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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HILLDALE TOWNHOMES A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

THIS DECLARATION, made and entered into by BANK OF TENNESSEE, hereinafter referred to as the "Developer".

W I T N E S S E T H :

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

WHEREAS, the Developer desires to submit the Property described on **Exhibit "A"** together with all buildings, structures, improvements, and other permanent fixtures of whatever kind thereon, and all rights and privileges belonging or in anyway pertaining thereto, to the provisions of the Horizontal Property Act of the State of Tennessee as the same may be amended from time to time for the express purpose of establishing thereon a horizontal property regime with private elements to be known as Hilldale Townhomes; and,

WHEREAS, the Developer further desires to establish for their own benefit and for the mutual benefit of all future owners and/or occupants of the Property or any part thereof, certain rights, easements, and privileges in, over and upon the said premises and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance

thereof, for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

NOW, THEREFORE, the Developer declares as follows:

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

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

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

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

(d) "Buildings" mean the buildings located on the parcel and forming a part of the property and containing the Units. The buildings are delineated on the Plat.

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

(f) "Common Elements" shall mean and include General Common Elements and Limited Common Elements as those terms are as defined herein.

(g) "General Common Elements" shall mean all of the Property, except the units and private elements.

(h) "Limited Common Elements" shall mean those portions of the General Common Elements designated herein for the exclusive use of the one (1) unit to which it is assigned.

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

(j) "Developer" shall refer to BANK OF TENNESSEE, its successors and assigns.

(k) "Majority" or "majority of the Unit Owners" mean at least fifty-one (51%) percent of the Owners of the Units.

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

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

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

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

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

(q) "Property" means all the land, property and space comprising the Parcel as defined in Item (n) above, and all improvements and structures erected, constructed or contained therein or thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures, and equipment intended for the mutual use, benefit or enjoyment of Unit Owners, submitted to the provisions of the Act.

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

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

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

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

2. **Submission of Property to the Act.** The Developer does hereby submit and subject the parcel and the property to the provisions of the Horizontal Property Act of the State of Tennessee as amended from time to time and does hereby establish a Horizontal Property Regime to be known as Hilldale Townhomes.

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

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

5. **(a) Association of Unit Owners and Administration and Operation of the Property.** There has been formed an Association having the name Hilldale Townhomes Corporation, a Tennessee not-for-profit corporation, which Association shall be the governing body for all Unit owners, and shall be operated to provide guidelines for the maintenance, repair, replacement, administration, and operation of the property, as provided in the Act, this Declaration and the By-Laws. The Unit Owners shall be members of the Association, with each Unit holding an undivided membership interest appurtenant to a Unit being in an equal share, subject to the provisions concerning voting hereinafter set forth. The By-Laws for the Association shall be the By-Laws attached to this Declaration as **Exhibit "C"** and made a part hereof. The Board of Directors of the Association shall be elected and serve in accordance with the provisions of the By-Laws. The fiscal year of the Association shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All

activities undertaken by the Association shall be for the sole benefit of the Unit Owners, and any funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners, in accordance with the provisions of this declaration and By-Laws. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association. The aggregate number of votes for all members of the Association shall be divided among the respective Unit Owners with one (1) vote granted to each Unit (except that the Developer shall have three (3) votes per Unit as provided below).

(b) Voting Membership

Class A. Class A members shall be all Unit Owners, with the exception of the Developer, and shall be entitled to one (1) vote for each Unit owned. When more than one person holds any interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any unit.

Class B. The Class B member shall be the developer and shall be entitled to three (3) votes for each Unit owned. The class B membership shall cease the earlier of (i) when 100% of the Units are sold or three years from the date of the first Unit sold.

(c) Management of the Property. The Board shall have the authority to engage the services of an agent (the "Managing Agent") to maintain, repair, replace, administer and operate the property, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of subparagraph (d) below. Said agent shall be required to maintain fidelity bond coverage on its employees handling Association Funds. The cost of said services shall be a common expense.

(d) Initial Management Contract. First Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer (if applicable) on behalf of the Association, and a management corporation, to act as Managing Agent for the Property, for a term as approved by the First Board, but not to exceed one year.

(e) **Use by the Builder.** During the period of sale by the Developer (and or any builders of any units), the Developer and/or any such builder or their agents, employees, contractors, etc. shall be entitled to access, ingress, egress from the buildings and property as may be required for purposes of sale of the Units.

(f) **Non-Liability of the Directors, Board, Officer and Developer.** To the extent permitted by law, neither the directors nor officers of the Association shall be personally liable to Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors or officers, except for any acts or omissions found by a court to constitute gross negligence or fraud. Unit Owners shall indemnify and hold harmless each of the directors or officers and their respective heirs, executors, administrators, successors and assigns in accordance with the Charter of the Association and By-Laws.

(g) **Interests of association in Common Elements.** Ownership of the Common Elements shall be vested in the Association.

6. **Board's Determination Binding.** In the event of any dispute or disagreement between any Unit Owners relating to the property, or any questions of interpretation or application of the provisions of this Declaration or By-Laws, the determination thereof by the Board shall be final and binding on all Unit Owners.

7. **Ownership of the Common Elements.** Subject to the provisions concerning voting rights herein above contained, each Unit is hereby allocated an equal percentage ownership in the Association. The percentage of ownership interests shall remain constant unless hereafter changed by recorded amendment to the Declaration consented to in writing by the Unit Owners, in accordance with the requirements hereafter contained. Said ownership interest shall be undivided interest, and the undivided interests in the Association shall be owned by the Unit Owners as Tenants in Common accordance with their respective percentages of ownership. The ownership of a Unit shall not be conveyed separate from the undivided ownership in the Common Elements appurtenant to such Unit. The undivided interest in the Common Elements appurtenant to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering such Unit may refer only to the fee title to that Unit.

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

9. **Storage Areas and Parking Spaces.** Except as otherwise specified on the site plan attached hereto as **Exhibit "B"**, parking areas and/or driveways on the property shall be part of the Limited Common Elements, Parking shall be allowed only on paved surfaces and shall be used by such Unit Owner (s) subject to the Rules and Regulations of the Association.

10. **(a) Common Expenses and Enforcement.** Each Unit Owner shall be responsible for paying his equal proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with this Declaration and By-Laws (which expenses are herein sometimes referred to as "common expenses"), including, but not limited to, the maintenance and repair of the property and any and all replacements and additions thereto. Except for its responsibilities as a Unit Owner, as provided herein, Developer shall not have any responsibility for the maintenance, repair or replacement of any part of the Common Elements after the date this Declaration is recorded. Each Unit Owner shall be responsible for paying an equal share of the common expenses. The payment of common expenses shall be in such amounts and shall be payable at such times as determined in the manner provided in the By-Laws. No Unit Owner shall be exempt from payment of his equal share of the common expenses by waiver or nonuse of enjoyment of the Common or Limited Common Elements or by abandonment of his Unit. If any Unit Owner shall fail to make such payment for common expenses when due, the remaining Unit Owner may pay said payment and the amount thereof together with interest at the rate of Ten (10%) percent per annum, after said payments become due and payable shall be subject to a lien on the Unit against which benefit the payment is made on behalf of the remaining Unit Owners. Each Unit Owner shall be personally liable for his portion of payments due while he is the owner of a Unit; however, said personal obligation shall not pass to successors in

title unless assumed by them or as required by Tennessee Code Annotated, Section 66-27-101, et seq.

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

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

12. **Separate Real Estate Taxes.** Real estate taxes shall be separately taxed to each Unit Owner for his Unit, its Private Elements, Limited Common Elements, and its appurtenant interest in the Common Elements, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Unit Owner, but rather are taxed on the property as a whole, then each Unit Owner shall pay its proportionate share thereof in accordance with such unit owners respective percentage of ownership of the entire development, calculated using each respective unit square footage, of the total tax obligation, and, in said event, such taxes shall be deemed a common expense.

13. **Insurance.** The Board may obtain insurance for the Common Elements against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions, for the full insurable replacement cost of the Common Elements, and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement cost shall be deemed the cost of restoring the Common Elements, or any part thereof, to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board, as the Trustee for the Unit Owner

in proportion to the Unit Owners' respective percentages of ownership in the Common Elements, as set forth in this Declaration, and for the holders of mortgages on the Units, if any. The policy of insurance should also contain, if possible, a waiver of subrogation rights by the insurer against the Unit Owners. The premiums for such insurance shall be a common expense; however, premiums for such insurance shall be separately billed equally to Unit Owners.

In the event of damage to or destruction of any Common Elements as a result of fire or other casualty covered by insurance proceeds (unless more than two-thirds (2/3) of all buildings require reconstruction), the Board shall, in its sole and absolute discretion, determine and without intervention of any Unit Owner arrange for the prompt repair and restoration of the damaged portions of all Common Elements substantially in accordance with the original plans and specifications therefore. Where the insurance indemnity is insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Unit Owners with each Unit Owner to bear an equal proportion thereof. The Board shall not be responsible for the repair, replacement or restoration of any Unit or Private Elements for which the responsibility of maintenance and repair is that of a Unit Owner, or for furniture, furnishings, fixtures, appliances, or equipment installed in the Unit by a Unit Owner or occupant.

The Board shall also obtain comprehensive public liability insurance, in such amounts as it deems desirable, and workmen's compensation insurance and other liability insurance in such amounts as it deems desirable, insuring each Unit Owner, mortgagee of record, the Association, its officers, directors, and employees, Owner, and the Managing Agent, if any, from liability in connection with the property. The premiums for such insurance shall be common expenses; however, premiums for such insurance shall be separately billed equally to each Unit Owner.

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

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

In the event the Board does not maintain hazard insurance, each Unit Owner shall be responsible for obtaining hazard insurance which includes liability coverage on his Unit, contents of his Unit and Private Elements, and the Limited Common Elements serving his Unit, as well as his additions and improvements thereto, and those parts of the Unit for which the responsibility of maintenance and repair is that of the Unit Owner, and for decorations, furnishings, and personal property therein, and personal property stored elsewhere on the property, if any. **Each Unit Owner shall be required to list the Association as an additional insured on said Unit's hazard insurance policy.**

14. **Maintenance, Repairs, Replacements and Easements.** Each Unit Owner, at his own expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within and to the exterior of his Unit and its limited common and private elements. Except to the extent hereinafter set forth, maintenance of, repairs to and replacements within the Common Elements shall be the responsibility of and shall be furnished by the Association, and the cost thereof shall be part of the common expenses, subject to Item No. 10 (a) herein and further subject to the By-Laws, and Rules and Regulations of the Association. The expenses for the maintenance, repair or replacement of a Unit's water heater, furnace, air conditioner, heating, and air conditioning ducts, and plumbing and electrical wiring and other items including, but not limited to the Limited Common Elements, serving only such Unit, shall be borne by the Owner of the Unit to which such Limited Common Elements are appurtenant. The Board shall direct Unit Owners who stand to be benefited by maintenance of, repairs to, and replacements to the exterior of said Unit, its private elements and/or within the Limited Common Elements to arrange for such maintenance, repairs and replacements in the name and for the account of such benefited Unit Owners, pay the cost thereof with their own funds, and procure and deliver to the Board such lien waivers and contractor's and subcontractor's sworn statements as may be required to protect the property from all

mechanic's or materialmen's lien claims that maintain, repair, or replace the electrical wiring, plumbing, or other utilities of a Unit. Should the benefited Unit Owner fail or refuse to maintain, repair and/or replace, as directed by the Board, the exterior of the benefited Unit, its private elements, and/or within its Limited Common Elements, the Board or any other Unit Owner (or Owners) may cause said maintenance of, repairs to and/or replacements be made to the exterior of said Unit, its Private Elements and/or within its Limited Common Elements, and perfect remedies as recited in Article No. 19 hereinafter recited.

If, due to the act or neglect of a Unit Owner, or of his agent, servant, tenant, family member, invitee, licensee or household pet, damage shall be caused to the Private Elements owned by others, or if general maintenance of utility lines, etc are required and such repair or damage is on another Unit Owner's private elements, then the Unit Owner to which said utility services shall pay for such damage or such maintenance, repairs and replacements.

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

The authorized representatives of the Association, Board, or of the Managing Agent with approval of the Board, shall be entitled to reasonable access to the Private Elements as may be required in connection with the preservation of any individual Unit or Limited Common Elements in the event of an emergency, or in connection with maintenance of, repairs to, or replacements within the Common Elements, Limited Common Elements, Private Elements or any equipment, facilities or fixtures affecting or serving other Units, its Private Elements, Common Elements and Limited Common Elements, or to make any alteration required by any governmental authority.

15. **Alterations, Additions or Improvements.** Except as provided in paragraph No. 16 herein, no alteration of any General Common Elements, if applicable, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval

of the Board. The Board may authorize alterations, additions and improvements of the Common Elements as provided in the By-Laws. Any Unit Owner may make alterations, additions or improvements within his Unit, Limited Common Elements and Private Elements without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements. Any alteration and/or maintenance made by a Unit Owner to the exterior of his Unit shall be in strict conformity to the architectural design and scheme of the Unit as of the date of this instrument unless modified by the unanimous agreement of the Unit Owners.

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

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

18. **Use and Occupancy Restrictions.** Subject to the provisions of the By-Laws, no part of the Property may be used for purposes other than housing and the related common purposes for which the Property was designed and as allowed by zoning laws. Each Unit shall be used as one single family residence or such other use permitted by this Declaration, and for no other purpose, except that professional and quasi-professional people may use their residence (not in violation of municipal zoning laws) as an ancillary or secondary facility to an office established elsewhere. No Unit may be offered by its owner to the public at large for temporary transient accommodations; however, nothing in this Section shall prohibit Unit Owners from leasing their Units to others to be used as a residence. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from: (a) maintaining his personal professional library; (b) keeping his personal business or profession records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions.

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

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

to time, cumulatively or otherwise, by the Board. This Paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of record of mortgage and deed of trust liens against the Units.

The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision herein contained, shall give the Board the right, in addition to any other rights provided for in this Declaration: (a) to enter (either peaceably or forcibly without liability to such Unit Owner for such entry) upon the Unit, or any portion of the Property upon which or as to which such violation or breach exists, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or (c) to take possession (either peaceably or forcibly without liability to such Unit Owner for such entry) of such Unit Owner's interest in the property and to maintain an action for possession of such Unit in the manner provided by law.

If any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate the Act, or any of the covenants or restrictions or provisions of this Declaration, the By-Laws, or the regulations adopted by the Board, and if such default or violation shall continue for ten (10) days after notice to the Unit Owner in writing from the Board or paying Unit Owner, or shall occur repeatedly during any ten (10) day period after such written notice or request to cure such violation from the Board, then the Board shall have the power to issue to said defaulting Owner a notice in writing terminating the rights of said defaulting Owner to continue as a Unit Owner and to continue to occupy, use, or control his Unit, and thereupon an action in equity may be filed by the Board against said defaulting Owner for a decree of mandatory injunction against such defaulting Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting Owner's right to occupy, use, or control the Unit owned by him on account of said violation, and ordering that all the right, title and interest of said defaulting Owner in the property shall be sold (subject to the lien of any existing deed of trust or mortgage) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the said defaulting Owner

from reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees, and all other expenses of the proceeding and sale, and all such items shall be taxes against said defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder, or any liens, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of ownership in the Common Elements, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Unit Ownership sold subject to this Declaration.

20. **Amendments.**

(a) Amendments Annexing Additional Phases. The Developer may on its own (without the necessity of the consent or agreement of any Unit Owner or other person), but shall not be obligated to, incorporate additional area into additional phases of the horizontal property regime governed by this Declaration. The annexation of such additional phases shall be accomplished by the unilateral execution by the Developer, and recording, of an amendment to this instrument setting forth the additional real property to be brought within the provisions of this Declaration and reciting that it shall be held and conveyed subject to the provisions hereof as an additional phase or phases of Hilldale Townhomes. Upon the addition of additional Units to the Hilldale Townhomes horizontal property regime, then the percentage ownership in the Association of the Unit Owners shall be automatically adjusted so that each Unit Owner owns an equal undivided interest in the Association.

(b) Other Amendments. The provisions of this Declaration may be amended by an instrument in writing, setting forth such amendment, signed by fifty-one (51%) percent of the Unit Owners; provided, however, that all lien holders or record have been notified by certified mail of such amendment, and an affidavit by the Secretary of the Association certifying to such mailing is made a part of such instrument.

However, if the Act, this Declaration or the By-Laws require the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Declaration, then any

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

Notwithstanding the above, the Developer shall have the right to make and record any necessary amendment to this instrument for the express purpose of completion of development or correction of clerical errors, or as may be required to obtain Federal Housing Association, Federal National Mortgage Association, Federal Home Loan Mortgage Corporate and/or Federal Home Loan Bank Bond approval for the Horizontal Property Regime.

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

22. **Rights and Obligations.** Each grantee of Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens, and charges, and the jurisdiction, rights, and powers created or reserved by this Declaration. All future Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Declaration. Any restrictions or rules in the By-Laws which are more than administrative in nature such as, but not limited to, reservations and future rights of Developer are hereby incorporated into and made a part of this Declaration by reference. All rights, benefits and privileges hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

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

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

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

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

(b) The right of the Association to charge reasonable fees for the use of any part or parts of the Common Elements;

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

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

25. **Federal Home Loan Mortgage Corporation and Federal National Mortgage Association Regulations.** Notwithstanding anything to the contrary contained in this Declaration or in the By-Laws of the Association, all terms, conditions, regulations, and requirements which are now existing, or which may be amended from time to time by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, pertaining to Planned Unit Developments or condominiums, if applicable, are hereby incorporated as terms and conditions of this Declaration and By-Laws and such shall be governing upon the Property, Developer, and the Association, so long as such terms or conditions are not inconsistent with the laws of the State of Tennessee as found in *Tennessee Code Annotated* Section 66-27-101, et seq., as amended.

Specifically, without limitation upon the foregoing, the following declarations shall be controlling over any terms of this Declaration or By-Laws which are in conflict therewith. Any portions of this Declaration or By-Laws which are in conflict with this paragraph, or any portion of the regulations of the Federal National Mortgage Association, the Federal Home Loan

Mortgage Corporation, or the Federal Home Loan Bank Board, pertaining to apartments, are hereby deleted and the following rights of mortgagees are itemized as follows:

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

(b) Any first mortgagee of a Unit who comes into possession of the Unit pursuant to the remedies provided in the mortgage, or deed of trust, or by foreclosure of the mortgage or deed of trust, or by deed in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrue prior to the time such holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata real location of such assessments or charges to all Units including the mortgaged Unit).

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

(i) Change the pro rata interest or obligations of any Unit for (a) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, and for (b) determining the pro rata share of each Unit in appurtenant real estate and any improvements thereon, which are owned by Unit Owners in undivided pro rata interests (Common Elements);

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

(d) First mortgagees shall have the right to examine the books and records of the Association.

(e) An adequate reserve fund for the replacement of the Common Elements will be established and funded by regular monthly payments rather than by special assessments.

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

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

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

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

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

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

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

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

27. **Notices.** Notices provided for in the Act, Declaration or By-Laws shall be in writing and shall be addressed to the Association or any Unit Owner, as the case may be, at Hilldale Townhomes Corporation, 4301 Hillsboro Road, Suite 300, Nashville, Davidson County, Tennessee 37215 or at such other address as hereinafter provided. The Association may designate a different address or addresses for notices to it by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgement of the receipt thereof.

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

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

29. **Common Open Space.** Any Common Open Space established by an adopted final master development plan for apartments shall be subject to the following:

(a) The Metropolitan Planning Commission and the Metropolitan County Council may require that the landowner provide for and establish an organization for the ownership and maintenance of any Common Open Space, and such organization shall not be dissolved nor shall it dispose of any Common Open Space, by sale or otherwise (except to an organization conceived and established to own and maintain the Common Open Space), without first

offering to dedicate the same to the Metropolitan Government of Nashville and Davidson County and the said dedication be approved by the Metropolitan Planning Commission. However, the conditions of any transfer shall conform to the adopted final master development plan.

(b) In the event that the organization established to own and maintain Common Open Space, or any successor organization, shall at any time after the establishment of the Condominium fail to maintain the Common Open Space in reasonable order and condition in accordance with the adopted master development plan, the zoning administrator may serve written notice upon such organization and/or the Owners or occupants of the Condominium and hold a public hearing. After thirty (30) days when deficiencies of maintenance are not corrected, the zoning administrator shall call upon any public or private agency to maintain the Common Open Space for a period of one (1) year. When the zoning administrator determines that the organization is not prepared for the maintenance for the Common Open Space such agency shall continue maintenance for yearly periods.

(c) The cost of such maintenance by such agency shall be assessed proportionally against the Units that have a right of enjoyment of the Common Open Space, and shall become a lien on said Units.

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

31. **Gender.** The use of the masculine gender in this Declaration and in the By-Laws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural whenever the context so requires.

32. **Attorney's Certificate.** The attorney's opinion as required under the terms of the *Tennessee Code Annotated* Section 66-27-103 is attached hereto as **Exhibit "D"** and made a part hereof.

IN WITNESS WHEREOF, the undersigned has executed this Declaration this 15th day of June, 2010.

DEVELOPER:

BANK OF TENNESSEE

BY: _____

TITLE: _____

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Before me, the undersigned, a Notary Public of said County and State, personally appeared Jim Evans, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who upon oath acknowledged himself to be Senior vice President of Bank of Tennessee, the within named bargainor, a corporation, and that he as such Senior vice President executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Senior vice President

Witness my hand and seal at office in Nashville, Tennessee this 15th day of June, 2010.

Ashley S. Rudy
Notary Public

My Commission Expires 9/25/2010

ASHLEY S. RUDY
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.

EXHIBIT A

A Certain Tract or Parcel of Land in Davidson County, Tennessee, Described as follows, to-wit:

Being part of Lot No.3 on the Map of Mrs. Mary Billington's Subdivision of Lot 2 of the Compton Lands, of record in Book 547, page 116, Register's Office for said County, said Compton Lands being part of record in Book 2, page 68, Chancery Court at Nashville, and being known as part of Lot No.3 on the unrecorded Map of a Subdivision of part of Lot No. 3 of said Billington Subdivision and described according to a copy of a survey thereof made by Ms. R. Swann, Jr., June 30, 1965 as follows:

Beginning at a point in the west margin of Hilldale Drive or Road, 394.4 feet more or less north from the center line of Abbott Martin Road, as now located being in the line of Lots No. 2 and 3, of said unrecorded Plan; thence with line between said Lots, westerly 219 feet more or less to a point; thence north 4 degrees East 100 feet to the corner of Lots No. 3 and 4; being the southwest corner of the property conveyed to Lawrence A. Spilman and wife, by Deed of record in Book 1580, page 520, said Register's Office, thence with the Line between Lot No. 3 and 4, along Spilman's southerly line, easterly 215 feet more or less to the west margin of Hilldale Drive or Road; thence with the margin of the same South 4 degrees 50 minutes West 100 feet to the point of beginning.

Being the same property conveyed to Bank of Tennessee by Substitute Trustee's Deed of record in Instrument No.20091222-0116467, Register's Office for Davidson County, Tennessee.

EXHIBIT B
Plat
HILLMONT TOWNHOMES

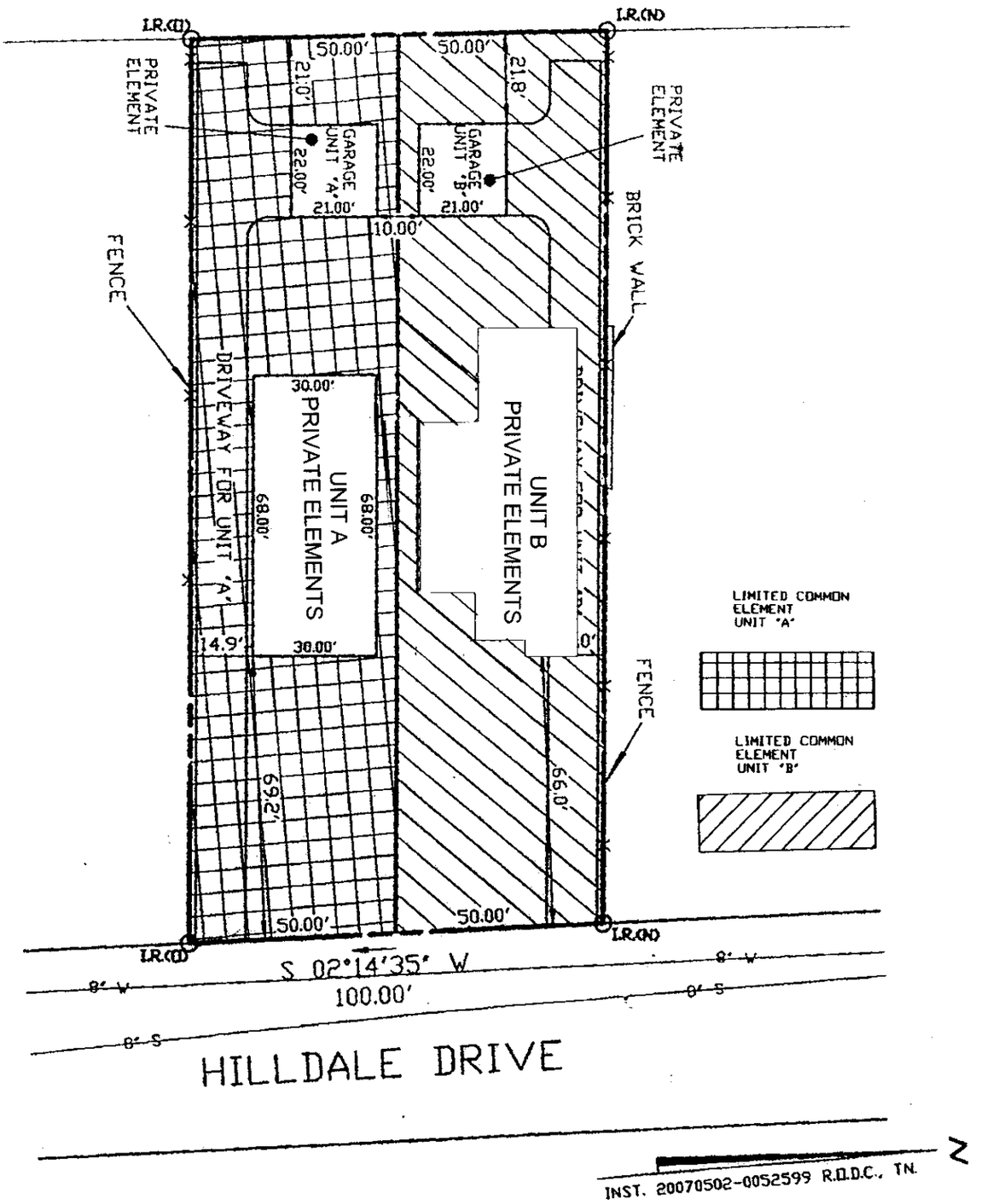


EXHIBIT "C"

BY-LAWS OF

HILLDALE TOWNHOMES CORPORATION

ARTICLE I

Members (Unit Owners)

Section 1. Eligibility. The members of Hilldale Townhomes Corporation, a Tennessee not-for-profit corporation, shall consist of the Unit Owners of the property know as Hilldale Townhomes located at Nashville, Davidson County, Tennessee (the "Property"). If a Unit Owner is a trust, then the member shall be a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation or partnership, the member may be an officer, partner or employee of such Unit Owner or beneficiary.

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

Section 3. Regular Meetings. The first regular meeting of the Unit Owners (the "First Meeting") may be held, subject to the terms hereof on any date, at the option of the Board. All such meetings of Unit Owners shall be held at such place in Davidson County, Tennessee, and at such time as specified in the written notice of such meeting which shall be delivered to all Unit Owners at least ten (10) days prior to the date of such meeting.

Section 4. Special Meetings. Special meeting of Unit Owners may be called by a majority of the Unit Owners. Special meetings shall be called by delivering written notice to all Unit Owners not less than ten (10) days prior to the date of the meeting, stating the date, time and place of the special meeting and the matters to be considered.

Section 5. Delivery of Notice of Meetings. Notices of meetings shall be delivered either personally or by mail to Unit Owners at the addresses given to the Board by Unit Owners for such purpose, or to a Unit Owner's unit if no separate address for such purpose has been given to the Board.

Section 6. Voting. Each Unit shall have one (1) vote, except as to the Developer which shall have three (3) votes for each Unit it owns. If any Unit Owner consists of more than one (1) person, the voting rights of such Unit Owner shall not be divided, but shall be exercised as if the Unit Owner consisted of only one (1) person in accordance with the proxy or other designation made by the persons constituting such Unit Owner.

No Unit Owner who is in default in the payment of his assessments hereunder shall be entitled to exercise his right to vote until he has cured such default. A Unit Owner shall be deemed to be in default if he has not paid his assessments to the Board, its agent, or a paying Unit Owner within fifteen (15) days after the due date thereof. A Unit Owner may protest the amount of the assessment, but it still must be paid during the pendency of his protest to the Board.

Section 7. Quorum. A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in person or by proxy and holding a majority of the votes entitled to be case at such meeting.

ARTICLE II

Board of Directors

Section 1. Number, Election and Term of Office. The Board of Directors of the Association (referred to in the Horizontal Property Act of the State of Tennessee as the "board of administrators" and sometimes referred to herein as the "Board") shall consist of two (2) members (hereinafter referred to as "Directors"). Until each Unit is sold by the Developer, the number of Directors shall be two (2) plus the number of Units sold by the Developer.

Section 2. Qualification. The Directors shall consist of each Unit Owner or spouse of each Unit Owner. Should any Unit Owner Director transfer title to his Unit, the respective

successor Unit Owner shall assume the transferor's position as Director. If a Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

Section 3. Vacancies. So long as a Unit Owner meets the qualifications herein, the Unit Owner or spouse of said Unit Owner shall be a Director.

Section 4. Meetings. A regular annual meeting of the Board shall be held following the regular annual meeting of Unit Owners. Special meetings of the Board shall be held upon call by the President or by a majority of the Board on not less than forty-eight (48) hours' notice in writing to each Director, delivered personally or by mail or telegram. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Directors attendance at a meeting shall constitute his waiver of notice of said meeting.

Section 5. Removal. Blank.

Section 6. Compensation. Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted by Unit Owners.

Section 7. Quorum. A simple majority of Directors shall constitute a quorum.

Section 8. Powers and Duties. The Board shall have the following powers and duties:

a) To elect and remove the officers of the Association;
b) To administer the affairs of the Association and the property;
c) To engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer, and operate the property or any part thereof for all Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve;
d) To formulate policies for the administration, management and operation of the property and the Common Elements;

e) To adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time and to establish reasonable financial assessments for infractions thereof;

f) To provide for the maintenance, repair and replacement of the Common Elements and payments therefore, and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent;

g) To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management, and operation of the property and the Common Elements, and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);

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

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

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

k) To borrow money for the purpose of repair or restoration of Common Elements without the approval of the members of the Association;

l) To secure insurance policies as required by the Declaration, and in this regard, annually to review the amounts of coverage afforded by such policies;

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

n) To be responsible for and maintain all streets, roads, utilities, and any other services of a public nature that are classified as Common Elements in the Declaration.

o) To exercise all other powers and duties of Unit Owners as a group referred to in the Horizontal Property Act of the State of Tennessee or in the Declaration or these By-Laws.

Section 9. Power to Take Any Action. Whenever in these By-Laws the Association is given the power to take any action, it is the intention of these By-Laws that the Board shall act for the Association in all cases, except and to the extent that it is expressly provided that action be taken upon vote of the Unit Owners.

Section 10. Non-Delegation. Nothing in these By-Laws shall be considered to grant to the Board, the Association, or to the officers of the Association, any powers or duties which, by law, have been delegated to Unit Owners.

ARTICLE III
Officers

Section 1. Designation. At each regular annual meeting of the Board, the Directors present at such meeting shall elect the following officers of the Association by a majority vote:

a) A President, who shall be a Director, who shall preside over meetings of the Board and of Unit Owners, and who shall be the chief executive officer of the Association;
b) A Secretary/Treasurer, who shall keep the minutes of all meetings of the Board and of Unit Owners, financial records, and who shall, in general, perform all the duties incident to the office of Secretary/Treasurer;
c) Such additional officers as the Board shall see fit to elect.

Section 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. Term of Office. Each officer shall hold office for the term of one (1) year and until his successor shall have been appointed or elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of said Board. Any Director so

elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by vote of two-thirds (2/3) of the total membership of the Board at a special meeting thereof.

Section 5. Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by Unit Owners.

ARTICLE IV
Assessments

Section 1. Annual Budget. The Board shall establish an annual budget to provide for the needs of the units. Such budget shall take into account the estimated common expenses and cash requirements for the year, including, but not limited to, salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other common expenses.

Section 2. Lien. It shall be the duty of every Unit Owner to pay his equal share of the expenses as provided in the Declaration, and as assessed in the manner provided.

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

The Association, acting through the Board or its agents, shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due the costs of said suit and other fees and expenses, together with legal interest and reasonable attorney's fees to be fixed by the court. Furthermore, if any Unit Owner shall fail or refuse to pay when due his

proportionate share of the expenses, the Association, acting through its Board, shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Horizontal Property Act, the Declaration, or these By-Laws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

Section 3. Records and Statement of Account. The Board shall cause to be kept detailed and accurate records in chronological order of expenditures affecting the Common Elements, specifying and itemizing the common expenses incurred.

Section 4. Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrances which in the opinion of the Board may constitute a lien against the property or the Common Elements, rather than a lien against only a particular Unit. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorney's fees, incurred by reason of such lien.

ARTICLE V
Use and Occupancy Restrictions

Section 1. General. No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Property, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall in the judgment of the Board cause unreasonable noise or disturbance to others.

Each Unit Owner shall maintain such Owner's Unit in good condition and in good order and repair, at such Owner's expense, and shall not do or allow anything to be done in such Owners Unit which may increase the cost or cause the cancellation of insurance on other Units or on the Common Elements. No Unit Owner shall display, hang, store or use any clothing, sheets, blankets, laundry, or other articles outside such Owner's Unit, or which may be visible from the outside of such Owner's Unit (other than draperies, curtains, or shades of a customary nature and appearance, subject to the rules and regulations of the Board), or paint or decorate or adorn the

outside of such Owner's Unit, or install outside such Owner's Unit any canopy or awning, or outside radio or television antenna, or Citizens Band radio transmitters, neon signs, or other equipment, fixtures or items of any kind, without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's discretion. The foregoing restrictions as to use and occupancy shall not be construed to prohibit a Unit Owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a patio or deck which is a Limited Common Element appurtenant to such Owners Unit. No Owner of a Unit shall display, hang, store or use any signs or flags outside such Owner's Unit or which may be visible from the outside of such Owner's Unit (except for special event or sports flags for no longer than 48 hours at a time) without the prior written permission of the Board of the written permission of the Managing Agent, acting in accord with the Board's discretion. So long as Developer owns any Units, the Developer shall not require Board approval for signage it deems necessary for the marketing of theProperty.

No structure of a temporary character, trailer, motor home, boat, tent shall be permitted on the Property at any time, temporarily or permanently, except with the prior written consent of the Board; provided, however, that temporary structures may be erected for use in connection with the repair or rebuilding of the Buildings or any portion thereof.

Section 2. Animals. No animals shall be raised, bred, or kept in any Unit, except for dogs, household cats and small birds owned as household pets by a Unit Owner, provided that said pet is not kept for any commercial purpose, and provided that (a) said pet shall be kept in strict accordance with the administrative rules and regulations relating to household pets from time to time adopted or approved by the Board, (b) said pet shall not in the judgment of the Board constitute a nuisance to others, and (c) not more than three (3) pets shall be allowed in any Unit.

All dogs owned by Unit Owners and kept in a Unit shall be on leash while outside the Unit unless in a fenced area. All such dogs shall be exercised by the Owner at places on the Property which do not interfere with the use and enjoyment of the same by other Owners. An Owner shall be responsible for all damage to Common Areas caused by said Owner's pet and the Owner shall clean up after such Owner's pet.

Section 3. Trash. Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the Board.

Section 4. Use by Developer. During the period of sale by the Developer of any Units, the Developer, and the Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from said Buildings and Property as may be required for purposes of said sale of Units. While the Developer owns any of the Units and until each Unit sold by it is occupied by the purchasers, the Developer and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units as a sales office, and may maintain customary signs in connection therewith.

Section 5. Storage. Articles of personal property belonging to any Unit Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing and other articles, shall not be stored or kept in front of the Units..

Section 6. Wiring. No Unit Owner shall overload the electrical wiring in a Unit, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to the heating or plumbing system, without the prior written consent of the Board or the prior written consent of the Managing Agent, given in accord with the Board's direction.

Section 7. Architectural Control. The exterior of the Units shall not be altered, painted or changed in any way that would not be in keeping with the quality of the Property.

Section 8. Fencing. Fencing shall be allowed so long as it is not chain link and is good quality and is in keeping with the quality of the Property.

Section 9. Rules and Regulations. Unit Owners shall be subject to such further restrictions as may be contained in the Rules and Regulations of the Association concerning the

use of Units and the Common Elements which may be enacted from time to time by the Board. Such Rules and Regulations shall be binding Rules and Regulations of the Association and copies of such Rules and Regulations and any amendments or additions thereto shall be furnished to all Unit Owners upon request.

ARTICLE VI

Contractual Powers

No contract or other transaction between this Association and one (1) or more of its Directors, or between the Association and any corporation, firm or association in which one (1) or more of the Directors of the Association are Directors, or are financially interested, is void or voidable because such Director or Directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

a) The fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Director or Directors; or

b) The contract or transaction is just and reasonable as to the Association at the time it is authorized or approved.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

ARTICLE VII

Amendments

These By-Laws may be amended or modified from time to time by action or approval of a majority of the Unit Owners. Such amendments shall be recorded in the Office of the Register's Office of Davidson County, Tennessee.

ARTICLEVIII

Indemnification

Section 1. General. To the extent permitted by law, the Association shall indemnify and hold harmless each of its Directors and officers, each member of any committee appointed pursuant to these By-Laws, against all contractual and other liabilities to others arising out of contracts made by, or other acts of such Directors, officers, or committee members on behalf of Unit Owners, or arising out of their status as Directors, officers, or committee members, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit, or proceeding, whether civil, criminal, administrative or otherwise, in which any such Director, officer or committee member may be involved by virtue of such person's being or having been such Director, officer, or committee member, provided, however, that such indemnity shall not be operative with respect to (1) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such Director, officer, or committee member, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person's being adjudged liable for gross negligence or fraud in the performance of his duties as such Director, officer or committee member.

Section 2. Success on Merits. To the extent that a member of the Board, or an officer of the Association, or a member of any committee appointed pursuant to these By-Laws has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Article VIII, Section 1, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonable incurred by him in connection therewith.

Section 3. Advance Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of

such action, suit or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the persons or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article VIII.

Section 4. Miscellaneous. The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article; provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the Directors, officers, or members of such committees, or out of the aforesaid indemnity in favor of the Directors, officers, or members of such committees, shall be limited to such proportion of the total liability hereunder as said Unit Owner's percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements. Every agreement made by the Directors, officers, or members of such committees, or by the Managing Agent on behalf of Unit Owners shall provide that the Directors, officers, members of such committees, or the Managing Agent, as the case may be, are acting only as agents for Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements. The indemnification provided by this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association, or disinterested members of the Board or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be a member of the Board, officer of the Association, or a member of such committee, and shall inure to the benefit of their heirs, executors, administrators, successors, and assigns of such person or entity.

ARTICLE IX

Mortgages

Section 1. Notice to Board. A Unit Owner who mortgages his Unit shall notify the Board of the name and address of his mortgagee and shall file a conformed copy of the note and

deed of trust or mortgage with the Board; and the Board shall maintain such information in a book entitled "Mortgages of Units".

Section 2. Notice of Unpaid Charges. The Board, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid charges due from, or any other default by, the owner of the mortgaged Unit.

Section 3. Notice of Default. The Board, when giving notice to a Unit Owner of a default in paying charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has therefore been furnished to the Board.

Section 4. Examination of Books. Each Unit Owner and each mortgagee of a Unit shall be permitted to examine the books of account of the Association at reasonable times, on business days, but not more often than once a month.

Section 5. Interest of Valid First Mortgagee. The interest of valid first mortgagee shall be superior to the interest of the Board in the event of a default, and nothing in this instrument shall be construed to the contrary. If the first mortgagee has incorporated the terms of these By-Laws, the Declaration and the contract in its deed of trust, then said first mortgagee may at its option declare a default in its deed of trust by reason of any default hereunder, and may proceed to enforce its rights according to the terms of the deed of trust notwithstanding any enforcement instituted by the Board.

ARTICLE X
Definition of Terms

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

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

ARTICLE XI

Conflicts

These By-Laws are set forth to comply with the requirements of Chapter 27 of Title 66, Tennessee Code Annotated, as it may be amended from time to time, and to allow the By-Laws to control in specific situations where such law allows. In the event any of the By-Laws conflict with the provisions of said statute or of the Declaration, the provisions of said statute or of the Declaration, as the case may be, shall control.

EXHIBIT "D"

TO

HILLDALE TOWNHOMES,

A HORIZONTAL PROPERTY REGIME

WITH PRIVATE ELEMENTS

ATTORNEY'S CERTIFICATE

This document is intended to serve as the attorney's opinion which is required under the terms of Tennessee Code Annotated, Section 66-27-103. The undersigned, Kevin D. Montgomery, an attorney licensed to practice law in the State of Tennessee, hereby declares that all improvements are or shall be built in substantial compliance with local building codes and that upon proper recording of this certificate and the following additional documents, all legal requirements for the creation of a Planned Unit Development under the terms of the Tennessee Horizontal Property Act, Tennessee Code Annotated, Section 66-27-103(b) et. seq., have been met:

1) The Declaration of Covenants, Conditions and Restrictions for Hilldale Townhomes, a Horizontal Property Regime with Private Elements.
2) By-Laws of Hilldale Townhomes Corporation (a townhouse corporation).
3) The plat for Hilldale Townhomes, a Horizontal Property Regime, which plat shows private elements.
4) The Charter of Hilldale Townhomes Corporation (a townhouse corporation).

Witness my hand this 15th day of June, 2010.

Kevin D. Montgomery