developer shall be effective on recording same in the

Register's Office for Davidson County, Tennessee and delivering a copy thereof by certified mail to the Board of Directors of the Association.

(b) To add real estate to **The Maxwell**;

(c) To create units, common elements, or limited common elements within **The Maxwell**;

(d) To allocate limited common elements to specific units;

(e) To subdivide units or convert units into common elements;

(f) To grant licenses for parties who are not unit owners to use portions of the common elements or limited common elements, subject to an obligation to pay an equitable share of the common expenses attributable to the licenses common elements or limited common elements;

(g) To withdraw real estate from **The Maxwell.**

20.02. *Special Declarant Rights.* The Declarant reserves the following Special Declarant Rights.

(a) The right to complete or make improvements indicated on the Plat and Plans;

(b) The right to exercise any Development Right;

(c) The right to maintain sales offices, management offices, signs advertising the condominium, and models in Units or on the Common Elements;

(d) The right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations under the Act and this Declaration;

(e) The right to appoint or remove any officer of the Association or any Director consistent with the Act and **Section 21.06** herein; and

(f) The right to exercise any other rights reserved to the Declarant in this Declaration.

20.03 *Limitations on Special Declarant Rights.* Unless sooner terminated by a recorded instrument signed by the Declarant, and Special Declarant Right may be exercised by the Declarant for the lesser of the period of time specified in the Act or this Declaration, as the case may be. If neither the Act or this Declaration specifies a time within which such right may be exercises, it may be exercised at any time.

XXI
GENERAL PROVISIONS AND SEVERABILITY

21.01. *Original Board of Directors.* The Developer, as owner of all of the Units at the time of execution of the Declaration, shall name the original Board of Directors, who shall serve for a term as provided in the Bylaws of the Association and until their successors are appointed or elected; the original members of the Board of Directors need not be Owners notwithstanding any provision of the Bylaws.

21.02. *No Separation of Interests.* The percentage of undivided interest in the General Common Elements shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

21.03. *Severability.* If any term, covenant, restriction, provision, phrase or other element of the Declaration, plat or Bylaws is held to be invalid or unenforceable for any reason whatsoever, such holding shall not be deemed to affect, alter, modify or impair in any manner whatsoever any other term, provision, restriction, covenant or element of the said documents.

21.04. *Interpretation.* Captions used in the Declaration and Bylaws are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of the Declaration and Bylaws. All pronouns used herein include the male, female and neuter genders and include the singular or plural number, as the case may be.

21.05. *Laws Controlling.* If any provision of this Declaration or any section, sentence, clause, phrase or word or the application thereof in any circumstances be judicially held in conflict with the laws of the State of Tennessee, including the Act, then the said laws shall be deemed controlling, and the validity of the remainder of this Declaration and the application of any provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

21.06. *Developer's Initial Votes.* The Owner of each Unit shall be entitled to one vote. (Where a Unit is owned by more than one individual or entity, the owners shall have one collective vote.) Notwithstanding the above, the Developer shall be entitled to **a special majority of the votes** cast on any matter until the first to occur of: (i) one hundred twenty (120) days after the conveyance of seventy-five (75%) percent of the Units by the Developer to Owners; or, (ii) the Developer waiving the rights to such additional votes in a writing signed by the Developer and delivered to the Board of Directors. Notwithstanding the foregoing, the Developer shall have a veto over any decision of the **The Maxwell Homeowners Association, Inc.**, as long as he owns one or more Units in **The Maxwell** and shall, at all times, be entitled to one vote for each Unit which he owns.

20.07. *Other Amendments.* Other than as provided in **20.07**, this Master Deed may be amended by the affirmative vote of the Owners of at least two-thirds (2/3) of the Units, and shall be effective upon recording same in the Register's Office for Davidson County, Tennessee. Nothing contained herein shall require the holder of a security interest in a Unit to join in an amendment unless the amendment changes the size of said Unit or the pro rata interest of said Unit in General Common Elements.

IN WITNESS WHEREOF, the Developer has caused this declaration to be executed this 9th day of December, 2009.

ACCORD PROPERTIES, LLC
By: Al Cocke
Title: Chief Manager, Accord Properties, LLC

STATE OF Tennessee)
)
COUNTY OF Davidson)

Before me, a Notary Public, in and for said State and County, duly commissioned and qualified, personally appeared Al Cocke, with whom I am personally acquainted, and who upon oath, acknowledged himself to be the President of **ACCORD PROPERTIES, LLC**, the within named bargainor, a corporation, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such President.

WITNESS my hand and Notarial Seal at office this 9th day of December, 2009

Phyllis R Van Olst
Notary Public

My Commission Expires:

PHYLLIS R. VAN OLST
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.
My Commission Expires NOV. 7, 2012

JOINDER OF MORTGAGEE

Green Bank, herein called the mortgagee, the holder of a Deed of Trust on the "land" described on Page 1 of the Declaration, which Deed of Trust is recorded under Instrument Number 20070531-0064534 in the Register's Office of Davidson County, Tennessee, joins in submitting said land to the Condominium created hereby, as allowed and permitted by Section 66-27-201 et seq. of the Tennessee Code Annotated. The lien created by said Deed of Trust shall remain prior and superior to any liens created under said Master Deed.

BY: Robert H Carpenter

Title: Senior Vice President

STATE OF Tennessee)
)
COUNTY OF Davidson)

Before me, a Notary Public, in and for said State and County, duly commissioned and qualified, personally appeared Robert H. Carpenter, with whom I am personally acquainted, and who upon oath, acknowledged *[himself, herself]* to be the senior vice president of Green Bank, the within named bargainor, a corporation, and that *[he, she]* as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by *[himself, herself]* as such senior vice president

WITNESS my hand and Notarial Seal at office this 11th day of December, 2009.

Alice A. Morton
Notary Public

My Commission Expires: **My Commission Expires: November 7, 2012**

ALICE A. MORTON
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

EXHIBIT A

EXHIBIT A

Legal Description:

Land in Davidson County, Tennessee, being Lot No. 6A on the Plan of Revised West End Park, of record in Plat Book 421, pages 82-83, Register's Office for Davidson County, Tennessee, to which Plan reference is hereby made for a more complete description.

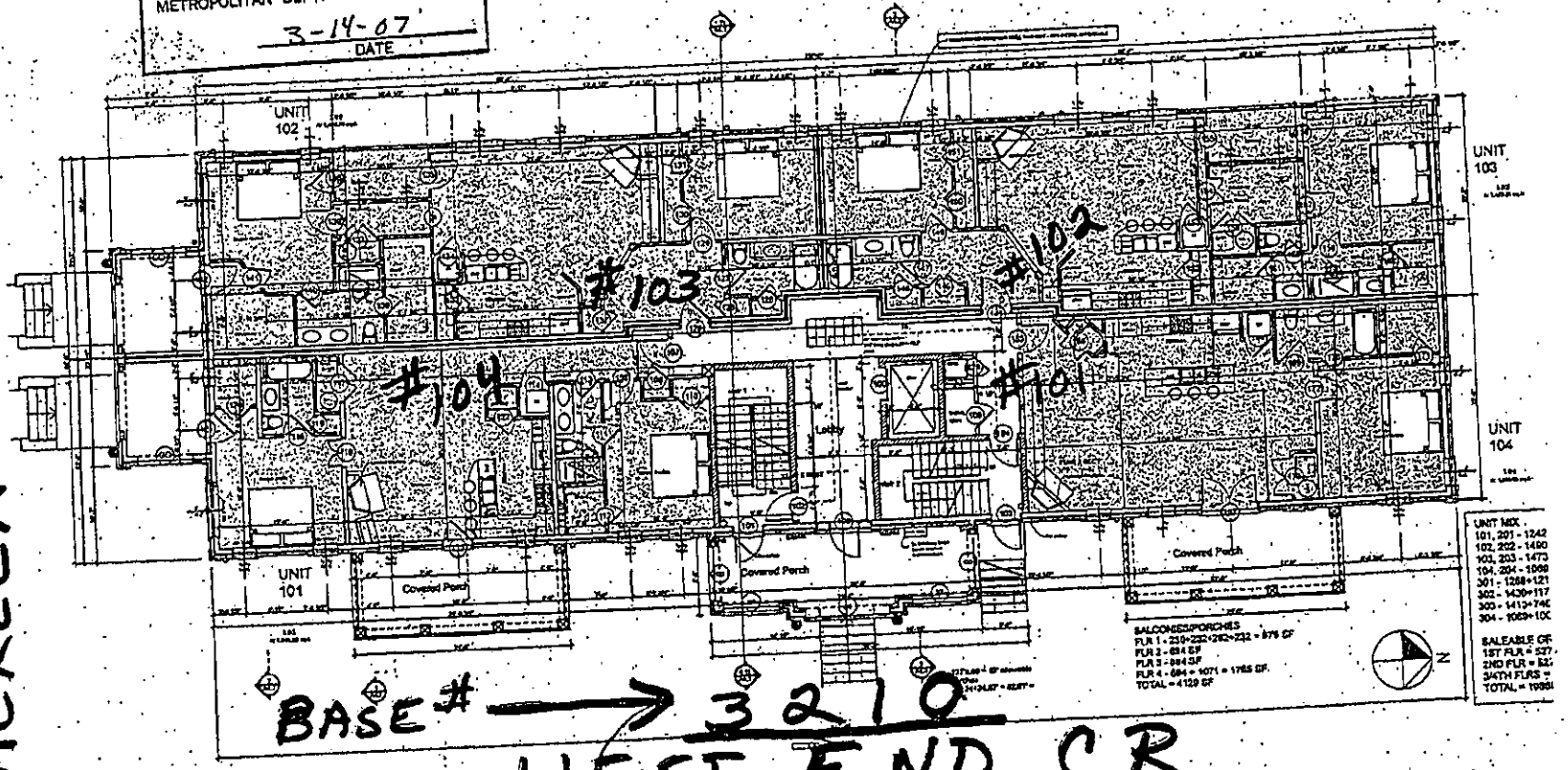
Being the same property conveyed to Accord Properties, LLC, a Tennessee limited liability company, by deed from West End Highland Limited Liability Company, a Tennessee limited liability company, by deed of record as Instrument No. 20060706-0081218, Register's Office for Davidson County, Tennessee.

EXHIBIT B

APPROVED
STREET NUMBERING SYSTEM
Bonnie Cranley
METROPOLITAN DEPT. of PUBLIC WORKS
3-14-07
DATE

MAP 104-2-3-D
PARCEL 126

ACKLEN PARK DR

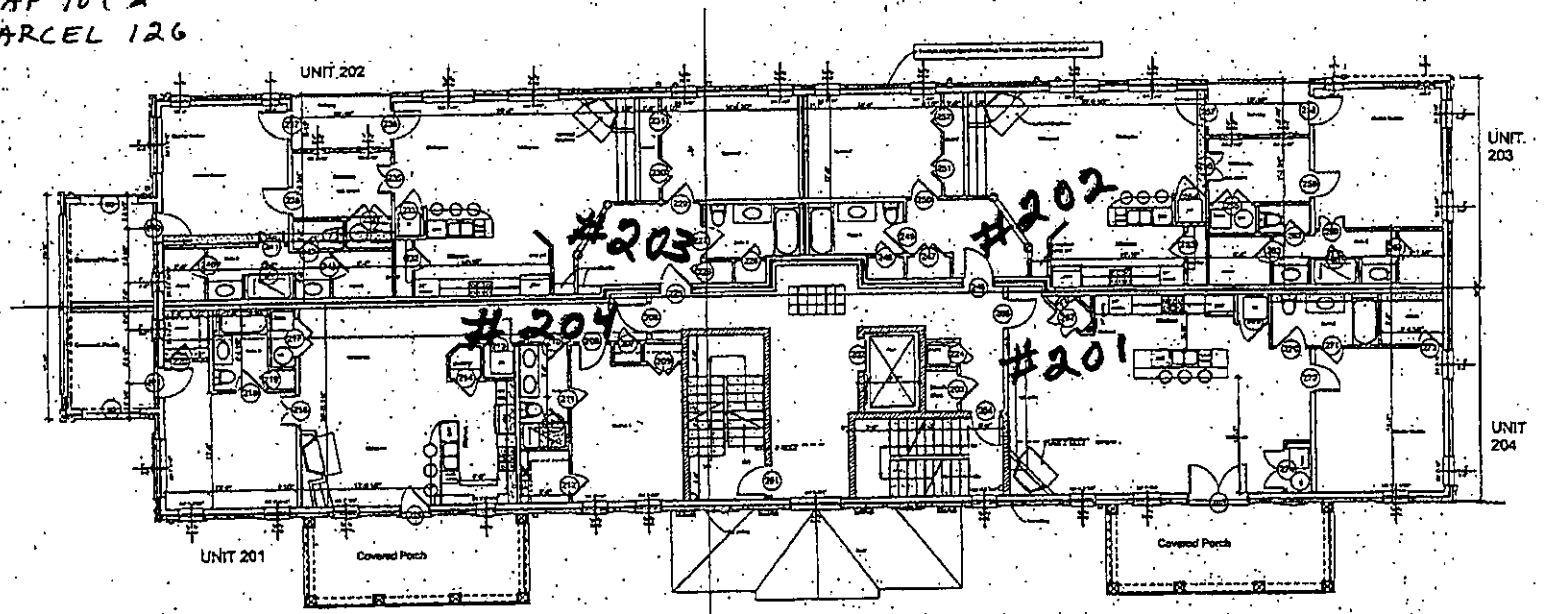


BASE # → 3210 WEST END CR
NASHVILLE, 37205

1 FIRST FLOOR PLAN
1/8" = 1'-0"

APPROVED
STREET NUMBERING SYSTEM
Bonnie Crawley
METROPOLITAN DEPT. of PUBLIC WORKS
3-14-07
DATE

MAP 104-2
PARCEL 126



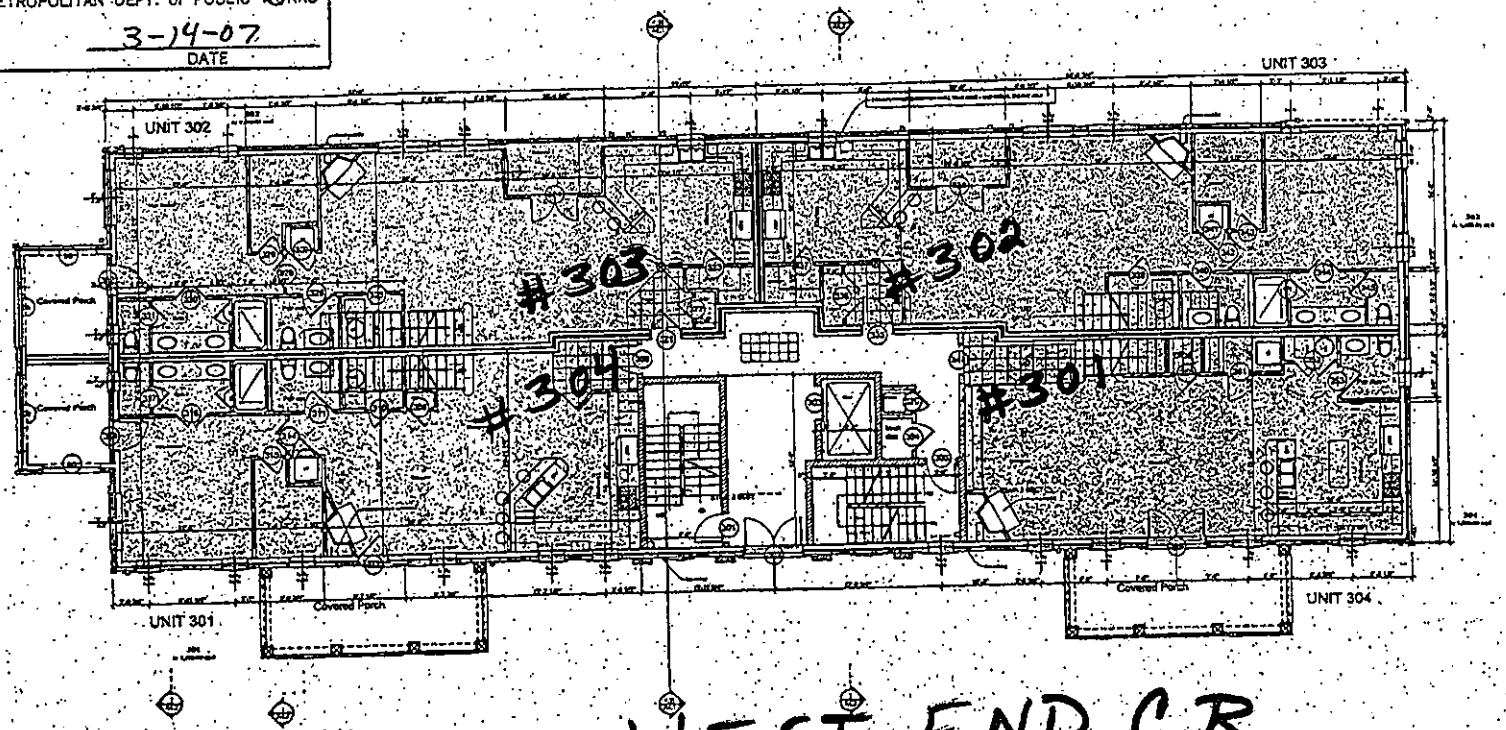
3210 WEST END CR

NASHVILLE, 37205

2 SECOND FLOOR PLAN
1/8" = 1'-0"

APPROVED
STREET NUMBERING SYSTEM
Bonnie Crumbo
METROPOLITAN DEPT. of PUBLIC WORKS
3-14-07
DATE

MAP 104-2
PARCEL 126.

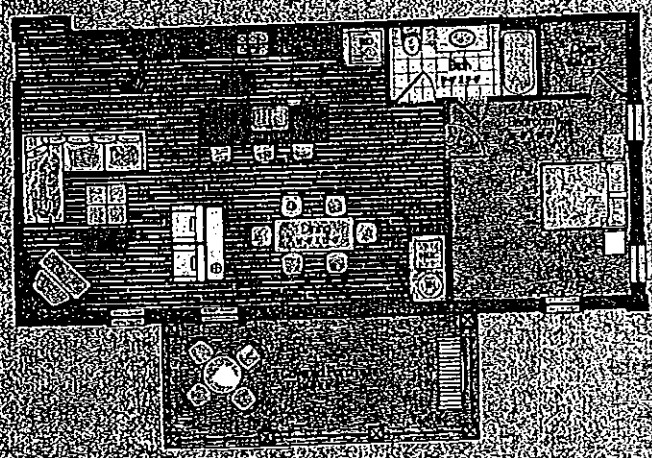


3210 WEST END CR
NASHVILLE, 37205

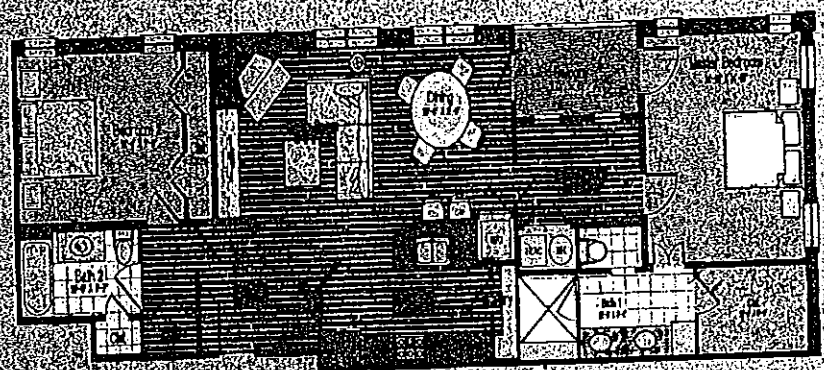
1 THIRD FLOOR PLAN
1/8" = 1'-0"

EXHIBIT C

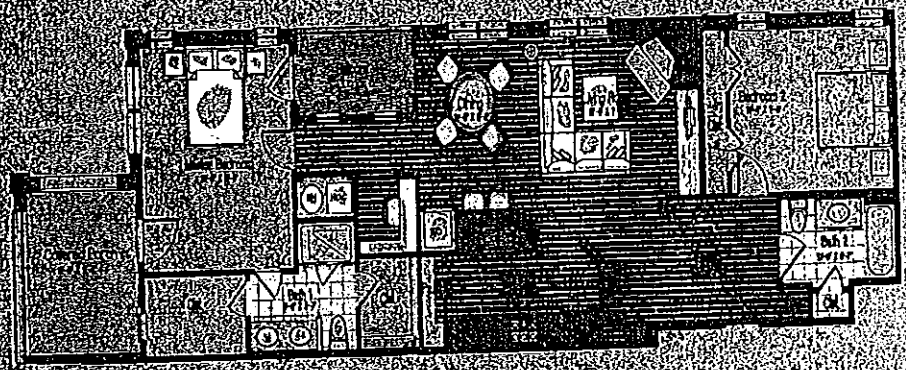
1st Floor Plans



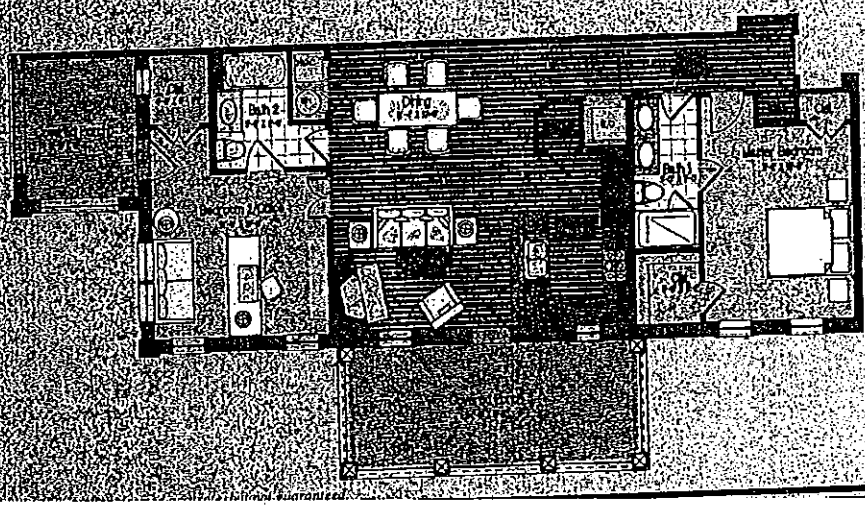
Unit 101
1 Bedroom, 1 Bath
Square Footage:
Heated & Cooled 1,069
Porch 228
1,297



Unit 102
2 Bedroom, 2 Baths
Square Footage:
Heated & Cooled 1,479
Balcony 60
1,539

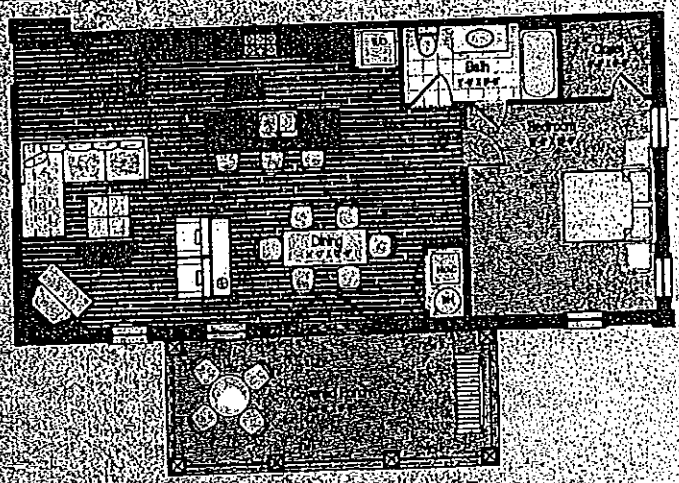


Unit 103
2 Bedroom, 2 Baths
Square Footage:
Heated & Cooled 1,490
Porch & Balcony 167
1,657



Unit 104
2 Bedroom, 2 Baths
Square Footage:
Heated & Cooled 1,272
Porches 335
1,607

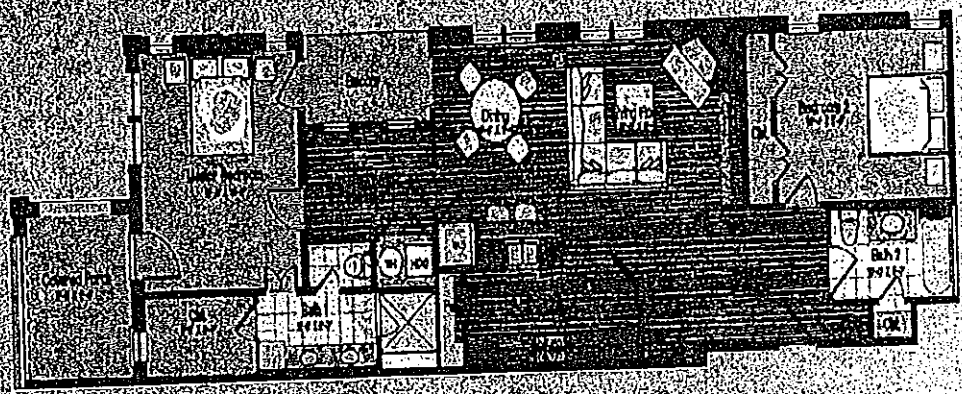
2nd Floor Plans



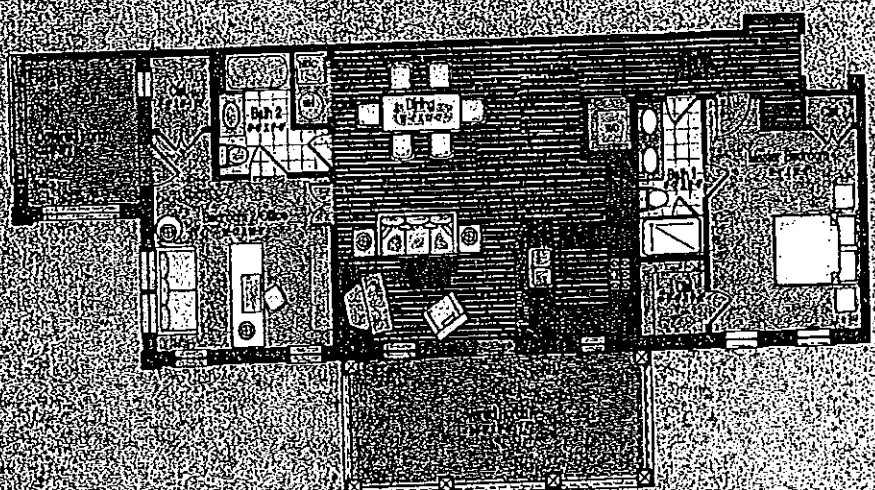
Unit 201
1 Bedroom, 1 Bath
Square Footage:
Heated & Cooled 1,069
Porch 228
1,297



Unit 202
2 Bedroom, 2 Baths
Square Footage:
Heated & Cooled 1,473
Balcony 60
1,533



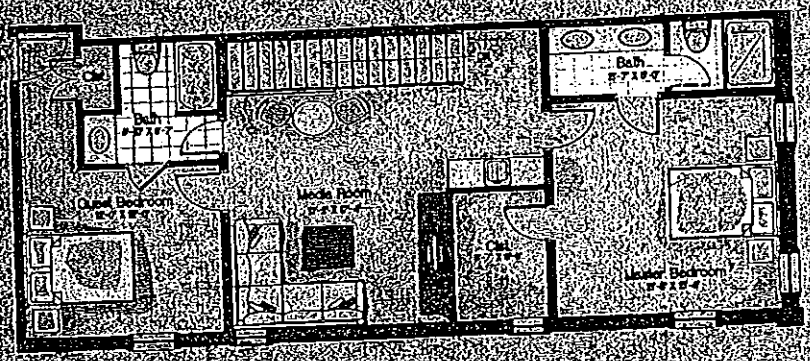
Unit 203
2 Bedroom, 2 Baths
Square Footage:
Heated & Cooled 1,490
Porch & Balcony 167
1,657



Unit 204
2 Bedroom, 2 Baths
Square Footage:
Heated & Cooled 1,272
Porches 335
1,607

Unheated/cooled spaces are not measured.

Penthouse Plans



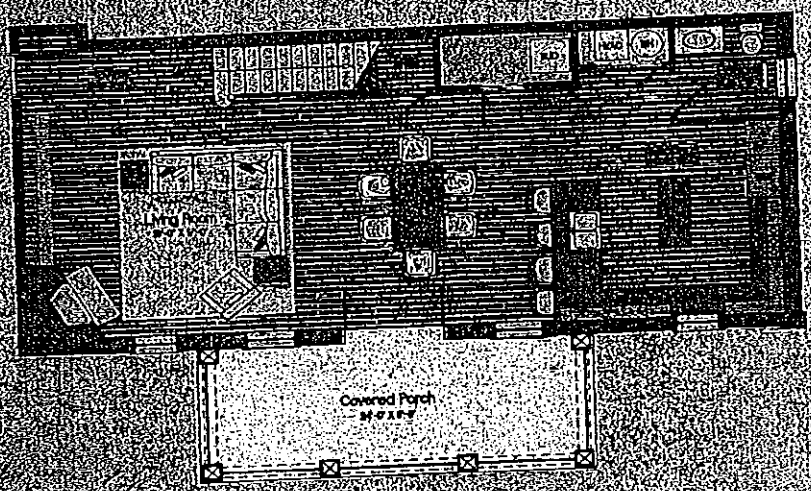
1st Floor

Unit 301

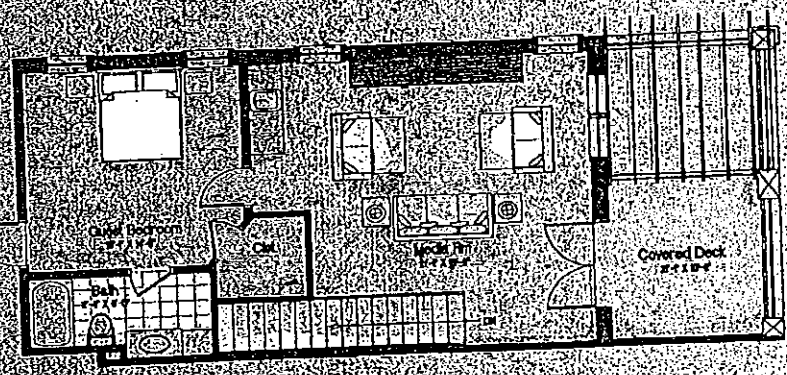
2 Bedrooms, 2-1/2 Baths

Square Footage:

Heated & Cooled	2,071
Covered Porch	228
	2,299



2nd Floor



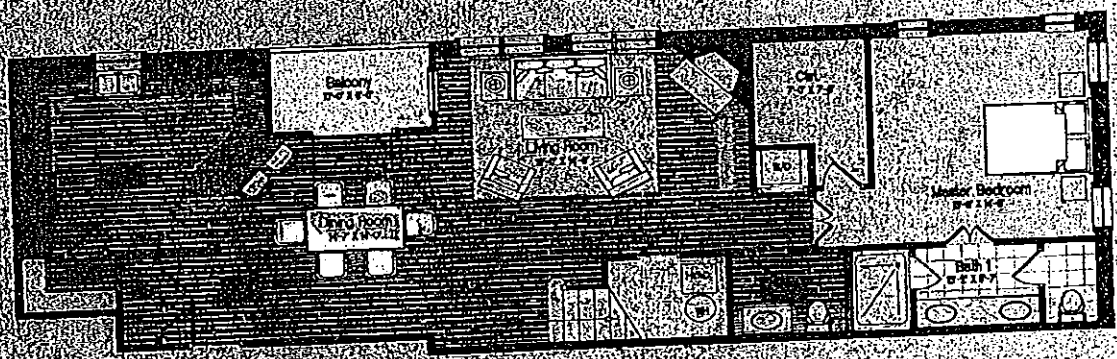
Unit 302

2 Bedrooms, 2-1/2 Baths

Square Footage:

Heated & Cooled	2,159
Porches/Balcony	339
	2,498

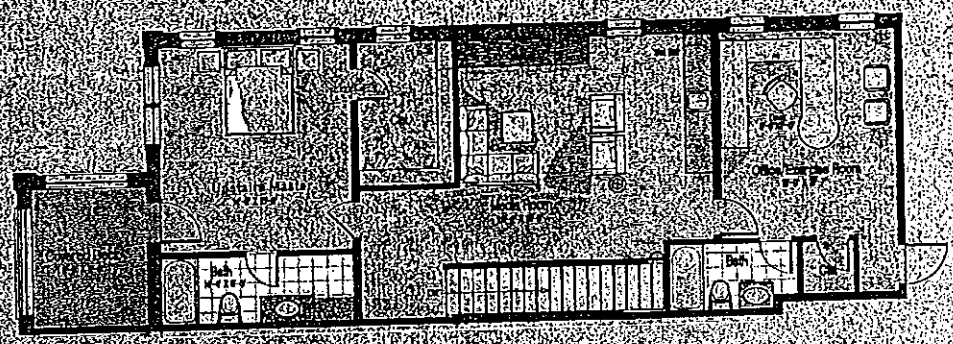
1st Floor



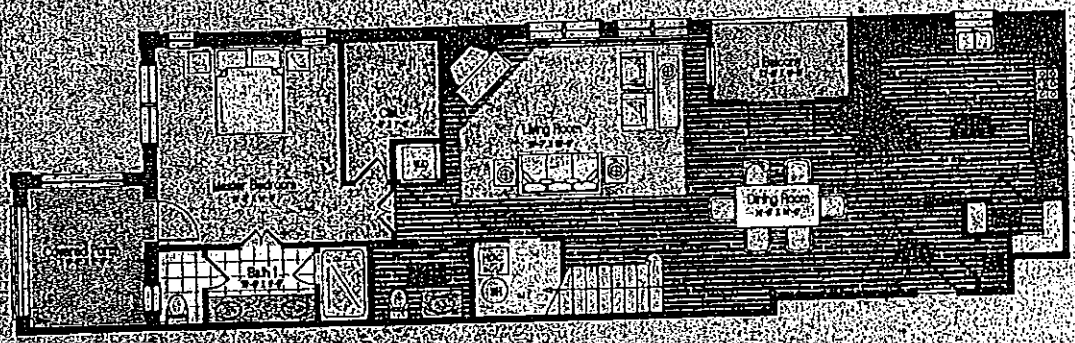
2nd Floor

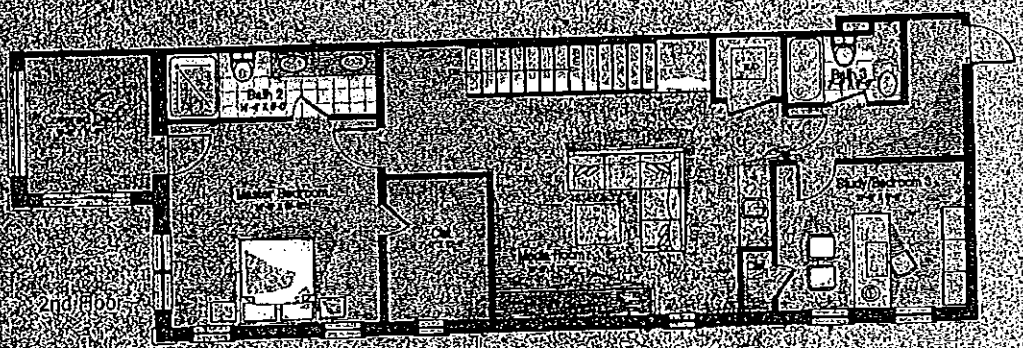
Square footage is approximate and deemed accurate but not guaranteed.

Penthouse Plans

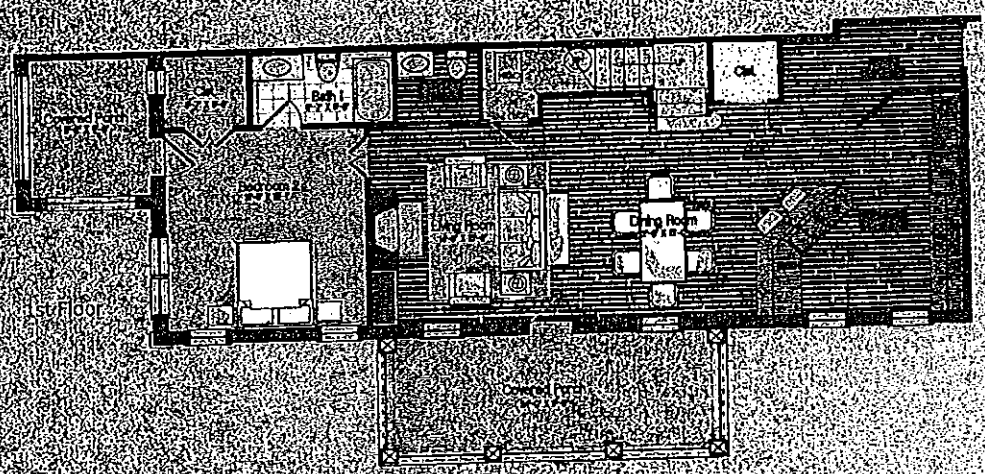


Unit 303
3 Bedrooms; 3-1/2 Baths
Square Footage:
Heated & Cooled 2,609
Porches/Balcony 288
2,897





Unit 304
3 Bedrooms; 3-1/2 Baths
Square Footage:
Heated & Cooled 2,481
Covered Porches 337
2,818



Information deemed accurate, but not guaranteed.

EXHIBIT D

The Maxwell Particpation
Shares and Expenses

Unit	Inside Sq. Ft.	Balcony Sq. Ft.	Total Sq. Ft.	Percent	Initial Assess.	Yearly Assess.	Monthly Assess.
101	1,069	240	1,309	5.7206%	$686.00	$2,160.00	$180.00
102	1,473	65	1,538	6.7214%	$807.00	$2,580.00	$215.00
103	1,490	185	1,675	7.3201%	$878.00	$2,784.00	$232.00
104	1,242	360	1,602	7.0001%	$840.00	$2,660.00	$222.00
201	1,069	240	1,309	5.7206%	$686.00	$2,160.00	$180.00
202	1,473	65	1,538	6.7214%	$807.00	$2,580.00	$215.00
203	1,490	185	1,675	7.3201%	$878.00	$2,784.00	$232.00
204	1,242	360	1,602	7.0001%	$840.00	$2,660.00	$222.00
301	2,071	240	2,311	10.0996%	$1,212.00	$3,840.00	$320.00
302	2,159	294	2,453	10.7202%	$1,286.00	$4,080.00	$340.00
303	2,609	300	2,909	12.7130%	$1,550.00	$4,860.00	$405.00
304	2,481	480	2,961	12.9403%	$1,550.00	$4,860.00	$405.00
TOTALS	**19,868**	**3,014**	**22,882**	**99.9975%**	**$12,020.00**	**$38,008.00**	**$3,168.00**

EXHIBIT E

Exhibit E

BYLAWS FOR THE ADMINISTRATION OF THE MAXWELL HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

ASSOCIATION

1.01. *Membership.* All of the Owners of Units within **The Maxwell** (the "Project") shall be members of **The Maxwell Homeowners Association, Inc.**, a Tennessee corporation (the "Association").

1.02. *Purpose.* The purpose of the Association is to administer on a nonprofit basis, and through a Board of Directors, **The Maxwell**; to elect the Board of Directors; to amend and supplement from time to time these Bylaws and the system of Administration; and to do and perform any and all other things, matters, or acts required by or permitted by the owners or an assembly or council under The Horizontal Property Act of the State of Tennessee, T.C.A. §§ 66-27-201 et seq. (the "Act"), and by the Declaration creating the Project (the "Declaration").

1.03. *Reference to Declaration.* Any terms as defined in the Declaration shall have the same meaning when used in these Bylaws. Upon any conflict between these Bylaws and the Declaration, the Declaration shall control.

ARTICLE II

MEETING AND VOTING RIGHTS OF OWNERS

2.01. *Eligibility.* The Owner or Owners of a Unit, who have become such in compliance with all of the requirements and conditions precedent contained in the Declaration, including these Bylaws, shall be entitled to attend and vote at all meetings of the Association. The Developer shall be considered the owner of each Unit that is unsold by it. Ownership of a Unit shall be the sole qualification for membership in the Association.

2.02. *Voting Rights.* The Owner or Owners of a Unit shall be entitled to vote at all meetings of the Association and shall have the votes as provided in **Section 4.04** of the Declaration.

2.03. *Proxies.* Votes may be cast in person or by proxy. Proxies, to be valid, shall be: (i) in writing for the particular meeting designated therein and any adjournments thereof; (ii) signed by the person granting the proxy; and, (iii) shall be filed with the secretary of the meeting prior to voting.

2.04. *Annual Meetings.* The annual meeting of the Association shall be held on the second Monday in October of each year beginning in 2009, at a place and time designated in writing to the Owners of all Units, for the purpose of appointing or electing a Board of Directors and of transacting any other business authorized to be transacted by the members; provided, however, that if such day is a legal holiday, then the meeting shall be held at the same hour on the next following business day. Further, with the approval of the Owners of at least fifty (50%) percent of the Units, such annual meeting may be set for another date.

2.05. *Special Meetings.* Special meetings of the Association shall be held whenever called by the President, Board of Directors or by the written request of Owners of at least ten percent (10%) of the Units. When a special meeting is so called, the Secretary shall mail or deliver written notice of the meeting to all Owners.

2.06. *Notice.* Notice shall be given to all Owners of meetings of Owners, stating the date, time, and place (and purpose, in the case of special meetings) for which the meeting is called. Such notice shall be in writing and shall be mailed or delivered to each Owner at his or her address as it appears on the books of the Association, or may be mailed or delivered to his or her Unit not less than ten (10) days nor more than sixty (60) days before the meeting. Proof of such mailing or delivery may be given by the written statement of the Secretary or other person giving the notice. Notice of a meeting may be waived before, at or after the meeting.

2.07. *Quorum.* A quorum at any meeting of the Association shall consist of the Owners of at least fifty percent (50%) of the Units, unless otherwise provided in the Declaration or herein. Except as otherwise provided in the Declaration or herein, the affirmative vote of the Owners of at least fifty (50%) percent of the Units, is required to adopt any resolution, elect any director, make any decision or take any action; except that these Bylaws and the system of administration may be modified only in the manner hereinafter set forth.

2.08. *Presiding Officer.* The President shall preside over all Association meetings; and the Secretary shall take and keep the minutes and minute book of all Association meetings, wherein adopted resolutions shall be recorded, and shall serve as Secretary at such meetings.

2.10. *Amendments.* Unless otherwise provided herein, by law or in the Declaration, the Association may, at any duly called, held and convened meeting, modify or amend the system of administration of **The Maxwell Homeowners Association, Inc.** and these Bylaws by the affirmative vote of the Owners of at least **two-thirds (2/3)** of the Units, and the Developer so long as the Developer owns any unit in the Property. The said system of administration and these Bylaws, however, may only be amended in such manner that all of the provisions required by the Act to be within the contents of the Bylaws shall always be embodied in the Bylaws. No such modification or amendment of a system of administration or of these Bylaws shall be operative unless and until it is

embodied in a written instrument and is recorded in the Register's Office of Davidson County, Tennessee.

ARTICLE III

BOARD OF DIRECTORS

3.01. *Administration.* The Administration of **The Maxwell Homeowners Association, Inc.**, its business and the affairs of the General Common Elements therein shall be vested in its Board of Directors, who shall consist of three (3) persons, or such other number as may be elected from time to time. Except for the initial members of the Board of Directors, who shall be appointed by the Developer, each member of the Board of Directors shall be either the Owner of a Unit or of an interest therein, or, in the event of ownership of a Unit by a partnership, trustee, corporation or other entity, a partner, trustee, officer or other designated representative thereof.

3.02. *Appointment or Election of Directors.* The Association, except for the initial Board of Directors, which shall be appointed by the Developer, shall, at its annual meeting, elect the Board of Directors. At least fifty-one percent (51%) of the votes cast shall be necessary for the election of a Director. Each Owner of a Unit, on each ballot, is required to cast his or her total votes for as many persons as there are Directors to be elected. In the event a sufficient number of persons fails to receive at least fifty-one percent (51%) of the votes, additional ballots will be taken with the name of the person receiving the lowest number of votes being dropped after each ballot, until the required number of Directors is elected.

3.03. *Vacancies.* Vacancies in the Board of Directors may be filled until the date of the next annual meeting by the remaining Directors, unless the Owners of at least fifty-one percent (51%) of the Units determine to the contrary, in which event the vacancy shall be filled by the vote of the Owners.

3.04. *Term.* The term of each Director's service shall extend until the next annual meeting of the Association and thereafter until a successor is duly elected by the Association and qualified or until the Director is removed in the manner elsewhere provided.

3.05. *Organizational Meeting.* The organizational meeting of a newly elected Board of Directors shall be held within one (1) week of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary, providing a quorum shall be present.

3.06. *Regular Meetings.* Regular meetings of the Board of Directors may be held on such date and at such time and place as shall be determined, from time to time, by at least fifty-one percent (51%) of the Board. Regular meetings may be held without notice.

3.07. *Special Meetings.* Special meetings of the Board may be called by the President, the presiding officer of the Board or any two (2) directors. Not less than two (2) days' notice of the meeting shall be given, personally or by mail, telephone or telegraph, which notice shall state the date, time, place and purpose of the meeting.

3.08. *Waiver of Notice.* Any Director may waive notice in writing of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

3.09. *Quorum.* A quorum at Directors' meetings shall consist of the Directors entitled to cast at least fifty-one percent (51%) of the votes of the entire board. The acts of the Board approved by at least fifty-one percent (51%) of votes cast at a meeting at which a quorum is present when a vote is taken shall constitute the acts of the Board of Directors except as specifically otherwise provided in the Declaration or elsewhere in these Bylaws. If, at any meeting of the Board of Directors, there be less than a quorum present, at least fifty-one percent (51%) of those present may adjourn the meeting from time to time until a quorum is present. At an adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

3.10. *Presiding Officer.* The President of the Board of Directors shall preside at all meetings of the Board; the Secretary of the Board shall serve as Secretary of all meetings of the Board. In the absence of either, the Board shall designate one of their number to preside or to serve as Secretary as the case may be.

3.11. *Compensation.* No compensation shall be paid to any member of the Board or to any officer for services as such, unless approved by at least fifty-one percent (51%) of the total votes of owners. Any member of the Board or any officer may be reimbursed for expenses actually incurred by him or her upon approval by the Board.

3.12. *Removal.* Except for the initial Board of Directors who may be removed only by the Developer, any member of the Board may be removed with or without cause and relieved of duty as such by the vote of the Owners of at least fifty-one percent (51%) of the Units. The vacancy created by such removal shall be filled by the Developer if the removed Director was appointed by the Developer and otherwise by the Association.

3.13. *Election of Officers.* The officers as provided for in these Bylaws shall be elected by the Board. As long as suitable candidates are available, officers shall be individual owners or representatives of entity owners of units in the Condominium.

3.14. *Personnel.* The Board shall have the authority to contract for persons and firms to carry out the work of the Association, including as to the general or limited common elements, to oversee such work, and to dismiss such persons or firms as it deems appropriate.

ARTICLE IV

OFFICERS

4.01. *President.* There shall be a President who shall be the chief administrative officer of the Board; shall execute contracts and agreements in the name and behalf of the Board when directed by the Board; shall preside at all meetings and shall perform such other duties as the chief administrative officer as the Board may from time to time direct.

4.02. *Secretary.* There shall be a Secretary who shall keep the Minutes of all meetings and proceedings of the Association and of the Board of Directors. The Secretary shall attend to the giving and serving of all notices to the owners of meetings of the Association, and to the Directors of meetings of the Board of Directors. The Secretary shall keep all other records of the Board.

4.03. *Treasurer.* There shall be a Treasurer who shall have the custody of all property of the Board, including funds, securities, evidences of indebtedness, books, assessment rolls and accounts of owners. The Treasurer shall keep the books in accordance with good accounting practice, and shall perform all other duties incident to the office of Treasurer.

4.04. *Compensation.* No compensation shall be paid to any Director or officer for services as such, except upon approval by the Owners of at least fifty-one percent (51%) of the Units. This provision shall not preclude, however, the Board of Directors from employing an independent contractor for some of all of the above services or employing an officer or administrator as an employee of the Association, such as manager or as a bookkeeper, auditor, attorney or the like.

4.05. *Funds.* All moneys and funds of the Board of Directors shall be deposited in such bank or banks as may be designated from time to time by the Board of Directors. Withdrawals of moneys from such accounts in banks shall be only by checks or drafts signed by such persons as are authorized by the Board of Directors.

4.06. *Bonding.* Fidelity bonds may be required by the Board of Directors covering all officers and employees of the Board and any agents or managers handling or responsible for funds of the Board of Directors or of the Association. The amount of such bond or bonds shall be determined by the Board of Directors but shall be at least in the amount of the total annual assessments against members for common expenses. Premiums on such bonds shall be paid by the Board of Directors from the maintenance fund.

ARTICLE V

POWERS OF THE BOARD OF DIRECTORS

5.01. In addition to the rights, powers and duties conferred upon the Board of Directors by the Declaration, the Act and by other provisions of these Bylaws and without in anywise limiting the same, the Board of Directors shall have the following additional and cumulative rights, powers and duties:

A. To hold title and possession to funds and property, including the maintenance funds and other assessments and including title to any purchased unit or purchased leasehold interest pursuant to the powers hereinabove conferred, as trustee for the use and benefit of the owners of units;

B. To make and collect maintenance fund assessments against members to defray the costs of the units, including, without limitation, all costs and expenses of maintaining, repairing, replacing, improving, altering, operating and administering the roofs and exteriors of the units and the common elements and of engaging all necessary services and employees therefor;

C. To use the proceeds of assessments in the exercise of its powers and duties;

D. To oversee the maintenance, repair, replacement, operation and administration of the Project, including the roofs and exteriors of the units and the common elements;

E. To oversee the reconstruction of the improvements after casualty and the further improvements of the property, including buildings and common elements;

F. To make and amend regulations respecting the use of the property in the Project, including the buildings and common elements;

G. To enforce by legal means, or otherwise, the provisions of the Declaration, including the Bylaws and the regulations for the use of the property;

H. To contract for the management of the Association and to delegate to a manager the management duties of the Board of Directors, to be performed by such manager under the supervision of the Board of Directors;

I. To pay any taxes and assessments which are liens against any part of the property other than individual units and the appurtenances thereto and to assess the same against the unit subject to such liens; to oppose the levying of any such taxes;

J. To carry insurance for the protection of unit owners and the Board of Directors against property damage and liabilities;

K. To pay the cost of all power, water, sewer and other utility services rendered to the Association and not billed to owners of individual units;

L. To employ personnel for reasonable compensation to perform the services required for proper administration of the Association, including, without limitation, auditors, attorneys, bookkeepers and managers;

M. To contract for treatment of the building against termites and other damage causing insects or organisms, with the cost to be paid through the monthly assessments;

N. To take such other and additional actions as may be deemed advisable to carry out the intent and purposes hereof.

ARTICLE VI

INSURANCE

6.01. *Insurance.* The insurance which shall be carried on the Project shall be governed by the provisions of this Article.

6.02. *Authority to Purchase.* All insurance policies upon the property (except as hereinafter allowed) shall be purchased by the Board of Directors for the benefit of the Unit Owners and their respective mortgagees as their interest may appear and shall provide for the issuance of certificates of insurance to the Unit Owners, mortgage endorsements to the holders of the mortgages on the units or any of them, and, unless prohibited by the policies, shall provide that the insurer waives its rights of subrogation as to any claims against Unit Owners and the Board of Directors or the Insurance Trustee (as hereinafter provided for), who must first acknowledge that the policies and any proceeds thereof will be held in accordance with the terms hereof.

6.03. *Unit Owners.* Each Unit Owner shall obtain additional insurance at his or her own expense, affording coverage upon the property, including a Unit Owner's endorsement for improvements and betterments to the Unit made or acquired at the expense of the Owner within the boundaries of the individual physical Unit and for such Owner's personal liability and as may be required by law, but all such property insurance shall contain the same waiver of subrogation as that referred to in **6.02** above (if the same is available at commercially reasonable rates) and shall be obtained from a company which is acceptable to the Board of Directors. Each Unit Owner will provide evidence satisfactory to the Board of Directors of the existence of such coverage; and, unless waived in writing by the Board of Directors, such policy shall provide that the Board of Directors is an interested party to be provided notice as to any cancellation or other material change of status in the policy.

6.04. *Coverage of Project.* The Project, including all insurable improvements upon the land and all personal property as may be owned by the Board of Directors as trustees

for the owners, shall be insured in an amount equal to the full replacement cost without deduction or allowance for depreciation thereof (exclusive of excavation and foundation) as determined annually by the Board of Directors with the assistance of the insurance company affording such coverage. Such coverage shall afford protection against the following unless the Board of Directors determines otherwise:

(a) Loss or damage by fire and other hazards covered by "causes of loss-special form" property policies, together with coverage for common expenses with respect to units during any period of repair or reconstruction.

(b) Such other risks as from time to time customarily insured shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm and other damage, and such other insurance as the Board of Directors may determine.

6.05. *Liability Coverage.* Public liability and property damage coverage shall be carried in such amounts and in such forms as shall be required by the Board of Directors.

6.06. *Worker's Compensation.* Worker's compensation coverage shall be carried to meet the requirements of any applicable law, or as may be desired.

6.07. *Other Insurance.* Such other policies of insurance as are or shall hereafter be considered appropriate by the Board of Directors shall be carried, including insurance for other risks of similar or dissimilar nature.

6.08. *Premiums.* Premiums for insurance policies purchased by the Board of Directors shall be paid by the Board of Directors and charged as common expenses.

6.09. *Beneficiary of Insurance.* All insurance policies purchased by the Board of Directors shall be for the benefit of the Board of Directors and the Unit Owners and their mortgagees as their rights may appear, and shall provide that all proceeds payable as a result of property losses shall be paid to either the Board of Directors or, if deemed desirable, to a Bank at Nashville, Tennessee, as Insurance Trustee. The Insurance Trustee (unless the Board of Directors is the same) shall not be liable for the payment of premiums, nor the renewal of the policies, nor for the sufficiency of coverage, nor for the form or contents of the policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners, their respective mortgagees and the Board of Directors, in the following shares, but such shares need not be set forth upon the records of the Insurance Trustee.

A. *Common Elements.* Proceeds on account of damage to the Common Elements shall be held for each Unit Owner in the percentage interest of each Unit Owner and the Unit Owner's mortgagee, if any, which is set forth in *Exhibit D* to the Declaration or with respect to Limited Common Elements, proportionate to the number of Units benefitted by such Limited Common Elements.

B. *Units.* Proceeds on account of damage to Units shall be held for each Unit Owner on a pro rata basis to the extent of damage suffered by the Owner's Unit. Upon the request of the Insurance Trustee, the appropriate portions as aforesaid, and each Unit Owner shall be bound by and the Insurance Trustee may rely upon such certificate.

C. *Mortgages.* In the event a mortgagee endorsement has been issued on a Unit, the share of the unit owner shall be held in trust for the mortgagee and the Unit Owner as their interest may appear.

D. *Proceeds.* Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners, after first paying or making provision for the payment of the expense of the Insurance Trustee, in the following manner:

(i). *Reconstruction or Repair.* If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, all remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by the mortgagee.

(ii). *Failure to Reconstruct or Repair.* If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial owners, all remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by the mortgagee.

E. *Certificate.* In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Board of Directors as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution. Upon request of the Insurance Trustee, the Board of Directors forthwith shall deliver such certificate.

F. *Payments.* The Insurance Trustee shall make payments and disbursements of the insurance proceeds during the course of reconstruction upon the presentation of certificates requesting payments executed by the Board of Directors and upon certificates of the supervising architect or engineer that reconstruction or repair has progressed to the extent of the payment or partial payment certified for payment.

6.10. *Waiver of Subrogation.* Unless the insurance policy shall expressly prohibit a waiver of subrogation or shall be rendered invalid by an agreement providing for a waiver of subrogation, neither the Owners, their mortgagees nor the Board of Directors nor the insurers shall have any right of action against any other owner or the Board of Directors for property damage, it being the intention of this provision that all insurance

carried for the use and benefit of any unit owner shall inure to protect every other unit owner and the Board of Directors, including the servants, agents, invitees and guests of each.

6.11. *General Provisions.* Any insurance obtained pursuant to the requirements of this Article shall be subject to the following provisions:

A. All policies shall be written with a company or companies licensed to do business in the State of Tennessee and holding a rating acceptable to mortgagees.

B. All policies shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to any and all insureds named thereon, including any and all mortgagees of Units in the Project.

ARTICLE VII

RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

7.01. If the whole or any part of the Project shall be damaged by fire, casualty or any other disaster, the determination of whether or not to reconstruct or repair, and upon whether or not to apply the insurance indemnity to reconstruct or repair, shall be made as follows:

A. In the event Units containing two-thirds (2/3) or less of the total area in the building are destroyed or rendered untenable, the building shall be reconstructed and the damage repaired, and the entire insurance indemnity and insurance proceeds shall be applied to that end, to the extent necessary.

B. In the event that the building is destroyed or Units containing more than two-thirds (2/3) of the total area in the building be rendered untenable, then the building or buildings shall not be reconstructed and the damage repaired unless the Owners of at least seventy-five (75%) percent of the Units and the holders of mortgages thereon agree to said reconstruction and repair at a meeting of the Association to be called and held after such destruction or after the rendering of Units containing more than two-thirds (2/3) of the total area untenable. In the event the building is not to be rebuilt under this subparagraph, the insurance indemnity and all insurance funds shall be distributed to the Owners and to their respective mortgagees in accordance with the applicable provisions of **Article VI** of these Bylaws.

C. Where reconstruction or repair is required under the provisions of subparagraph (A) above (Partial Destruction) and where the buildings are not insured or where the insurance indemnity is insufficient to cover the cost of reconstruction or repair, the excess building costs shall be paid by the Unit Owner affected to the extent the reconstruction or repair concerns the elements of the U+nit owned by him or her, and shall be paid by the Association otherwise, with a determination to be made by the Insurance Trustee.

D. If any one or more of the Owners shall refuse to make such payment, the Board of Directors may proceed with the reconstruction at the expense of said Owner, upon proper resolution setting forth the circumstances of the case and the cost of the work. The expenses and building costs of such reconstruction and repair shall be a lien upon the Unit thus repaired in the same manner and enforceable by the same means as set forth in the Declaration with respect to a maintenance fund assessment.

E. Any such reconstruction or repair shall be substantially in accordance with the original plans, specifications and improvements.

F. Encroachments upon or in favor of Units, which may be created as a result of such reconstruction or repair, shall not constitute a claim or basis of a proceeding or action by the unit owner, upon whose property such encroachments exist, provided that such reconstruction was either substantially in accordance with the original plans and specifications or as the building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the buildings stand.

G. If the damage is only to those parts of one Unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty, unless covered by insurance carried by the Board of Directors. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association.

H. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Board of Directors shall obtain reliable and detailed estimates of the cost to replace the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires.

I. Each Unit Owner shall be deemed to have delegated to the Board of Directors his or her right to adjust with insurance companies all losses under policies purchased by the Board of Directors, except in any case where the damage is restricted to one Unit, subject to the rights of mortgagees of such Unit.

ARTICLE VIII
SECURITY

8.01 Security and Access. The Board shall have the power, from time to time, to adopt rules and regulations to improve the security of the Property and to provide, and limit, access to the Property, and/or specific parts of the Property.

8.02 Unit Owner's Responsibility. Each Unit Owner shall be responsible for the security, protection and possession of any codes, cards, remote devices or other devices, information, or means issued to anyone in relation to such Owner's Unit

(collectively the "Security Items"). The Board shall have the power, from time to time, to adopt rules and regulations as to assuring that such Security Items have not been lost or compromised and to require Unit Owners to account for any Security Items so issued in relation to such Owner's Unit.

8.03 Issuance or Replacement. The Board shall have the power, from time to time, to adopt rules and regulations setting fees to be paid by a Unit Owner for the issuance or replacement of any Security Items issued in relation to an Owner's Unit, or for the general replacement in the Property of any Security Items compromised by the action or inaction of any person in possession of any Security Items so issued in relation to such Owner's Unit.

8.04 Transfer. The Board shall have the power, from time to time, to adopt rules and regulations setting fees to be paid by a Unit Owner as to the transfer of Security Items at the time of transfer of Unit.

ARTICLE IX

INDEMNIFICATION

9.01. The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any pending or completed action, suit or proceedings, whether civil, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he or she is or was a Director, Officer or Developer of the Association against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to the best interest of the Association. The termination of any action, suit or proceeding by judgment, order, settlement, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interest of the Association.

9.02. No indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for his or her willful misconduct or bad faith in the performance of his or her duty to the Association, unless and only to the extent that the Chancery Court of Davidson County, Tennessee, or the Court in which such action or suit was brought, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court shall deem proper. To the extent that a Director, Officer or Developer of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in this Article, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

9.03. Any indemnification under this Article (unless ordered by a court) shall be made only as authorized in the specific case upon a determination that indemnification of the Director, Officer or Developer is proper in the circumstances because he or she has met the applicable standard of conduct set forth herein. Such determination shall be made (1) by the Board of Directors by at least fifty-one percent (51%) of the votes of a quorum consisting of Directors who are not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or (3) by the Association.

9.04. Expenses incurred in defending an 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 of Directors in the specific case upon a secured receipt of an undertaking by or on behalf of the Director, Officer or Developer to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized herein.

9.05. The indemnification provided in this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled by law or under the Declaration and Bylaws, by agreement, vote of the Association, or disinterested Directors or otherwise, both as to an action in his or her official capacity and as to an action in another capacity while holding office or acting as Developer, and shall continue as to a person who has ceased to be a Director, Officer or Developer, and shall inure to the benefit of the heirs, executors and administrators of such a person.

EXHIBIT F

Exhibit F of Declaration of The Maxwell, a Condominium

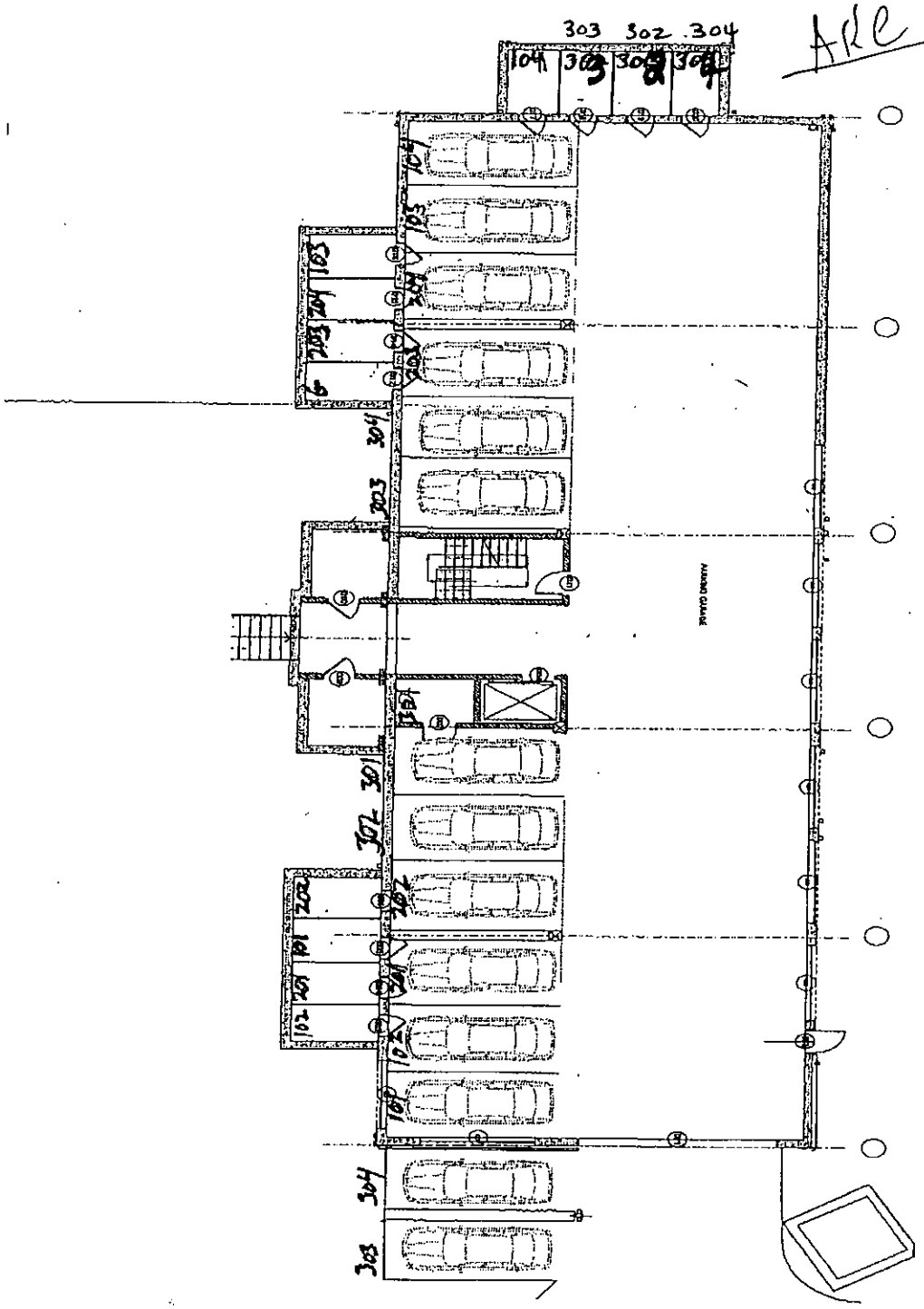


EXHIBIT G

Davidson County ESMT
Recvd: 05/10/07 09:26 4 pgs
Fees:22.00 Taxes:0.00
20070510-0056063

Appendix C

STORMWATER DETENTION AGREEMENT

File No.: 200700547 (permit no.) Map and Parcel No.: 104020126 00

Project Name: 118 ACKLEN AVE.

THIS AGREEMENT, made and entered into this 20 day of APRIL, of the year 2007, by and between ACCORD PROPERTIES, LLC (hereinafter called the "Landowner") and the Metropolitan Government of Nashville and Davidson County, (hereinafter called "Metropolitan Government"):

WITNESSETH, that

WHEREAS, Ordinance No. 78-840, <<1 through 9, was adopted October 3, 1978 by the Council of the Metropolitan Government of Nashville and Davidson County, effective January 1, 1979, and provided for the creation of a Stormwater Management Committee; and

WHEREAS, under said ordinance the Director of Public Works shall have the authority to inspect private systems within Davidson County, and to order such corrective actions to said private stormwater management systems as are necessary to maintain properly the major and minor stormwater management systems within Davidson County; and

WHEREAS, the Director of Public Works and the Stormwater Management Committee have adopted and approved certain technical guidelines relating to policy on detention of stormwater in Davidson County; and

WHEREAS, in Chapter 2, <202.4 of said technical guidelines it is provided that detention facilities located in industrial, commercial, institutional, apartment developments, and rental townhouses must be maintained by the property owner, and a maintenance agreement must be executed before the development plan is approved; and

WHEREAS, the Landowner is the owner of certain real property, more particularly described as 3210 WEST END CIRCLE

as recorded by deed in the land records of Nashville and Davidson County, in Deed Book 20060706 at Page * 0081210 (hereinafter called the "Property"); and

WHEREAS, the Landowner is proceeding to build on and develop the property; and

WHEREAS, Site Plan/Subdivision Plan C-3, prepared by Wade dated _____, on file at the Metropolitan Department of Public Works, Engineering Division (hereinafter called the "Plan"), which is expressly made a part hereof, as approved or to be approved by Metropolitan Government, provides for detention of stormwater within the confines of the property; and

WHEREAS, Metropolitan Government and the Landowner agree that the health, safety, and general welfare of the residents of Nashville and Davidson County require that onsite stormwater detention facilities be constructed and maintained on the property; and

WHEREAS, Metropolitan Government requires that onsite stormwater facilities as shown on Plan C-3 be constructed and adequately maintained by the Landowner;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The onsite stormwater detention facilities shall be constructed by the Landowner in accordance with the plans and specifications identified in Plan C-3.

2. The Landowner shall maintain the stormwater detention facilities as shown on Plan C-3 in good working order acceptable to Metropolitan Government.

3. The Landowner hereby grants permission to Metropolitan Government, its authorized agents, and employees to enter the property and to inspect the stormwater detention facilities whenever it deems necessary. Whenever possible, Metropolitan Government shall notify the Landowner prior to entering the property.

4. In the event the Landowner fails to maintain stormwater detention facilities as shown on Plan C-3 in good working order acceptable to Metropolitan Government, Metropolitan Government may enter the property and take whatever steps it deems necessary to maintain said stormwater detention facilities. This provision shall not be construed to allow Metropolitan Government to erect any structure of a permanent nature on the land of the Landowner without first obtaining written approval of the Landowner. It is expressly understood and agreed that Metropolitan Government is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on Metropolitan Government.

5. In the event Metropolitan Government, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse Metropolitan Government upon demand, within ten (10) days of receipt thereof for all costs incurred by Metropolitan Government hereunder.

6. It is the intent of this Agreement to insure the proper maintenance of onsite stormwater detention facilities by the Landowner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater management.

7. The Landowner, its executors, administrators, assigns, and any other successors in interest, shall indemnify and hold Metropolitan Government and its agents and employees harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against Metropolitan Government from the construction, presence, existence, or maintenance of the stormwater detention facilities by the Landowner or Metropolitan Government.

   In the event a claim is asserted against Metropolitan Government, its agents, or employees, the Metropolitan Government shall notify the Landowner and the Landowner shall defend at his own expense any suit based on such claim. If any judgment or claims against Metropolitan Government, its agents, or employees shall be allowed, the Landowner shall pay all costs and expenses in connection therewith.

8. This Agreement shall be recorded among the land records of Nashville and Davidson County, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs, and any other successors in interest.

WITNESS the following signatures and seals:

THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

By Thomas K. Pell
for: Director of Public Works

By Al Lebe, Chief Manager.
ACCORD PROPERTIES, LLC

ATTEST:

_____

Prepared by: WARREN & ASSOC. PLLC
40 MIDDLETON ST.
NASHVILLE, TN 37210

I, Nancy C Laura, a Notary Public in and for the County and State aforesaid, whose commission expires on the 04 day of Nov., of the year 2009, do certify that Al Cooke whose names are signed to the foregoing Agreement bearing date of the 20 day of April, of the year 2007, have acknowledged the same before me in my said County and State aforesaid.

GIVEN under my hand this 20 day of April, of the year 2007

Nancy C Laura
Notary Public

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

I, GENE A. KING, a Notary Public in and for the County and State aforesaid, whose commission expires on the 19 day of SEPT, of the year 2009, do certify that THOMAS K. PALKO, (Acting) County Executive, whose name is signed to the foregoing Agreement bearing date of the 20 day of April, of the year 2007, has acknowledged the same before me in my said County and State aforesaid.

GIVEN under my hand this 1 day of May, of the year 2007.

Gene A. King
Notary Public

GENE A. KING
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.

AGREEMENT FOR DEDICATION OF EASEMENT

07-DL-0062

FOR

SANITARY SEWERS AND/OR STORM DRAINAGE
WATER MAINS, PUMPS AND APPURTENANCES

For and in consideration of the mutual benefits that will accrue by reason of the hereinafter described improvements, the undersigned do hereby grant, bargain, sell, transfer and convey unto The Metropolitan Government of Nashville and Davidson County, its successors and assigns forever, a permanent easement for Stormwater detention and quality treatment as follows:

Beginning at a point on the Southerly right of way line of Acklen Park Drive, said point being the southwest corner of Lot Number 6-A on the Revised Map of West End Park as of record in Plat Book 421, Page 82 & 83, R.O.D.C., TN;

THENCE, leaving said southerly right of way and following the North line of said Lot 6-A, North 42 degrees 28 Minutes 55 Seconds East 54.66 feet to the True Point of Beginning;

THENCE, continuing with said North line North 42 Degrees 28 Minutes 55 Seconds East 122.84 Feet to a point;

THENCE, with a new line South 47 Degrees 14 Minutes 16 Seconds East 10.01 Feet to a point;

THENCE, South 42 Degrees 28 Minutes 55 Seconds West 122.79 feet to a point;

THENCE, North 47 Degrees 31 Minutes 05 Seconds West 10.00 feet to the true point of beginning.

Being a portion of the same property conveyed to Accord Properties, LLC as of record in Instrument No. 20060706-0081218 in the Registers Office for Davidson County, Tennessee. The same being parcel 126 on Davidson County Property Map 104-02.

Grantor agrees to provide Metro Water Services sufficient and unencumbered ingress and egress at all times in order to maintain, repair, replace, and inspect any Storm water facilities within the aforesaid property.

Davidson County ESMT
Recvd: 05/22/07 09:03 3 pgs
Fees:17.00 Taxes:0.00
20070522-0060781

This document was prepared by Wamble & Associates, PLLC.

All of which is more particularly shown by words, figures, signs and symbols on the attached map, which is made a part hereof.

This conveyance includes the right of The Metropolitan Government of Nashville and Davidson County, its servants and agents to construct, operate, maintain, repair, replace and inspect sanitary sewers and/or drainage improvements and water mains, and/or appurtenances within the limits of the aforedescribed easement or right-of-way.

To have and to hold said easement or right-of-way to The Metropolitan Government of Nashville and Davidson County, its successors and assigns forever. I/We do hereby covenant with said The Metropolitan Government of Nashville and Davidson County that I am/we are lawfully seized and possessed of said land in fee simple and have a good right to make this covenant.

I/We do further covenant with said The Metropolitan Government of Nashville and Davidson County that said portion or parcel of land as aforedescribed is to remain the property of the undersigned and may be used for any lawful purpose desired after the construction of all of the aforesaid improvements provided, in the opinion of the Director of Water and Sewerage Services, said use or uses do not destroy, weaken or damage the abovementioned improvements or interfere with the operation or maintenance thereof. Metropolitan Government hereby covenants that, upon completion of construction, it will restore the hereinabove described property to its original condition, or as near thereto as is reasonably possible. I/We do not waive any claim for damage in any manner for the negligence of any agent, representative or contractor for the Metropolitan Government of Nashville and Davidson County during the construction of any of the aforesaid improvements.

I/We do further covenant and bind myself/ourselves, my/our heirs and representatives to warrant and forever defend the right of the grantee to the foregoing easement or right-of-way against the claim of all persons whomever.

WITNESS my/our hand(s), this 20th day of April 2007.

Al Cooke
Chief Manager
Accord Properties, LLC

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Personally appeared before me, Nancy C. Davis, a Notary Public in and for said State and County, the within named Accord Properties LLC the bargainer(s), with whom I am personally acquainted, and who acknowledged that Al Cooke executed the within instrument for the purposed therein contained.

Witness my hand and seal at Nashville, Tn, this 20th day of April, 2007. Nancy C Davis, Notary Public

NANCY C. DAVIS DAVIDSON CO. TENN.

My Commission Expires 11-04-09.

Before me, _____, a Notary Public of the State and County aforesaid,

Personally appeared _____

with whom I am personally acquainted, and who, upon oath, acknowledged _____ to be _____

the within named bargainer(s), _____ and that _____, as such

_____

being authorized to do so, executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal this _____ day of _____, 2007.

_____, Notary Public

My Commission Expires _____.

FOR METROPOLITAN GOVERNMENT USE ONLY

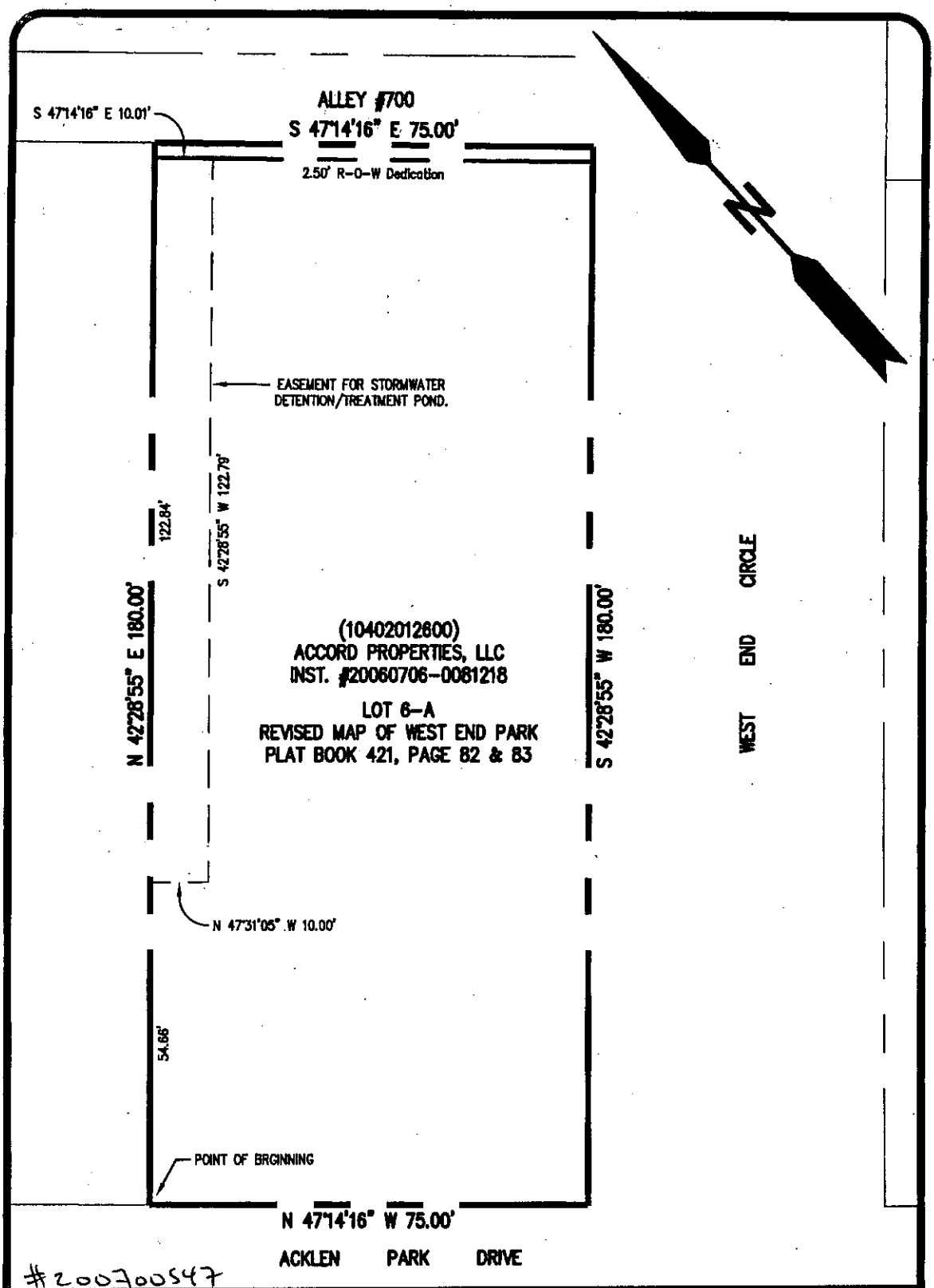
This document has been reviewed and approved by: Ron Swaney
Supervisor of Property

for the Department of Water Services on this 7 **day of** May, **2007.**

Gene A. King
Notary

My Commission Expires: 9/19/09

GENE A. KING STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.



#200700547

MAP SHOWING

DEDICATION OF EASEMENT

TO THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE

FROM

ACCORD PROPERTIES, LLC

07-DL-0062

EASEMENT 1-1

SCALE 1" = 20'	MAP 104-02 / PARCEL 126	DATE: APRIL 16, 2007	BY: W & A

EXHIBIT H

INSTALLATION AND SERVICES AGREEMENT

This Installation and Services Agreement (the "Agreement") is dated 2/20, 2008, and is between Comcast of Nashville I, LLC, a limited liability corporation (the "Company"), and Accord Properties, a Limited Liability Co. (the "Developer"), who currently owns certain real estate and improvements thereon located at 3210 West End Circle, Nashville, TN 37212 (the "Premises"), commonly known as The Maxwell, which consists or will consist of 12 residential units plus any units added or constructed in the future.

The Company has been granted a franchise by an authorized governmental agency (the "Franchise Authority") to construct and operate a cable communications system in Davidson Country, TN (the "County"). The Developer desires to provide broadband services to the Premises, including, but not limited to, multi-channel video, high speed data, information and voice services (collectively, the "Services") and the Company is willing to install, maintain and operate a broadband communications system for such purposes on the Premises in accordance with the terms and conditions below.

The parties, for good and valuable consideration, intending to be legally bound, agree as follows:

1. Developer Wiring. The Developer will install all cable home and cable home run wiring necessary for the Company to distribute the Services to the Premises (the "Developer Wiring") in accordance with the Company's specifications. The ownership of all parts of the Developer Wiring shall be and will remain the personal property of the Developer.

2. Company Wiring. The Company will extend its distribution system to a mutually agreed upon demarcation point(s) on the Premises and will install the necessary equipment and wiring, other than the Developer Wiring, that in conjunction with the Developer Wiring is necessary to provide the Services to the Premises ("Company Wiring"). The ownership of all parts of the Company Wiring shall be and will remain the property of the Company. The Company shall have the right to interconnect with and use any telephony inside wiring facilities, cross connect facilities and other telephony-related facilities which may become necessary or useful, for the provision of the Services to the residents, whether or not such facilities are owned, installed, controlled or maintained by the Company.

3. The System. The System will consist of the Developer Wiring and the Company Wiring. At no time during the term hereof shall the Developer or any third party have the right to use the System or any portion thereof for any purpose.

4. Easement. The Developer has the authority to grant and does hereby grant an easement

in favor of the Company to place its lines across the Premises and to operate the System, and shall cause such easement to run with the Premises. The Developer hereby agrees to execute the form of easement attached hereto as Exhibit A.

5. Access. The Developer shall allow Company personnel to enter all common areas of the Premises for the purposes of auditing, selling or disconnecting service, and installing, maintaining, repairing or replacing the System or any other equipment and apparatus connected with the provision of the Services, and shall use reasonable efforts to assure the Company access to any parts of the Premises over which it does not have control for the same purposes. The Developer shall supply the names and unit numbers of residents at reasonable intervals. The Developer shall cooperate with the Company to prevent (i) the unauthorized possession of converters or channel selectors and (ii) the unauthorized reception of the Services.

6. Delivery of Services. The Developer has the authority to grant and does hereby grant to the Company during the term hereof the right to construct, install, operate, maintain, repair and replace, as necessary, the Company Wiring, to interconnect with, use and maintain the Developer Wiring and to deliver the Services to the Premises, unless otherwise required by applicable law. Developer shall not enter into a bulk services agreement with another service provider to provide services similar to the Services during the term of this Agreement regardless of the method used to deliver such services to the Premises.

7. Fees and Charges for Services. The terms, conditions, charges and fees for the Services provided to residents at the Premises shall be contained in contracts between the Company and individual residents. The Developer assumes no liability or responsibility for service charges contracted for by residents. All billing and collections from residents will be accomplished by the Company.

8. Customer Service. The Company shall provide customer service in accordance with its franchise agreement with the Franchise Authority. The Company will maintain a local or toll-free telephone number which will be available to its subscribers twenty-four (24) hours a day, seven (7) days a week. Company representatives will be available to respond to customer telephone inquiries during normal business hours. The Company will begin working on service interruptions promptly and in no event later than the next business day after notification of the service problem, excluding conditions beyond the control of the Company.

9. Private Reception Devices. Notwithstanding anything else in this Agreement to the contrary, the Company shall not interfere with the right of an individual resident to install or use his own private reception device.

10. Interference. If any device or facility belonging to a resident or the Developer does not comply with the technical specifications established by the FCC, including, but not limited to, signal leakage, which interferes with the Company's delivery of the Services, the Company reserves

the right to discontinue the Service to the Premises or, at the Company's discretion, to the individual unit until such non-conformance is cured by the Developer or resident, as the case may be.

11. Term. This Agreement, when duly executed by both parties, shall constitute a binding agreement between the Developer and the Company and their respective successors and assigns for a term of ten (10) years. This Agreement shall automatically renew for successive periods of two (2) years unless either party shall provide the other with a minimum sixty (60) days notice of its intention not to renew at the end of the then current term.

12. Insurance. The Company agrees to maintain public liability insurance and property damage liability insurance as required by the Company's franchise agreement with the Franchise Authority. Upon request, the Company will provide the Developer with a certificate evidencing such insurance.

13. Indemnification. The Company shall indemnify, defend and hold the Developer, its personnel, directors, agents and representatives harmless from or against any and all claims, damage or expense arising out of the actions or omissions of the Company, its personnel, directors, agents and representatives with respect to the installation, operation, maintenance or removal of the System and the Services provided to residents at the Premises pursuant to this Agreement. The Developer shall indemnify, defend and hold harmless the Company, its personnel, directors, agents and representatives from and against any and all claims, damage or expense arising out of the actions or omissions of the Developer, its personnel, directors, agents and representatives.

14. Limitation of Liability. THE COMPANY SHALL NOT BE LIABLE TO DEVELOPER FOR SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO FRUSTRATION OF ECONOMIC OR BUSINESS EXPECTATIONS, LOSS OF PROFITS, LOSS OF CAPITAL, COST OF SUBSTITUTE PRODUCT(S), FACILITIES OR SERVICES, OR DOWN TIME COST, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

15. Termination.

a) Default. In the event either party defaults in the performance of any of the material terms of this Agreement, the non-defaulting party shall give the defaulting party written notice specifying the nature of such default and identifying the specific provision in this Agreement which gives rise to the default. The defaulting party shall have sixty (60) days to either (i) notify the non-defaulting party that no default occurred and provide reasonable proof thereof, (ii) cure the default, or (iii) if such default is incapable of cure within such sixty (60) day period, commence curing the default within such sixty (60) day period and diligently pursue such cure to completion. In the event the defaulting party fails to do so within such sixty (60) day period, the non-defaulting party may terminate this Agreement upon thirty (30) days written notice without further liability of

either party.

b) Permanent Loss of Authority. This Agreement shall terminate automatically without any further liability on the part of the Company in the event the Company lacks authority to continue to provide the Services to the Premises due to loss of governmental authorization. This clause, however, shall not apply to periods of transition, such as franchises subject to review, transfer or reapplication, or where termination is the subject of dispute.

16. Removal of Company Wiring.

a) Upon expiration or termination of this Agreement for any reason, the Company shall have a period of six (6) months during which it shall be entitled, but not required, to remove the Company Wiring. The Company shall promptly repair any damage to the Premises caused by the removal of the Company Wiring.

b) Notwithstanding anything to the contrary contained in this Agreement, the removal period referenced in section (a) shall be tolled for as long as the Company has the right under applicable law to continue to provide any or all of the Services to any or all of the units on the Premises after the termination or expiration of this Agreement, in which case the Company shall have the right to continue to own and use the Company Wiring and to interconnect with and use the Developer Wiring to provide the Services. This Section shall survive the termination of this Agreement.

17. Dispute Resolution. All disputes under this Agreement shall be submitted to and settled by arbitration in accordance with the rules of the American Arbitration Association. The parties shall appoint a mutually agreeable arbitrator reasonably familiar with broadband communications systems and services. In the event the parties are unable to agree to a single arbitrator, the dispute shall be submitted to a panel of three (3) arbitrators, one of which shall be reasonably familiar with broadband systems and services. Each party shall appoint an arbitrator and the two arbitrators so appointed shall then select a third arbitrator. The arbitrators shall apply applicable federal laws and regulations and the laws of the jurisdiction in which the Premises are located, without regard to its choice of law principles. The decision of the arbitrators shall be binding and conclusive on all parties involved, and judgment upon their decision may be entered in a court of competent jurisdiction. The prevailing party in any such arbitration shall be entitled to collect from the non-prevailing party all costs of the arbitration, including reasonable attorneys' fees.

18. Marketing Support. Developer shall provide exclusive Marketing Support for Company for the Services. The term "Marketing Support" shall include, but not be limited to, Developer's presentation of the Company's marketing materials for the Services, including, but not limited to multi-channel video, high speed Internet and voice services to existing and prospective residents. Marketing materials may include, at the Company's discretion, brochures, channel lineups, door hangers, service descriptions, and information regarding prices and special offers. All marketing

materials shall be provided by the Company.

19. Miscellaneous.

a) Force Majeure. The Company shall not be liable for failure to construct or to continue to operate the System during the term hereof due to acts of God, the failure of equipment or facilities not belonging to Company (including, but not limited to, utility service), denial of access to facilities or rights-of-way essential to serving the Premises, government order or regulation or any other circumstances beyond the reasonable control of the Company.

b) Assignability; Binding Effect. This Agreement may be assigned by either party. The assignee shall agree in writing to be bound by all the terms and conditions hereof. In the event the Developer sells, assigns, transfers or otherwise conveys the Premises to a third party, the Developer shall give the Company prior written notice of such change of ownership or control. Developer shall cause any new owner or controlling party to expressly assume this Agreement and agree to be bound by its terms. This Agreement shall be binding upon the parties and their respective successors and assigns. In addition to the foregoing, Developer shall assign this Agreement to the condominium owner's association or other body governing the Premises (the "Association") no later than at the expiration of the period of the Developer's control over the Association. Notwithstanding anything to the contrary contained herein, following the assignment, the Association shall be bound by the terms hereof, except as otherwise permitted by law.

c) Applicable Law. This Agreement shall be governed and construed in accordance with applicable federal laws and regulations and by the laws of the jurisdiction in which the Premises are located, without regard to its choice of law principles.

d) Invalidity. If any provision of this Agreement is found to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement will not be affected or impaired.

e) Recording. The Company may record this Agreement (or a memorandum summarizing the material terms) in the public records of the county in which the Premises are located.

f) Notices. All notices, demands, requests or other communications given under this Agreement shall be in writing and be given by personal delivery, United States Postal Service, or nationally recognized overnight courier service to the address set forth below or as may subsequently in writing be requested.

If to DEVELOPER:

Accord Properties, LLC
1717 Linden Ave.
Nashville, TN. 37212
Attn.: Al Cocke, Chief Manager

If to the Company:

Comcast of Nashville I, LLC
P.O. Box 140400
Nashville, TN 37214
Attn.: General Manager

With a copy to:

Comcast Cable Communications, LLC
1500 Market Street
Philadelphia, PA 19102
Attn.: General Counsel

g) Entire Agreement; Amendments. All recitals set forth above are hereby incorporated into the body of this Agreement. This Agreement, including all exhibits attached, constitutes the entire agreement between the parties and supersedes all prior agreements, promises and understandings, whether oral or written. This Agreement shall not be modified, amended, supplemented or revised, except by a written document signed by both parties.

h) Authority. Each party represents to the other that the person signing on its behalf has the legal right and authority to execute, enter into and bind such party to the commitments and obligations set forth herein.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

DEVELOPER

WITNESS/ATTEST

Accord Properties, LLC

By: Al Locke

Name: Al Locke

Title: Chief Manager

COMPANY

ATTEST:

Comcast of Nashville I, LLC

By:_____

Name:_____

Name: John Gauder

Title: Area Vice President

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 200_ by _____ (name), the _____ (title) of _____ (entity), on behalf of said entity. He/she is personally known to me or has presented _____ (type of identification) as identification and did/did not take an oath.

Witness my hand and official seal.

_____

_____ Notary Public

(Print Name)

My commission expires: _____

STATE OF TENNESSEE)

) ss.

COUNTY OF DAVIDSON_)

The foregoing instrument was acknowledged before me this ____ day of _____, 200_ by John Gauder, of Comcast of Nashville I, LLC, on behalf of said entity. He is personally known to me and did not take an oath.

Witness my hand and official seal.

_____

Tonya L Evans Notary Public

My Commission expires: _____

EXHIBIT A

(see attached)

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